

# JOURNAL of THE SENATE State of West Virginia

**EIGHTY-FOURTH LEGISLATURE**

Regular Sixty-Day Session, 2020

**VOLUME III**



NOTE: The third volume continues with Journal proceedings proper (page 2103) of March 4 and concludes with the proceedings of March 7 ending with page 3156 of the Regular Session.



(e) Nothing in this article requires disclosure of any information that is specifically exempt from disclosure by statute. Except as otherwise provided in this article, nothing prohibits disclosure of information that is not specifically exempted from disclosure under a provision of this code.

(f) Every county answering point shall, within 90 days of the effective date of this section, promulgate a written policy, available to the public, reflecting its compliance with the provisions of this section.

(g) No answering point or center personnel ~~shall~~ may be civilly liable for any injury arising from disclosure of information pursuant to the provisions of this section.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4178) was laid over one day, retaining its place on the calendar, with the Government Organization committee amendment pending.

**Eng. Com. Sub. for House Bill 4198**, Permitting a person to obtain a 12-month supply of contraceptive drugs.

Having been read a second time on yesterday, Tuesday, March 3, 2020, and now coming up in regular order, was reported by the Clerk.

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

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

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE, AND  
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;  
MISCELLANEOUS AGENCIES, COMMISSIONS,  
OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES  
INSURANCE ACT.**

**§5-16-28. Incorporation of the coverage for 12-month refill for  
contraceptive drugs.**

The provision requiring coverage for 12-month refill for  
contraceptive drugs codified at §33-53-2 of this code is made  
applicable to the provisions of this article.

**CHAPTER 33. INSURANCE.**

**ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

**§33-15-4u. Incorporation of the coverage for 12-month refill  
for contraceptive drugs.**

The provision requiring coverage for 12-month refill for  
contraceptive drugs codified at §33-53-2 of this code is made  
applicable to the provisions of this article.

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS  
INSURANCE.**

**§33-16-3ff. Incorporation of the coverage for 12-month refill  
for contraceptive drugs.**

The provision requiring coverage for 12-month refill for  
contraceptive drugs codified at §33-53-2 of this code is made  
applicable to the provisions of this article.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS,  
MEDICAL SERVICE CORPORATIONS, DENTAL  
SERVICE CORPORATIONS, AND HEALTH SERVICE  
CORPORATIONS.**

**§33-24-7u. Incorporation of the coverage for 12-month refill  
for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-2 of this code is made applicable to the provisions of this article.

## **ARTICLE 25. HEALTH CARE CORPORATIONS.**

### **§33-25-8r. Incorporation of the coverage for 12-month refill for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-2 of this code is made applicable to the provisions of this article.

## **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

### **§33-25A-8u. Incorporation of the coverage for 12-month refill for contraceptive drugs.**

The provision requiring coverage for 12-month refill for contraceptive drugs codified at §33-53-2 of this code is made applicable to the provisions of this article.

## **ARTICLE 53. REQUIRED COVERAGE FOR HEALTH INSURANCE.**

### **§33-53-2. Coverage and dispensing birth control.**

(a) Notwithstanding the a prohibition or limitation contained within the provisions of §33-1-1 *et seq.* and §5-16-1 of this code an insurer subject to §5-16-1 *et seq.*, §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 of this code which amends, renews, or delivers a health policy on or after January 1, 2021, that provides coverage for contraceptive drugs, shall provide coverage for a 12-month refill of contraceptive drugs obtained at one time by the insured after the insured has completed the initial supply of the drugs, unless the insured requests a smaller supply or the prescribing provider instructs that the insured must receive a smaller supply. A health benefit plan that provides coverage shall allow the insured to receive the contraceptive drugs

on-site at the provider's office, if available, and dispensing practices must follow all clinical guidelines for appropriate prescribing and dispensing to ensure the health of the patient while maximizing access to effective contraceptive drugs.

(b) A health benefit plan that provides coverage for hormonal contraceptives, in the absence of clinical contraindications, may not impose utilization controls or other forms of medical management limiting the supply of contraceptive drugs that may be dispensed or furnished by a provider or pharmacy, or at a location licensed or otherwise authorized to dispense drugs or supplies, to an amount that is less than a 12-month supply.

(c) This section does not exclude coverage for contraceptive drugs as prescribed by a provider for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an enrollee.

(d) Nothing in this section requires a health benefit plan to cover contraceptive drugs provided by a provider, pharmacy, or at a location authorized to dispense drugs or supplies, that does not participate in the health benefit plan's provider or pharmacy network, as applicable, except as may be otherwise authorized or required by state law or by the plan's policies governing out-of-network coverage.

(e) For purposes of this section, the term "contraceptive drugs" means all drugs approved by the United States Food and Drug Administration that are used to prevent pregnancy, including, but not limited to, hormonal drugs administered orally, transdermally, and intravaginally.

At the request of Senator Takubo, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 4198), as amended, was advanced to third reading with the right for further amendments to be considered on that reading.

**Eng. House Bill 4354**, Adding nabiximols to the permitted list of distributed and prescribed drugs.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4360**, Exempting certain persons from heating, ventilating, and cooling system licensing requirements.

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

**Eng. Com. Sub. for House Bill 4361**, Relating to insurance law violations.

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

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

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

## **ARTICLE 41. INSURANCE FRAUD PREVENTION ACT.**

### **§33-41-2. Definitions.**

As used in this article:

(1) (a) “Benefits” mean money payments, goods, services, or other thing of value paid in response to a claim filed with an insurer based upon a policy of insurance.

(2) (b) “Business of insurance” means the writing of insurance, including the writing of workers’ compensation insurance under the provisions of §23-1-1 *et seq.* of this code, self-insurance by an employer or employer group for workers’ compensation risk including the risk of catastrophic injuries under the provisions of

§23-1-1 *et seq.* of this code, or the reinsuring of risks by an insurer, including acts necessary or incidental to writing insurance or reinsuring risks and the activities of persons who act as or are officers, directors, agents, or employees of insurers, or who are other persons authorized to act on their behalf.

~~(3)~~ (c) “Claim” means an application or request for payment or benefits provided under the terms of a policy of insurance.

(4) (d) “Commissioner” means the Insurance Commissioner of West Virginia or his or her designee.

~~(5)~~ (e) “Fraudulent insurance act” means an act or omission committed by a person who knowingly and with intent to defraud misrepresents or conceals any material information concerning one or more of the following:

(1) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker, or its agent, false information as part of, in support of, or concerning a fact material to one or more of the following:

(A) An application for the issuance or renewal of an insurance policy or reinsurance contract;

(B) The rating of an insurance policy or reinsurance contract;

(C) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract;

(D) Premiums paid on an insurance policy or reinsurance contract;

(E) Payments made in accordance with the terms of an insurance policy or reinsurance contract;

(F) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction;



(G) The financial condition of an insurer or reinsurer;

(H) The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one or more lines of insurance or reinsurance in all or part of this state by an insurer or reinsurer;

(I) The issuance of written evidence of insurance; or

(J) The reinstatement of an insurance policy.

(2) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer, reinsurer, or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction;

(3) Removal, concealment, alteration, or destruction of the assets or records of an insurer, reinsurer, or other person engaged in the business of insurance;

(4) Willful embezzlement, abstracting, purloining, or conversion of moneys, funds, premiums, credits, or other property of an insurer, reinsurer, or person engaged in the business of insurance;

(5) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of insurance; or

(6) Attempt to commit, aiding, or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this subdivision.

~~(5)~~ (f) “Health care provider” means a person, partnership, corporation, facility, or institution licensed by, or certified in, this state or another state, to provide health care or professional health care services, including, but not limited to, a physician, osteopathic physician, hospital, dentist, registered or licensed practical nurse, optometrist, pharmacist, podiatrist, chiropractor, physical therapist, or psychologist.

~~(6)~~ (g) “Insurance” means a contract or arrangement in which a person undertakes to:

~~(A)~~ (1) Pay or indemnify another person as to loss from certain contingencies called “risks”, including through reinsurance;

~~(B)~~ (2) Pay or grant a specified amount or determinable benefit to another person in connection with ascertainable risk contingencies;

~~(C)~~ (3) Pay an annuity to another person;

~~(D)~~ (4) Act as surety; or

~~(E)~~ (5) Self-insurance for workers’ compensation risk, including the risk of catastrophic injuries ~~under~~ pursuant to the provisions of §23-1-1 *et seq.* of this code.

~~(7)~~ (h) “Insurer” means a person entering into arrangements or contracts of insurance or reinsurance. Insurer includes, but is not limited to, any domestic or foreign stock company, mutual company, mutual protective association, farmers’ mutual fire companies, fraternal benefit society, reciprocal or interinsurance exchange, nonprofit medical care corporation, nonprofit health care corporation, nonprofit hospital service association, nonprofit dental care corporation, health maintenance organization, captive insurance company, risk retention group, or other insurer, regardless of the type of coverage written, including the writing of workers’ compensation insurance or self insurance under the provisions of this code, benefits provided, or guarantees made by each. A person is an insurer regardless of whether the person is acting in violation of laws requiring a certificate of authority or regardless of whether the person denies being an insurer.

~~(8)~~ (i) “Person” means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, trustees, an unincorporated organization, or any similar business entity, or any combination of the foregoing. “Person” also includes hospital service corporations, medical service corporations, and dental service corporations as defined in

§33-24-1 *et seq.* of this code, health care corporations as defined in, §33-25-1 *et seq.* of this code, or a health maintenance organization organized pursuant to §33-25A-1 *et seq.* of this code.

~~(9)~~ (j) “Policy” means an individual or group policy, group certificate, contract or arrangement of insurance or reinsurance, coverage by a self-insured employer or employer group for its workers’ compensation risk including its risk of catastrophic injuries or reinsurance, affecting the rights of a resident of this state or bearing a reasonable relation to this state, regardless of whether delivered or issued for delivery in this state.

~~(10)~~ (k) “Reinsurance” means a contract, binder of coverage (including placement slip) or arrangement under which an insurer procures insurance for itself in another insurer as to all or part of an insurance risk of the originating insurer.

~~(11)~~ (l) “Statement” means any written or oral representation made to any person, insurer or authorized agency. A statement includes, but is not limited to, any oral report or representation; any insurance application, policy, notice or statement; any proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, or other evidence of loss, injury or expense; any bill for services, diagnosis, prescription, hospital or doctor record, X-ray, test result or other evidence of treatment, services or expense; and any application, report, actuarial study, rate request or other document submitted or required to be submitted to any authorized agency. A statement also includes any written or oral representation recorded by electronic or other media.

~~(12)~~ (m) “Unit” means the insurance fraud unit established pursuant to the provisions of this article acting collectively or by its duly authorized representatives.

**§33-41-4a. Acceptance of forfeiture proceeds by commissioner; creation of special revenue fund; court awards of investigation costs.**

(a) The commissioner may accept proceeds of court ordered forfeiture proceedings involving the prosecution of fraudulent insurance acts.

(b) Forfeiture proceeds shall be deposited into the special revenue account established in subsection (c) of this section, and the commissioner may make expenditures from the fund in order to effectuate the purposes of this article.

(c) The Insurance Fraud Prevention Fund is hereby created. The fund shall be administered by the commissioner and shall consist of all moneys made available from court ordered forfeiture proceedings involving the prosecution of fraudulent insurance acts, including all interest or other return earned from investment of the fund which may be invested in the manner permitted by §12-6C-9 of this code. Expenditures from the fund shall be for the purposes set forth in this article (to provide and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1, *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1, *et seq.* of this code: *Provided*, That for the fiscal year ending June 30, 2021, expenditures are authorized from collections rather than pursuant to an explicit appropriation by the Legislature. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

**§33-41-5. ~~Reporting~~ Mandatory reporting of insurance fraud or criminal offenses otherwise related to the business of insurance.**

(a) A person engaged in the business of insurance having knowledge or a reasonable belief that ~~fraud~~ a fraudulent insurance act or another crime related to the business of insurance is being, will be, or has been committed shall provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.

(b) Any other person having knowledge or a reasonable belief that a fraudulent insurance act or another crime related to the business of insurance is being, will be, or has been committed may

provide to the commissioner the information requested by, and in a manner prescribed by, the commissioner.

~~(b)~~ (c) The commissioner may prescribe a reporting form to facilitate reporting of possible ~~fraud~~ fraudulent insurance acts or other offenses related to the business of insurance for use by persons other than those persons referred to in subsection (a) of this section.

(d) Notwithstanding any other provision of this code, a person engaged in the business of insurance shall furnish and disclose any information, including documents, materials, or other information in its possession concerning a fraudulent insurance act or a suspected fraudulent insurance act to the commissioner. Disclosures provided pursuant to this section are subject to the confidentiality provisions set forth in §33-41-7 of this code.

**§33-41-8. Creation of Insurance Fraud Unit; purpose; duties; personnel qualifications.**

(a) There is established the West Virginia Insurance Fraud Unit within the ~~office~~ offices of the ~~Insurance Commissioner of West Virginia~~ commissioner. The commissioner may employ full-time supervisory, legal, and investigative personnel for the unit who shall be qualified by training and experience in the areas of detection, investigation, or prosecution of fraud within and against the insurance industry to perform the duties of their positions. The director of the ~~fraud~~ unit is a full-time position and shall be appointed by the commissioner and serve at his or her will and pleasure. The commissioner shall provide office space, equipment, and supplies, and shall employ and train personnel, including legal counsel, investigators, auditors and clerical and other staff that is necessary for the unit to carry out its duties and responsibilities under this article as the commissioner determines is necessary.-

(b) ~~The fraud unit may in its discretion~~ It is the duty of the unit to:

(1) Initiate inquiries and conduct investigations when the unit has cause to believe violations of any of the following provisions of this code relating to the business of insurance have been or are being committed: §33-1-1 *et seq.* and §23-1-1 *et seq.* of this code; §61-3-1 *et seq.* of this code; and §61-4-5 of this code. Notwithstanding any provision of this code to the contrary, the ~~fraud~~ unit may, with the agreement of the Director of the Public Employees Insurance Agency, conduct investigations related to possible fraud under §5-16-1 *et seq.* of this code;

(2) Review reports or complaints of alleged fraud related to the business of insurance activities from federal, state, and local law-enforcement and regulatory agencies, persons engaged in the business of insurance and the general public to determine whether the reports require further investigation; ~~and~~

(3) Conduct independent examinations of alleged fraudulent activity related to the business of insurance and undertake independent studies to determine the extent of fraudulent insurance acts; and

(4) Perform any other duties related to the purposes of this article assigned to it by the commissioner.

(c) The ~~Insurance Fraud Unit~~ unit may:

~~(1) Employ and train personnel to achieve the purposes of this article and to employ legal counsel, investigators, auditors and clerical support personnel and other personnel as the commissioner determines necessary from time to time to accomplish the purposes of this article;~~

~~(2)~~ (1) Inspect, copy, or collect records and evidence;

~~(3)~~ (2) Serve subpoenas issued by grand juries and trial courts in criminal matters;

(3) Administer oaths and affirmations;

(4) Share records and evidence with federal, state, or local law-enforcement or regulatory agencies, and enter into interagency agreements. For purposes of carrying out investigations under this article, the unit shall be ~~deemed~~ considered a criminal justice agency under all federal and state laws and regulations and as such shall have access to any information that is available to other criminal justice agencies concerning violations of the insurance laws of West Virginia or related criminal laws;

(5) Make criminal referrals to the county prosecutors;

(6) Execute search warrants and arrest warrants for criminal violations of the insurance laws of West Virginia or related criminal laws: *Provided*, That those persons designated by the commissioner to do so meet the requirements of and are certified as law-enforcement officers under §30-29-5 of this code and the certification is currently active;

(7) Arrest upon probable cause, without a warrant a person found in the act of violating or attempting to violate an insurance law of West Virginia or related criminal law: *Provided*, That those persons designated by the commissioner to do so meet the requirements of and are certified as law-enforcement officers under §30-29-5 of this code and the certification is currently active;

~~(6) (8) Conduct investigations outside this state. If the information the Insurance Fraud Unit unit seeks to obtain is located outside this state, the person from whom the information is sought may make the information available to the insurance-fraud unit to examine at the place where the information is located. The Insurance Fraud Unit unit may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the Insurance Fraud Unit unit, and the Insurance Fraud Unit may respond to similar requests from officials of other states; and~~

~~(7) The Insurance Fraud Unit may initiate~~ (9) Initiate investigations and participate in the development of, and, if necessary, the prosecution of, any health care provider, including a

provider of rehabilitation services, suspected of fraudulent activity related to the business of insurance; and

(10) Initiate investigations and participate in the development of, and, if necessary, the investigation, control, and prosecution of, any workers' compensation fraud, as previously assigned to the workers' compensation fraud and abuse unit created pursuant to §23-1-1b of this code.

~~(8)~~ (d) Specific personnel of the unit designated by the commissioner ~~shall be permitted to~~ may operate vehicles owned or leased for the state displaying Class A registration plates.

~~(9)~~ (e) Notwithstanding any provision of this code to the contrary, specific personnel of the unit designated by the commissioner may carry firearms in the course of their official duties after meeting specialized qualifications established by the Governor's Committee on Crime, Delinquency, and Correction, which shall include the successful completion of handgun training provided to law-enforcement officers by the West Virginia State Police. *Provided*, That nothing in this subsection shall be construed to include any person designated by the commissioner as a law-enforcement officer as that term is defined by the provisions of §30-29-1 of this code; and

~~(10)~~ (f) The ~~Insurance Fraud Unit unit~~ unit ~~shall is not be~~ subject to the provisions of §6-9A-1 *et seq.* of this code and the investigations conducted by the ~~Insurance Fraud Unit unit~~ unit and the materials placed in the files of the unit as a result of any such investigation are exempt from public disclosure under the provisions of §29B-1-1 *et seq.* of this code.

~~(d) The Insurance Fraud Unit shall perform other duties as may be assigned to it by the commissioner.~~

**§33-41-11. Fraudulent claims to insurance companies acts; interference and participation of convicted felons prohibited.**



~~(a) Any person who knowingly and willfully and with intent to defraud submits a materially false statement in support of a claim for insurance benefits or payment pursuant to a policy of insurance or who conspires to do so is guilty of a crime and is subject to the penalties set forth in the provisions of this section.~~

~~(b) Any person who commits a violation of the provisions of subsection (a) of this section where the benefit sought is \$1,000 or more in value is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than one nor more than ten years, fined not more than \$10,000, or both, or in the discretion of the circuit court confined in jail for not more than one year and fined not more than \$10,000, or both.~~

~~(c) Any person who commits a violation of the provisions of subsection (a) of this section where the benefit sought is less than \$1,000 in value is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year, fined not more than \$2,500, or both.~~

~~(d) Any person convicted of a violation of this section is subject to the restitution provisions of article eleven a, chapter sixty one of this code.~~

~~(e) In addition to the foregoing provisions, the offenses enumerated in sections twenty four e through twenty four h, inclusive, article three, chapter sixty one of this code are applicable to matters concerning workers' compensation insurance.~~

~~(f) The circuit court may award to the unit or other law-enforcement agency investigating a violation of this section or other criminal offense related to the business of insurance its cost of investigation.~~

(a) A person shall not commit a fraudulent insurance act as defined in §33-41-2 of this code.

(b) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this article or investigations of suspected or actual violations of this article.

(c) A person convicted of a felony involving dishonesty or breach of trust, or a felony violation law reasonably related to the business of insurance, shall not participate in the business of insurance.

(d) A person in the business of insurance shall not knowingly or intentionally permit a person convicted of a felony involving dishonesty or breach of trust, or of a felony reasonably related to the business of insurance, to participate in the business of insurance.

**§33-41-11a. Insurer antifraud initiatives.**

(a) Insurers shall have antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent insurance acts.

(b) Antifraud initiatives may include:

(1) Fraud investigators, who may be insurer employees or independent contractors; or

(2) An antifraud plan submitted to the commissioner. Antifraud plans submitted to the commissioner are privileged and confidential, are exempt from public disclosure under the provisions of §29B-1-1 *et seq.* of this code, and are not subject to discovery or subpoena in a civil or criminal action.

(c) The commissioner may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to set forth requirements or standards for the submission of insurer antifraud plans.

**§33-41-12. Civil and criminal penalties; injunctive relief; employment disqualification; restitution.**

(a) A person or entity engaged in the business of insurance or a person or entity making a claim against an insurer who violates any provision of this article may be subject to the following:

(1) Where applicable, suspension or revocation of license or certificate of authority or a civil penalty of up to \$10,000 per violation, or where applicable, both. Suspension or revocation of license or certificate of authority or imposition of civil penalties may be pursuant to an order of the commissioner issued pursuant to the provisions of §33-2-13 of this code. The commissioner's order may require a person found to be in violation of this article to make reasonable restitution to persons aggrieved by violations of this article. The commissioner may assess a person sanctioned pursuant to the provisions of this section the cost of investigation;

(2) Notwithstanding any other provision of law, a civil penalty imposed pursuant to the provisions of this section is mandatory and not subject to suspension;

(3) A person convicted of a felony violation law reasonably related to the business of insurance shall be disqualified from engaging in the business of insurance; and

(4) The commissioner may apply for a temporary or permanent injunction in any appropriate circuit court of this state seeking to enjoin and restrain a person from violating or continuing to violate the provisions of this article or rule promulgated under this article, notwithstanding the existence of other remedies at law. The circuit court shall have jurisdiction of the proceeding and have the power to make and enter an order or judgment awarding temporary or permanent injunctive relief restraining any person from violating or continuing to violate any provision of this article or rule promulgated under the article as in its judgment is proper.

(b) Any person who commits a violation of the provisions of §33-41-11 of this code where the benefit sought is \$1,000 or more in value is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than one nor more than 10 years, fined not more than \$10,000, or both fined and imprisoned, or in the discretion of the court, confined in jail for not more than one year and fined not more than \$10,000, or both fined and confined.

(c) Any person who commits a violation of the provisions of §33-41-11 of this code where the benefit sought is less than \$1,000 in value 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 \$2,500, or both fined and confined.

(d) Any person convicted of a violation of §33-41-11 of this code is subject to the restitution provisions of §61-11A-1 of this code.

(e) A court may award to the unit or other law-enforcement agency investigating a violation of §33-41-11 of this code or other criminal offense related to the business of insurance its cost of investigation.

(f) In addition to the provisions of this section, the offenses enumerated in §61-3-24e through §61-3-24h, inclusive, of this code are applicable to matters concerning workers' compensation insurance.

The bill (Eng. Com. Sub. for H. B. 4361), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4362**, Relating to penalties for neglect, emotional abuse or death caused by a caregiver.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4363**, Establishing the West Virginia Division of Natural Resources Police Officer Retirement System.

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

The following amendments to the bill, from the Committee on Pensions, were reported by the Clerk, considered simultaneously, and adopted:

On page twenty-four, section five, line eleven, by striking out the words “plan to the Consolidated Public Retirement Board expense fund” and inserting in lieu thereof the following: “board from funds received by the board through gifts and bequests to the fund and any accretions and accumulations which may properly be paid into and become a part of the fund. The board may receive gifts and bequests for purposes of paying start-up costs as set forth in this subsection”;

On page thirty-two, section ten, line three, after the word “Natural” by inserting the word “Resources”;

And,

On page forty-four, section fifteen, line fifty-one, by striking out the word “distribute” and inserting in lieu thereof the word “distributee”.

The bill (Eng. Com. Sub. for H. B. 4363), as amended, was then ordered to third reading.

**Eng. House Bill 4375**, Speech-Language Pathologists and Audiologists Compact.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4377**, The Protection of Vulnerable Adults from Financial Exploitation Act.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

At the request of Senator Plymale, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the ninth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 4378**, Relating to disciplining teachers.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's second reading calendar.

**Eng. Com. Sub. for House Bill 4388**, Limiting the Alcohol Beverage Control Commissioner's authority to restrict advertising.

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

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

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

#### **ARTICLE 16. NONINTOXICATING BEER.**

##### **§11-16-2. Declaration of legislative findings, policy and intent; construction.**

It is hereby found by the Legislature and declared to be the policy of this state that it is in the public interest to regulate and control the manufacture, sale, distribution, transportation, storage, and consumption of the beverages regulated by this article within this state and that, therefore, the provisions of this article are a necessary, proper, and valid exercise of the police powers of this state and are intended for the protection of the public safety, welfare, health, peace and morals and are further intended to eliminate, or to minimize to the extent practicable, the evils attendant to the unregulated, unlicensed, and unlawful

manufacture, sale, distribution, transportation, storage, and consumption of such beverages and are further intended to promote temperance in the use and consumption thereof. In order to further these ends, the provisions of this article and of the rules ~~and regulations~~ promulgated pursuant thereto, shall be construed so that the accomplishment of these stated purposes may be effectuated.

**§11-16-18. Unlawful acts of licensees; criminal penalties.**

(a) It is unlawful:

(1) For any licensee, his, her, its, or their servants, agents, or employees to sell, give, or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected, nonintoxicating beer or cooler on weekdays between the hours of 2:00 a.m. and 7:00 a.m., or between the hours of 2:00 a.m. and 10:00 a.m., or a Class A retail dealer to sell nonintoxicating beer for on-premises consumption only between the hours of 2:00 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-1-3ss of this code, on any Sunday, except in private clubs licensed under the provisions of §60-7-1 *et seq.* of this code, where the hours shall conform with the hours of sale of alcoholic liquors;

(2) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably intoxicated or to any person known to be insane or known to be a habitual drunkard;

(3) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer as defined in this article to any person who is less than 21 years of age;

(4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer as defined in this article, except for cash and a right of action shall not exist to collect

any claims for credit extended contrary to the provisions of this subdivision. Nothing herein contained in this section prohibits a licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid or deposited for the containers when title is retained by the vendor: *Provided*, That a distributor may accept an electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount for the nonintoxicating beer. The cost of the electronic fund transfer shall be borne by the retailer and the distributor shall initiate the transfer no later than noon of one business day after the delivery;

~~(5) For any brewer or distributor or brew pub or his, her, its or their agents to transport or deliver nonintoxicating beer as defined in this article to any retail licensee on Sunday;~~

~~(6)~~ (5) For any brewer or distributor to give, furnish, rent, or sell any equipment, fixtures, signs, supplies, or services directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail or to offer any prize, premium, gift, or other similar inducement, except advertising matter, including indoor electronic or mechanical signs, of nominal value up to \$150.00 as authorized by the commissioner, to either trade or consumer buyers: *Provided*, That a distributor may offer, for sale or rent, tanks of carbonic gas. *Provided however, that, in the interest of public health and safety, a distributor may, independently or through a subsidiary or affiliate, furnish, sell, install, or maintain draught line equipment, supplies, and cleaning services to a licensed retailer so long as the furnishing or sale of draught line services are not provided at a price less than their fair market value. For the purposes of this section, "equipment, supplies, and cleaning services" means glassware, standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves, and carbon dioxide (or other gasses used to dispense nonintoxicating beer), ice, and services related to the installation and maintenance thereof.* Nothing contained in this section prohibits a brewer from sponsoring any professional or



amateur athletic event or from providing prizes or awards for participants and winners in any events. ~~Provided, however, That no event shall be sponsored which permits actual participation by athletes or other persons who are minors, unless specifically authorized by the commissioner.~~

~~(5)~~ (6) For any brewer or distributor to sponsor any professional or amateur athletic event or provide prizes or awards for participants and winners when a majority of the athletes participating in the event are minors, unless specifically authorized by the commissioner;

~~(6)~~ (7) For any retail licensee to sell or dispense nonintoxicating beer through draught lines where the draught lines have not been cleaned at least every two weeks in accordance with rules promulgated by the commissioner, and where written records of all cleanings are not maintained and available for inspection;

~~(7)~~ (8) For any licensee to permit in his or her premises any lewd, immoral, or improper entertainment, conduct, or practice;

~~(8)~~ (9) For any licensee except the holder of a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code or a holder of a license or a private wine restaurant issued under the provisions of §60-8-1 *et seq.* of this code to possess a federal license, tax receipt, or other permit entitling, authorizing, or allowing the licensee to sell liquor or alcoholic drinks other than nonintoxicating beer;

~~(9)~~ (10) For any licensee to obstruct the view of the interior of his or her premises by enclosure, lattice, drapes, or any means which would prevent plain view of the patrons occupying the premises. The interior of all licensed premises shall be adequately lighted at all times: *Provided*, That provisions of this subdivision do not apply to the premises of a Class B retailer, the premises of a private club licensed under the provisions of §60-7-1 *et seq.* of this code, or the premises of a private wine restaurant licensed under the provisions of §60-8-1 *et seq.* of this code;

~~(10)~~ (11) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in the sale, possession, or consumption of any alcoholic liquors on the premises covered by a license or on premises directly or indirectly used in connection with it: *Provided*, That the prohibition contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession, or consumption of alcoholic liquors is not applicable with respect to the holder of a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code nor shall the prohibition be applicable to a private wine restaurant licensed under the provisions of §60-8-1 *et seq.* of this code insofar as the private wine restaurant is authorized to serve wine;

~~(11)~~ (12) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this article, purchased, or acquired from any source other than a distributor, brewer, or manufacturer licensed under the laws of this state;

~~(12)~~ (13) For any licensee to permit loud, boisterous, or disorderly conduct of any kind upon his or her premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community where the business is located: *Provided*, That a licensee may have speaker systems for outside broadcasting as long as the noise levels do not create a public nuisance or violate local noise ordinances;

~~(13)~~ (14) For any person whose license has been revoked, as provided in this article, to obtain employment with any retailer within the period of one year from the date of the revocation, or for any retailer to knowingly employ that person within the specified time;

~~(14)~~ (15) For any distributor to sell, possess for sale, transport, or distribute nonintoxicating beer except in the original container;

~~(15)~~ (16) For any licensee to knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state;

~~(16)~~ (17) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or her licensed premises;

~~(17)~~ (18) For any Class A licensee, his, her, its, or their servants, agents, or employees, or for any licensee by or through any servants, agents, or employees, to allow, suffer, or permit any person less than 18 years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision do not apply where a person under the age of 18 years is in or upon the premises in the immediate company of his or her parent or parents, or where and while a person under the age of 18 years is in or upon the premises for the purpose of and actually making a lawful purchase of any items or commodities sold, or for the purchase of and actually receiving any lawful service rendered in the licensed premises, including the consumption of any item of food, drink, or soft drink lawfully prepared and served or sold for consumption on the premises;

~~(18)~~ (19) For any distributor to sell, offer for sale, distribute, or deliver any nonintoxicating beer outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating beer or to sell, offer for sale, distribute, or deliver nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of the nonintoxicating beer: *Provided*, That nothing in this section is considered to prohibit sales of convenience between distributors licensed in this state where one distributor sells, transfers, or delivers to another distributor a particular brand or brands for sale at wholesale; and

~~(19)~~ (20) For any licensee or any agent, servant, or employee of any licensee to knowingly violate any rule lawfully promulgated by the commissioner in accordance with the provisions of chapter 29A of this code.

(b) Any person who violates any provision of this article, including, but not limited to, any provision of this section, or any rule, or order lawfully promulgated by the commissioner, or who makes any false statement concerning any material fact in

submitting an application for a license or for a renewal of a license or in any hearing concerning the revocation of a license, or who commits any of the acts in this section declared to be unlawful is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than \$25, nor more than \$500, or confined in the county or regional jail for not less than 30 days nor more than six months, or by both fine and confinement. Magistrates have concurrent jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for the trial of all misdemeanors arising under this article.

(c) (1) A Class B licensee that:

(A) Has installed a transaction scan device on its licensed premises; and

(B) Can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold, furnished, or given away by the use of the transaction device may not be subject to: (i) Any criminal penalties whatsoever, including those set forth in subsection (b) of this section; (ii) any administrative penalties from the commissioner; or (iii) any civil liability whatsoever for the improper sale, furnishing, or giving away of nonintoxicating beer to an individual who is less than 21 years of age by one of his or her employees, servants, or agents. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to the criminal penalties of subsection (b) of this section. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to termination from employment, and the employer shall have no civil liability for the termination.

(2) For purposes of this section, a Class B licensee can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold by providing evidence: (A) That it has developed a written

policy which requires each employee, servant, or agent to verify the age of each individual to whom nonintoxicating beer will be sold, furnished, or given away; (B) that it has communicated this policy to each employee, servant, or agent; and (C) that it monitors the actions of its employees, servants, or agents regarding the sale, furnishing, or giving away of nonintoxicating beer and that it has taken corrective action for any discovered noncompliance with this policy.

(3) “Transaction scan” means the process by which a person checks, by means of a transaction scan device, the age and identity of the cardholder, and “transaction scan device” means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver’s license or other governmental identity card.

(d) Nothing in this article nor any rule ~~or regulation~~ of the commissioner shall prevent or be considered to prohibit any licensee from employing any person who is at least 18 years of age to serve in the licensee’s lawful employ, including the sale or delivery of nonintoxicating beer as defined in this article. With the prior approval of the commissioner, a licensee whose principal business is the sale of food or consumer goods, or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores, and convenience stores, may employ persons who are less than 18 years of age but at least 16 years of age: *Provided*, That the person’s duties may not include the sale or delivery of nonintoxicating beer or alcoholic liquors: *Provided, however*, That the authorization to employ persons under the age of 18 years shall be clearly indicated on the licensee’s license.

At the request of Senator Trump, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4388) was laid over one day, retaining its place on the calendar, with the Judiciary committee amendment pending.

**Eng. Com. Sub. for House Bill 4395**, Removing the requirement that a veterinarian access and report to the controlled substance monitoring database.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4406**, Relating to the reproduction of checks and other records.

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

**Eng. House Bill 4410**, Permitting directors and executive officers of a banking institution to borrow from a banking institution with which he or she is connected.

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

**Eng. Com. Sub. for House Bill 4421**, Natural Gas Liquids Economic Development Act.

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

**Eng. Com. Sub. for House Bill 4439**, Clarifying the method for calculating the amount of severance tax attributable to the increase in coal production.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4447**, Creating the shared table initiative for senior citizens who suffer from food insecurity.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4452**, Modifying the notice requirements for the redemption of delinquent properties.

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

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

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

**ARTICLE 3. SALE OF TAX LIENS AND NONENTERED, ESCHEATED, AND WASTE AND UNAPPROPRIATED LANDS.**

**§11A-3-18. Limitations on tax certificates.**

(a) No lien upon real property evidenced by a tax certificate of sale issued by a sheriff on account of any delinquent property taxes may remain a lien on the real property for a period longer than 18 months after the original issuance of the tax certificate of sale.

(b) All rights of a purchaser to the property, to a lien on the property, or to any other interest in the property, including, but not limited to any right to a tax deed, shall be considered forfeited and expired, and no tax deed is to be issued on any tax sale evidenced by a tax certificate of sale where the certificate has ceased to be a lien pursuant to the provisions of this section and application for the tax deed, pursuant to the provisions of §11A-3-27 of this code, is not pending at the time of the expiration of the limitation period provided in this section.

(c) Whenever a lien evidenced by a tax certificate of sale has expired by reason of the provisions of this section, the State Auditor shall immediately issue and record a certificate of cancellation describing the real estate included in the certificate of purchase or tax certificate and giving the date of cancellation, and the State Auditor shall also make proper entries in his or her records. The State Auditor shall also present a copy of every

certificate of cancellation to the sheriff, who shall enter it in the sheriff's records, and the certificate and the record are prima facie evidence of the cancellation of the certificate of sale and of the release of the lien of the certificate on the lands described in the certificate. Failure to record the certificate of cancellation does not extend the lien evidenced by the certificate of sale. The sheriff and State Auditor are not entitled to any fees for the issuing of the certificate of cancellation, nor for the entries in their books made under the provisions of this subsection.

(d) Whenever a purchaser has complied with the notice requirements provided in §11A-3-19 of this code, but has failed to request a deed within the 18 month deadline provided in this section, thereby forfeiting all rights to a tax deed, the purchaser may recover the amounts paid in excess of the taxes owed and expenses incurred by the State Auditor in the processing of the tax lien if, within 30 days of the expiration of the lien, upon a showing of compliance with the ~~provisons~~ provisions of §11A-3-19 of this code, the purchaser files with the State Auditor a request in writing for the refund. A purchaser who fails to file the request within the 30-day period forfeits all rights to the refund.

(e) Whenever a purchaser has failed to comply with the notice requirements set forth in §11A-3-19 of this code, the purchaser may receive an additional 30 days to comply with the notice requirements set forth in §11A-3-19 of this code if, by December 1st of the year following the sale, the purchaser files with the State Auditor a request in writing for the extension and makes payment by cash, cashier check, certified check, or money order in the amount of \$100 or 10 percent of the total amount paid on the day of sale set forth in §11A-3-5 of this code, whichever is greater. The fee for issuing the certificate of extension shall be \$25 made payable to the State Auditor.

(f) The State Auditor shall each month draw his or her warrant upon the Treasury payable to the county board of education of each county for payment received by him or her for the extension of the time period set forth in subsection (e) of this section for property located within each such county.



**§11A-3-22. Service of notice.**

(a) As soon as the State Auditor has prepared the notice provided in §11A-3-21 of this code, he or she shall cause it to be served upon all persons named on the list generated by the purchaser pursuant to the provisions of §11A-3-19 of this code.

(b) The notice shall be served upon all persons residing or found in the state in the manner provided for serving process commencing a civil action, or by certified mail, return receipt requested, or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30th day following the request for the notice.

~~(c) If a person entitled to notice is a nonresident of this state, whose address is known to the purchaser, he or she shall be served at that address by certified mail, return receipt requested.~~

~~(d) If the address of a person entitled to notice, whether a resident or nonresident of this state, is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for the publication shall be the county in which the real estate is located. If service by publication is necessary, publication shall be commenced when personal service is required as set forth in this section and a copy of the notice shall at the same time be sent by certified mail, return receipt requested, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.~~

(c) The notice shall be served upon persons not residing or found in the state by certified mail, return receipt requested, or in the manner provided for serving process commencing a civil action, or other types of delivery service courier that provide a

receipt. The notice shall be served on or before the 30 days following the request for the notice.

(d) If the address of a person is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code, and the publication area for the publication shall be the county in which the real property is located. If service by publication is necessary, publication shall be commenced within 60 days following the request for the notice, and a copy of the notice shall, at the same time, be sent pursuant to subsection (b) or (c) of this section, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.

(e) In addition to the other notice requirements set forth in this section, if the real property subject to the tax lien was classified as Class II property at the time of the assessment, at the same time the State Auditor issues the required notices by certified mail, the State Auditor shall forward a copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner provided for serving process commencing a civil action, addressed to “Occupant”, to the physical mailing address for the subject property. The physical mailing address for the subject property shall be supplied by the purchaser of the tax lien pursuant to the provisions of §11A-3-19 of this code. Where the mail is not deliverable to an address at the physical location of the subject property, the copy of the notice shall be sent to any other mailing address that exists to which the notice would be delivered to an occupant of the subject property.

**§11A-3-52. What purchaser must do before he or she can secure a deed.**

(a) Within 45 days following the approval of the sale by the auditor pursuant to §11A-3-51 of this code, the purchaser, his or

her heirs or assigns, in order to secure a deed for the real estate purchased, shall:

(1) Prepare a list of those to be served with notice to redeem and request the deputy commissioner to prepare and serve the notice as provided in §11A-3-54 and §11A-3-55 of this code;

(2) When the real property subject to the tax lien was classified as Class II property, provide the deputy commissioner with the actual mailing address of the property that is subject to the tax lien or liens purchased; and

(3) Deposit, or offer to deposit, with the deputy commissioner a sum sufficient to cover the costs of preparing and serving the notice.

(b) If the purchaser fails to fulfill the requirements set forth in ~~paragraph~~ subsection (a) of this section, the purchaser shall lose all the benefits of his or her purchase.

(c) After the requirements of ~~paragraph~~ subsection (a) of this section have been satisfied, the deputy commissioner may then sell the property in the same manner as he sells lands which have been offered for sale at public auction but which remain unsold after such auction, as provided in §11A-3-48 of this code.

(d) If the person requesting preparation and service of the notice is an assignee of the purchaser, he or she shall, at the time of the request, file with the deputy commissioner a written assignment to him or her of the purchaser's rights, executed, acknowledged, and certified in the manner required to make a valid deed.

(e) Whenever a purchaser has failed to comply with the notice requirements set forth in subsection (a) of this section, the purchaser may receive an additional 30 days to comply with the notice requirements set forth in subsection (a) of this section if the purchaser files with the State Auditor a request in writing for the extension before the expiration of the time period set forth in subsection (a) of this section and makes payment by cash, cashier

check, certified check, or money order in the amount of \$100 or 10 percent of the total amount paid on the day of sale set forth in §11A-3-45 of this code, whichever is greater. The fee for issuing the certificate of extension shall be \$25 made payable to the State Auditor.

(f) The State Auditor shall each month draw his or her warrant upon the Treasury payable to the county board of education of each county for payment received by him or her for the extension of the time period set forth in subsection (e) of this section for property located within each such county.

### **§11A-3-55. Service of notice.**

(a) As soon as the deputy commissioner has prepared the notice provided for in §11A-3-54 of this code, he or she shall cause it to be served upon all persons named on the list generated by the purchaser pursuant to the provisions of §11A-3- 52 of this code. Such notice shall be mailed and, if necessary, published at least 45 days prior to the first day a deed may be issued following the deputy commissioner's sale.

(b) The notice shall be served upon all such persons residing or found in the state in the manner provided for serving process commencing a civil action or by certified mail, return receipt requested or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30th day following the request for such notice.

~~If any person entitled to notice is a nonresident of this state, whose address is known to the purchaser, he shall be served at such address by certified mail, return receipt requested.~~

~~If the address of any person entitled to notice, whether a resident or nonresident of this state, is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for such publication~~

~~shall be the county in which such real estate is located. If service by publication is necessary, publication shall be commenced when personal service is required as set forth above, and a copy of the notice shall at the same time be sent by certified mail, return receipt requested, to the last known address of the person to be served. The return of service of such notice, and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the auditor in his office, together with any return receipts for notices sent by certified mail.~~

(c) The notice shall be served upon persons not residing or found in the state by certified mail, return receipt requested, or in the manner provided for serving process commencing a civil action or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30 days following the request for the notice.

(d) If the address of a person is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for the publication shall be the county in which the real property is located. If service by publication is necessary, publication shall be commenced within 60 days following the request for the notice, and a copy of the notice shall be at the same time be sent pursuant to subsection (b) or (c) of this section, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.

(e) In addition to the other notice requirements set forth in this section, if the real property subject to the tax lien was classified as Class II property at the time of the assessment, at the same time the deputy commissioner issues the required notices by certified mail, the deputy commissioner shall forward a copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner

provided for serving process commencing a civil action, addressed to “Occupant”, to the physical mailing address for the subject property. The physical mailing address for the subject property shall be supplied by the purchaser of the property, pursuant to the provisions of §11A-3-52 of this code. Where the mail is not deliverable to an address at the physical location of the subject property, the copy of the notice shall be sent to any other mailing address that exists to which the notice would be delivered to an occupant of the subject property.

The bill (Eng. Com. Sub. for H. B. 4452), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4484**, Relating to the Hazardous Waste Management Fund.

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

**Eng. Com. Sub. for House Bill 4497**, Requiring an external defibrillator device at any secondary school athlete event.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4499**, Relating to multicounty trail network authorities.

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

**Eng. House Bill 4502**, Relating to insurance adjusters.

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

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

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

## **ARTICLE 12B. ADJUSTERS.**

### **§33-12B-1. Definitions.**

~~(a) An “adjuster” is any individual who, for compensation, fee or commission, investigates and settles claims arising under property, casualty or surety insurance contracts, on behalf solely of either the insurer or insured. A licensed attorney who is qualified to practice law in this state is deemed not to be an adjuster for the purposes of this article~~

~~(b)~~ (a) “Automated claims adjudication system” means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable electronics insurance claims which:

(1) May only be used by a licensed adjuster, licensed producer, or supervised individuals operating pursuant to ~~section four a of this article~~ §33-12B-3(a)(14) of this code;

(2) Must comply with all claims payments requirements of the insurance code; and

(3) Must be certified as compliant with this section by a licensed adjuster that is an officer of the entity which employs the individuals operating pursuant to ~~section four a of this article~~ §33-12B-3(a)(14) of this code.

(b) “Business entity” means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(c) “Company adjuster” means an adjuster representing the interests of the insurer, including an independent contractor and a salaried employee of the insurer who is a staff employee of an insurance company, who is paid by the insurance company, and who investigates, negotiates, or settles claims.

(d) “Home state” means the District of Columbia or any state, commonwealth, or territory of the United States in which an adjuster maintains his or her principal place of residence or business and in which he or she is licensed to act as a resident adjuster. If a person’s principal place of residence or business does not license adjusters for the type of adjuster license sought in this state, he or she shall designate as his or her home state any state in which he or she has such a license.

(e) “Independent adjuster” means a person who:

(1) Is an individual, a business entity, an independent contractor, or an employee of a contractor, who contracts for compensation with insurers or self-insurers;

(2) Is one whom the insurer’s or self-insurer’s tax treatment of the individual is consistent with that of an independent contractor, rather than as an employee, as defined in the Internal Revenue Code, United States Code, Title 26, Subtitle C; and

(3) Investigates, negotiates, or settles property, casualty, or workers’ compensation claims for insurers or self-insurers.

(f) “Individual” means a natural person.

(g) “Insurance emergency” means a temporary situation, as declared by the commissioner pursuant to §33-2-10a of this code, when the number of licensed adjusters in this state is inadequate to meet the demands of the public.

(h) “Person” means an individual or business entity.

(e) (j) “Public adjuster” means ~~an independent contractor representing solely the financial interests of the insured named in the policy~~ any person who, for compensation or any other thing of value on behalf of the insured:

(1) Acts or aids, solely in relation to first-party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or



effecting the settlement of, a claim for loss or damage covered by an insurance contract;

(2) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a public adjuster of first-party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or

(3) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first-party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy on behalf of an insured.

(f) “Crop adjuster” means a person who adjusts crop insurance claims under the federal crop insurance program administered by the United States Department of Agriculture

### **§33-12B-2. License required.**

(a) No person may act or hold himself, herself, or itself out as a company adjuster, an independent adjuster, or a public adjuster in this state unless the person is licensed in accordance with this article or is exempt from licensure under this article.

(b) The license shall contain the licensee’s name, address, personal identification number, the date of issuance, expiration date, and any other information the commissioner deems necessary.

(c) A person licensed as a public adjuster shall not misrepresent to a claimant that he, she, or it is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster unless so appointed by an insurer in writing to act on the insurer’s behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the public adjuster.

(d) The commissioner shall license an individual as a company adjuster, independent adjuster, or public adjuster. An individual may be licensed concurrently under separate licenses but shall not act as an adjuster representing the interests of the insured and the insurer with respect to the same claim.

**~~§33-12B-3. Company, public and crop adjusters; concurrency; direct conflict prohibited~~ Exemptions from license requirement.**

~~The commissioner shall license an individual as a company adjuster, public adjuster or crop adjuster. An individual may be licensed concurrently under separate licenses but shall not act as an adjuster representing the interests of the insured and the insurer with respect to the same claim~~

(a) Notwithstanding any other provisions of this article, a company adjuster license or independent adjuster license shall not be required of the following:

(1) Attorneys-at-law admitted to practice in this state, when acting in their professional capacity as an attorney;

(2) A person employed only for the purpose of obtaining facts surrounding a claim or furnishing technical assistance to a licensed company or independent adjuster;

(3) An individual who is employed to investigate suspected fraudulent insurance claims but who does not adjust losses, investigate or determine coverage, or determine claim payments;

(4) A person who solely performs executive, administrative, managerial, or clerical duties, or any combination thereof, and who does not investigate, negotiate, or settle insurance claims with policyholders, claimants, or their legal representative;

(5) A licensed health care provider or its employee who is not responsible for determining compensability;

(6) A managed care organization or any of its employees or an employee of any organization providing managed care services, so long as the managed care organization or employee referenced herein is not determining compensability;

(7) A person who settles reinsurance or subrogation claims between insurers;

(8) An officer, director, or manager of an authorized insurer, surplus lines insurer, a risk retention group, or an attorney-in-fact of a reciprocal insurer;

(9) A manager of the United States branch of an alien insurer;

(10) A person who investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims;

(11) An individual employee, under a self-insured arrangement, who adjusts claims on behalf of his or her employer;

(12) A licensed individual producer, attorney-in-fact of a reciprocal insurer, or managing general agent of the insurer to whom claim authority has been granted by the insurer;

(13) A business entity licensed under the authority of §33-46-1 *et seq.* of this code;

(14) Individuals who collect claim information from, or furnish claim information to, insureds or claimants, and who conduct data entry, including entering data into an automated claims adjudication system are exempt from licensure under this article: *Provided*, That the individuals are under the supervision of a licensed adjuster or licensed producer: *Provided however*, That no more than 25 persons are under the supervision of one licensed adjuster or licensed producer; or

(15) Company adjusters employed by an insurer outside of this state who adjust claims solely by telephone, fax, United States mail, and electronic mail, and who do not physically enter this state in the course of adjusting such claims: *Provided*, That such adjusters

shall be subject to the jurisdiction of, and regulation by, the commissioner in regard to their adjustment of West Virginia claims: *Provided, however,* That the commissioner may require such adjusters to complete continuing education, not to exceed requirements pursuant to §33-12B-13(d) of this code, to address any deficiencies with respect to their claims handling practices.

(b) Notwithstanding any other provisions of this article, a public adjuster license shall not be required of the following:

(1) Attorneys-at-law admitted to practice in this state, when acting in their professional capacity as an attorney;

(2) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;

(3) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster;

(4) A licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or

(5) A person who settles subrogation claims between insurers.

**§33-12B-4. ~~License required; exception~~ Temporary licensure for emergency company or independent adjusters.**

~~No person shall in West Virginia act as or hold out to be an adjuster unless then licensed therefor pursuant to this article: *Provided,* That the provisions of this section do not apply to emergency insurance adjusters as defined in section eleven a of this article~~

(a) In the event of a declared insurance emergency, an insurer shall notify the commissioner with an application for temporary emergency licensure for each individual who will act as an emergency company adjuster or emergency independent adjuster on behalf of the insurer.

(b) A person who is otherwise qualified to adjust claims, but not already licensed in this state when the insurance emergency has been declared, may act as an emergency company or independent adjuster and adjust claims if, within five days of the declared insurance emergency, the insurer notifies the commissioner by providing the following information in a format proposed by the commissioner:

(1) Name and address of the individual;

(2) National Producer Number of the individual if the individual has a National Producer Number;

(3) Name of the insurer which the company or independent adjuster will represent;

(4) Effective date of the contract between the insurer and independent adjuster, if applicable;

(5) Insurance emergency or loss control number;

(6) Insurance emergency event name; and

(7) Any other information the commissioner deems necessary.

(c) An emergency company or independent adjuster's license shall remain in force for a period not to exceed 90 days, unless extended for an additional period by the commissioner.

(d) The fee for emergency company or independent adjuster application for licensure shall be in an amount specified in §33-12B-8 of this code. The fee shall be due and payable at the time of application for licensure.

#### **§33-12B-4a. Exemptions from license.**

[Repealed]

**§33-12B-5. Qualifications for resident adjuster's license; examination; exemptions.**

(a) ~~For the protection of the people of West Virginia, the commissioner shall not issue, renew or permit to exist any adjuster's license, except to an individual who~~ An individual applying for a resident adjuster license shall make application to the commissioner and declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

(1) Is 18 years of age or more;

(2) Is a resident of West Virginia, ~~except for nonresident adjusters as provided in section nine of this article~~ or eligible to designate West Virginia as his or her home state;

(3) ~~Satisfies the commissioner that he or she~~ Is trustworthy, and competent, reliable, and of good reputation, evidence of which may be determined by the commissioner;

(4) Has a business or mailing address in this state for acceptance of service of process or, if residing outside of this state, acknowledges that by adjusting claims in this state he or she is subject to this state's jurisdiction, pursuant to §56-3-33 of this code, and automatically appoints the West Virginia Secretary of State as his or her agent for service of process;

(5) Has not committed any act that is a ground for probation, suspension, revocation, or refusal of an adjuster's license as set forth in §33-12B-11 of this code;

(6) Has successfully passed the written examination for the line or lines of authority for which the person has applied; and

(7) Has paid the fees applicable to licensure.

~~(b)(1) The commissioner may, at his or her discretion, test the competency of an applicant for a license under this section by examination. However, in order to qualify for a crop adjuster license, an applicant must pass a written examination that tests the knowledge of the individual concerning the insurance laws of this state and the duties and responsibilities of a multi-peril crop adjuster. In lieu of such an examination, the commissioner may accept certification that the individual has passed a proficiency examination approved by the federal Risk Management Agency.~~ A resident individual applying for an adjuster license shall pass a written examination unless exempt pursuant to §33-12B-5(b)(5) or §33-12B-5(b)(6) of this code. The examination shall test the knowledge of the individual concerning the line or lines of authority for which application is made, if applicable, the duties and responsibilities of an adjuster, and the insurance laws and rules of this state. However, to qualify for an adjuster license with the crop line of authority, the commissioner may accept, in lieu of such an examination, certification that the individual has passed a proficiency examination approved by the United States Department of Agriculture Risk Management Agency.

~~(2) If such an examination is required~~ Each examinee shall pay a nonrefundable \$25 examination fee for each examination to the commissioner, which fees shall be used for the purposes set forth in §33-3-13 of this code. The commissioner may, at his or her discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the commissioner, and examination fees charged by such service shall be paid by the applicant.

(3) An individual who fails to appear for the examination as scheduled, or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

(4) An individual who initially fails to pass an examination required by this section is limited to seven additional attempts to pass the examination.

(5) An individual who applies for an adjuster license in this state, who was previously licensed for the same lines of authority in another jurisdiction, shall not be required to complete any preclicensing examination. This exemption is only available if the individual is currently licensed in that jurisdiction, or if the application is received within 90 days of the cancellation of the applicant's previous license, and if the prior jurisdiction issues a certification that, at the time of cancellation, the applicant was in good standing in that jurisdiction or the jurisdiction's adjuster database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the adjuster is or was licensed in good standing for the line of authority requested. The certification must be of a license with the same line of authority for which the individual has applied.

(6) An individual licensed as an adjuster in another jurisdiction who moves to this state shall make application within 90 days of establishing legal residence to become a resident licensee pursuant to this section: *Provided*, That no pre-licensing examination shall be required of that individual to obtain any line of authority previously held in the prior jurisdiction, except where the commissioner determines otherwise by rule.

(7) Examinations may be developed and conducted under rules proposed by the commissioner.

(8) Examinations required by this subsection are applicable for individual adjusters first licensed on or after July 1, 2021, or for individual adjusters who add a line of authority to an existing adjuster license on or after July 1, 2021.

(c) A business entity applying for a resident independent or public adjuster license shall make application to the commissioner on forms proposed by the commissioner and shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:



(1) Is eligible to designate West Virginia as its home state;

(2) Has a business or mailing address in this state for acceptance of service of process;

(3) Has designated a licensed independent or public adjuster responsible for the business entity's compliance with the insurance laws and rules of this state; and

(4) Has not committed an act that is a ground for probation, suspension, revocation, or refusal of an independent or public adjuster's license as set forth in §33-12B-11 of this code.

~~(e)~~(d) The requirements of this section do not apply to temporary licenses issued to emergency company adjusters or emergency independent adjusters.

**§33-12B-6. Application Authorization for criminal history record check; fees.**

~~(a) Application for an adjuster's license or renewal thereof or emergency adjusters' licenses shall be made to the commissioner upon a form prescribed by him and shall contain such information and be accompanied by such supporting documents as the commissioner may require, and the commissioner may require such application to be made under the applicant's oath~~ In furtherance of the national goal of promoting uniformity and reciprocity among the states, commonwealths, territories, and the District of Columbia with regard to adjuster licensing, this section sets forth the requirements to obtain access to the Federal Bureau of Investigation Criminal Justice Information Services Division criminal history record information and to secure information or reports from the Federal Bureau of Investigation Criminal Justice Information Services Division. The scope of this section is to set forth the applicability of the criminal history record check to applicants for a home state insurance adjuster license.

(b) As used in this section, the following terms have the meanings ascribed in this subsection, unless a different meaning is clearly required by the context:

(1) “Applicant” means a natural person applying for:

(A) An initial home state license as an insurance adjuster;

(B) An additional line of authority under an existing home state insurance adjuster license where a criminal history record check has not been obtained; or

(C) A resident insurance adjuster license under change of home state provisions.

“Applicant” does not mean a person applying for renewal or continuation of a home state insurance adjuster license or a nonresident insurance adjuster license.

(2) “Fingerprint” means an impression of the lines on the finger taken for the purpose of identification. The impression may be obtained electronically or in ink converted to an electronic format.

(c) In order to make a determination of adjuster license eligibility, the commissioner is authorized to require fingerprints of applicants and to submit the fingerprints and the fee required to perform a criminal history record check to the West Virginia State Police and to the Federal Bureau of Investigation.

(d) The commissioner shall require a criminal history record check on each applicant in accordance with this section. The commissioner shall require each applicant to submit a full set of fingerprints, including a scanned file from a hard copy fingerprint, in order for the commissioner to obtain and receive national criminal history records from the Federal Bureau of Investigation’s Criminal Justice Information Services Division.

(e) The commissioner shall collect a fee from each applicant in an amount sufficient to cover:

(1) The cost of the collection and transmittal of fingerprints by persons, including local law enforcement agencies that are approved by the commissioner to capture fingerprints, to the West Virginia State Police and the Federal Bureau of Investigation; and

(2) The cost of any amounts charged by the West Virginia State Police and the Federal Bureau of Investigation to perform the criminal history record checks.

(f) The commissioner may contract for the collection and transmission of fingerprints authorized under this section and may order that the fee for collecting and transmitting fingerprints be payable directly by the applicant to the contractor.

(g) The commissioner is authorized to receive criminal history record information directly from the Federal Bureau of Investigation, in lieu of via transmission of the information from the Federal Bureau of Investigation to the West Virginia State Police.

(h) The commissioner shall treat and maintain an applicant's fingerprints and any criminal history record information obtained under this section as confidential and shall apply security measures consistent with the Federal Bureau of Investigation's Criminal Justice Information Services Division standards for the electronic storage of fingerprints and necessary identifying information. The commissioner shall limit the use of records solely to the purposes authorized in this section. The fingerprints and the criminal history record information in the custody of the commissioner are not subject to subpoena, other than one issued in a criminal action or investigation, are confidential by law and privileged, and are not subject to discovery or admissible in evidence in any private civil action.

### **§33-12B-7. Issuance of license Lines of authority.**

~~The commissioner may issue a license to any individual as an adjuster who complies with the applicable provisions of this chapter and who in the opinion of the commissioner is trustworthy and competent~~ (a) An independent adjuster or a company adjuster may qualify for a license in one or more of the following lines of authority:

(1) Property and casualty;

(2) Workers' compensation; or

(3) Crop.

(b) A public adjuster may only qualify for a license designating a property and casualty line of authority.

### **§33-12B-8. License fee; exemptions fees.**

(a) The annual fee for an adjuster's individual adjuster license shall be \$25. as provided in section thirteen, article three of this chapter: *Provided*, That when any other state imposes a tax, bond, fine, penalty, license fee or other obligation or prohibition on adjusters resident in this state, the same tax, bond, fine, penalty, license fee or other obligation or prohibition shall be imposed upon adjusters (where licensing of nonresident adjusters is permitted under this article) of each other state licensed or seeking a license in this state. All fees and moneys so collected shall be used for the purposes set forth in section thirteen, article three of this chapter: *Provided, however*, That the provisions of this section shall not apply to emergency insurance adjusters as defined in section eleven a of this article

(b) The annual fee for a business entity adjuster license shall be \$200.

(c) The fee for a temporary emergency adjuster license shall be \$25.

(d) All fees collected pursuant to this section shall be used for the purposes set forth in §33-3-13 of this code.

### **§33-12B-9. Licensing of nonresident adjusters.**

(a) A nonresident applicant for an adjuster license who holds a similar license in his or her home state may be licensed as a nonresident adjuster in this state if the applicant's home state has established, by law or regulation, like requirements for the licensing of a resident of this state as a nonresident adjuster.

(b) As a condition of continuing a nonresident adjuster license, the licensee must maintain a license in his or her home state. The commissioner may verify the adjuster's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

(c) If a nonresident adjuster desires to become a resident adjuster, he or she must apply to become one within 90 days of establishing legal residency in this state.

(d) If a nonresident adjuster has his or her license suspended, terminated, or revoked by his or her home state, the adjuster must immediately notify the commissioner of that action and, with respect to license terminations or revocations, surrender the license to the commissioner.

(e) A resident of Canada may be licensed as a nonresident adjuster under this section if that person has obtained a resident or home state adjuster license in another state United States jurisdiction.

### **§33-12B-10. Expiration of license; renewal.**

(a) ~~All licenses of adjusters shall~~ The commissioner may, in his or her discretion, fix the dates of expiration of respective licenses for all adjusters in any manner as is considered by him or her to be advisable for an efficient distribution of the workload of his or her office. If the expiration date so fixed would upon first occurrence shorten the period for which a license fee has theretofore been paid, no refund of the unearned fee shall be made. If the expiration date so fixed would upon first occurrence lengthen the period for which license fee had theretofore been paid, the commissioner shall charge no additional fee for the lengthened period. If another date is not so fixed by the commissioner, each license shall, unless continued as herein above provided, expire at midnight on May 31 next following the date of issuance, and the commissioner shall renew annually the license of all such licensees who qualify, and make application therefor, and have paid the fees set forth in this article. ~~However, the commissioner may, in his or her discretion,~~

~~establish the dates of expiration of licenses in any manner deemed advisable for an efficient distribution of the workload of his or her office~~

(b) An adjuster whose license expires may, if application is made within one year of the expiration date, be reissued a license upon payment of twice the renewal fee.

(c) The commissioner may waive any renewal requirement for any adjuster who is unable to comply due to military service, long-term medical disability, or other extenuating circumstance.

(d) As a condition of the renewal of ~~a crop~~ an adjuster license with the designation of a crop insurance line of authority, the commissioner may require that the licensee demonstrate that he or she has maintained certification of proficiency issued or approved by the USDA United States Department of Agriculture Risk Management Agency.

**§33-12B-11. Denial, revocation, suspension, probation, or refusal to renew license; penalties; violations.**

(a) The commissioner may examine and investigate the business affairs and conduct of persons applying for or holding an adjuster license to determine whether such person is trustworthy and competent or has been or is engaged in any violation of the insurance laws or rules of this state or in any unfair or deceptive acts or practices in any state.

(b) If the commissioner denies an initial or renewal application for a license, he or she shall notify the applicant or licensee in writing of the reason for such action. The applicant or licensee may, within 10 days of receipt of such notice, make written demand for a hearing before the commissioner to determine the reasonableness of the action, and such hearing shall be held in accordance with the provisions of §33-2-13 of this code.

(c) Whenever, after notice and hearing, the commissioner is satisfied that any adjuster has violated any provision of this chapter or of rules promulgated or proposed hereunder, or is incompetent

or untrustworthy, he or she shall place the adjuster on probation or refuse to issue, revoke, suspend, or, if renewal of license is pending, refuse to renew the license of such adjuster. In addition to placing a licensee on probation or revoking, suspending, or refusing to renew or issue his or her license, the commissioner may in his or her discretion order such licensee to pay to the State of West Virginia an administrative penalty in a sum not to exceed \$1,000 for each violation. Upon the failure of ~~the~~ a licensee to pay such within 30 days a civil penalty imposed by the commissioner, his or her license shall be revoked or suspended by the commissioner.

(d) Each of the following shall constitute a violation under this article:

(1) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(2) Violating any insurance statute, rule, subpoena, or order of the commissioner or of another state's insurance commissioner;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) Having been convicted of or pleaded nolo contendere to any felony;

(7) Having been convicted of or pleaded nolo contendere to a misdemeanor in connection with his or her activities relating to the business of insurance;

(8) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(9) Having an insurance license or its equivalent suspended, revoked, or refused in any other state, province, district, or territory;

(10) Forging any document or signature relating to an insurance transaction or fraudulently procuring a forged signature to any document related to an insurance transaction;

(11) Cheating, including improperly using notes or any other reference material, in the course of taking an examination for an insurance license;

(12) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of insurance business in this state or elsewhere;

(13) Failing to comply with an administrative or court order imposing a child support obligation; or

(14) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax which remains unpaid.

~~(d) (e)~~ Orders issued pursuant to ~~subsection (b) or (c)~~ of this section are subject to the judicial review provisions of §33-2-14 of this code.

**§33-12B-11a. Emergency adjusters and insurance emergencies; definitions; authorization of temporary emergency adjusters; applications; limitations and authority.**

[Repealed]

**§33-12B-12. Rules and regulations.**

~~The commissioner is authorized to promulgate such rules and regulations as are necessary to effectuate the provisions of this article. Such rules and regulations shall be promulgated and adopted pursuant to the provisions of chapter twenty nine a of this~~



~~code.~~ may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to implement the provisions of this article.

**§33-12B-13. Continuing education.**

(a) The purpose of this section is to provide continuing education requirements for individual adjusters under guidelines established by the commissioner's office in conjunction with the Board of Insurance Agent Education as provided in §33-12-7 of this code.

(b) This section applies to company adjusters, independent adjusters, and public adjusters licensed pursuant to §33-12B-2 of this code.

(c) This section shall not apply to:

(1) Licensees not licensed for one full year prior to the end of the applicable continuing education biennium; or

(2) Licensees holding nonresident adjuster licenses who have met substantially similar continuing education requirements of their designated home state and whose home state gives credit to residents of this state on the same basis.

(d)(1) The Board of Insurance Agent Education as established by §33-12-7 of this code shall develop a program of continuing education for adjusters and submit the proposal for the approval of the commissioner on or before December 31 of each year. No program may be approved by the commissioner that includes a requirement that any individual adjuster complete more than 24 hours of continuing insurance education biennially.

(2) The biennium mandatory continuing education provisions of this section become effective on the reporting period beginning July 1, 2021.

(3) The commissioner and the Board of Insurance Agent Education, under standards established by the board, may approve

any course or program of instruction developed or sponsored by an authorized insurer, accredited college or university, adjusters' association, insurance trade association, or independent program of instruction that presents the criteria and the number of hours that the board and commissioner determine appropriate for the purpose of this section.

(e) An individual who holds an adjuster license and who is not exempt shall satisfactorily complete a minimum of 24 hours of continuing education courses, of which three hours must be in ethics, reported to the commissioner on a biennial basis in conjunction with their license renewal cycle.

(f) Every individual adjuster subject to the continuing education requirements shall furnish, at intervals and on forms as may be proposed by the commissioner, written certification listing the courses, programs, or seminars of instruction successfully completed by the adjuster. The certification shall be executed by, or on behalf of, the organization sponsoring the courses, programs, or seminars of instruction.

(g) Subject to the approval of the commissioner, the active annual membership by an adjuster in an organization or association recognized and approved by the commissioner as a state, regional, or national professional insurance organization or association may be approved by the commissioner for up to two hours of continuing insurance education: *Provided*, That not more than two hours of continuing education may be awarded to an adjuster for membership in a professional insurance organization during a biennial reporting period.

(h) Adjusters who exceed the minimum continuing education requirement for the biennial reporting period may carry over a maximum of six credit hours only into the next reporting period.

(i) Any individual adjuster failing to meet the requirements mandated in this section and who has not been granted an extension of time with respect to the requirements, or who has submitted to the commissioner a false or fraudulent certificate of compliance, shall have his or her license automatically suspended and no further

license may be issued to the person until the person demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements mandated by this section and all other applicable laws or rules.

(j) The commissioner shall notify the individual adjuster of his or her suspension pursuant to subsection (i) of this section by certified mail, return receipt requested, to the last address on file with the commissioner pursuant to §33-12B-2(b) of this code. Any individual insurance adjuster who has had a suspension order entered against him or her pursuant to this section may, within 30 calendar days of receipt of the order, file with the commissioner a request for a hearing for reconsideration of the matter.

(k) Any individual adjuster who does not satisfactorily demonstrate compliance with this section and all other laws applicable thereto as of the last day of the biennium following his or her suspension shall have his or her license automatically terminated and is subject to the licensing and examination requirements of §33-12B-5 of this code.

(l) The commissioner is authorized to hire personnel and make reasonable expenditures considered necessary for purposes of establishing and maintaining a system of continuing education for adjusters. The commissioner shall charge a fee of \$25 to continuing education providers for each continuing education course submitted for approval which shall be used to maintain the continuing education system. The commissioner may, at his or her discretion, designate an outside administrator to provide all of or part of the administrative duties of the continuing education system subject to direction and approval by the commissioner. The fees charged by the outside administrator shall be paid by the continuing education providers. In addition to fees charged by the outside administrator, the outside administrator shall collect and remit to the commissioner the \$25 course submission fee.

**§33-12B-15. Effective date for 2020 amendments.**

The effective date of the amendments made to this article during the 2020 regular legislative session is July 1, 2021.

The bill (Eng. H. B. 4502), as amended, was then ordered to third reading.

**Eng. House Bill 4514**, Permitting the use of leashed dogs to track mortally wounded deer or bear.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4523**, Removing the limitation of number of apprentice hunting and trapping licenses a person may purchase.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4524**, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption.

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

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

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

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS**

### **ARTICLE 5. LOCAL OPTION ELECTIONS.**

#### **§60-5-1. Election in county, magisterial district or municipality.**

A county ~~magisterial district~~ or any municipality may in an election held especially for the purpose, determine whether the sale of alcoholic liquors for beverage purposes shall be permitted within that county ~~magisterial district~~ or municipality.

A local option election shall not be held within 60 days of a general or municipal election.

**§60-5-2. Election called on petition of five percent of qualified voters.**

The county commission, or the governing body of the municipality, ~~as the case may be,~~ shall call a special local option election upon the filing of a petition signed by not less than five percent of the qualified voters within the county ~~a magisterial district~~ or municipality.

**§60-5-3. Form of petition.**

The petition shall be in the following form:

Petition for Local Option Election

We, the undersigned legally qualified voters, resident within the county ~~(magisterial district)~~ (municipality) of \_\_\_\_\_, do hereby petition that a special election be held within the county (city, town) of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 1920 \_\_\_\_\_, upon the following question:

Shall the sale of alcoholic beverages under the West Virginia Alcohol Beverage Control Commissioner be (permitted) (prohibited) in \_\_\_\_\_?

Name Address Date

(Post office or street and number)

**§60-5-4. Notice of election; when held; election officers.**

The county ~~court~~ commission or governing body of the municipality shall give notice of the special local option election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the area in which

the election is to be held. Such notice shall be so published within 14 consecutive days next preceding the election. The election shall be held not more than 90 nor less than 60 days from the filing of the petition. The regular election officers of the county or municipal corporation shall open the polls and conduct the election in the same manner provided for general elections.

**§60-5-5. Form of ballot.**

On the ballot shall be printed the following:

Shall the sale of alcoholic ~~beverages~~ liquors for off-premises consumption under the West Virginia ~~liquor~~ Alcohol Beverage Control ~~commission~~ Commissioner be permitted in .....?

Yes.

No.

(Place a cross mark in the square opposite your choice.)

**§60-5-6. How election conducted and results certified.**

The ballots shall be counted, returns made and canvassed as in general elections, and the results certified by the commissioners of election to the county ~~court~~ commission of the county, or the governing body of the municipality. ~~as the case may be~~. The county ~~court~~ commission or governing body shall without delay certify the result of the election to the ~~commission~~ commissioner.

**§60-5-7. Discontinuance of state stores and agencies in local option territory.**

Within 30 days after a local option election in which a majority has voted No, the ~~commission~~ commissioner shall ~~elose~~ order the closing of all state stores selling alcoholic liquor for off-premises consumption within the county, ~~the magisterial district~~ or municipality.

**§60-5-8. When another election may be held.**

When a local option election has been held in a county, a ~~magisterial district~~ or municipality, another such election ~~shall~~ may not be held for a period of two years.

**§60-5-9. Allowing state-wide off premises of alcoholic liquors; exceptions; procedures.**

(a) Effective July 1, 2020, the sale of alcoholic liquors for off-premises consumption is authorized in all counties and municipalities of the state.

(b) Notwithstanding the provisions of subsection (a) of this section, a county or municipality which prior to January 1, 2020, prohibited the sale of alcoholic liquors for off-premises consumption may, pursuant to this article, hold an election to maintain the prohibition against the sale of alcoholic liquors for off-premises consumption; :Provided, That a county commission or the governing body of a municipality may, without the petition required by the provisions of §60-5-2 of this code, enter an order to hold a local election option on the issue of whether to maintain the prohibition against the sale of alcoholic liquors for off-premises consumption based upon a majority vote of the county commission or governing body of the municipality if such order is entered on or before July 1, 2020, in which event the election shall be held concurrent with the 2020 general election. The County Commission or municipality may require the state to reimburse it for the actual cost of conducting the election authorized by this subsection.

(c) A county or municipality which prohibits the sale of alcoholic liquors for off-premises consumption pursuant to subsection (b) of this section may later reconsider its action using the procedures set forth in §60-5-1 et seq. of this code.

The bill (Eng. H. B. 4524), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4535**, Relating to student aide class titles.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4557**, Relating to centers and institutions that provide the care and treatment of mentally ill or intellectually disabled individuals.

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

The following amendments to the bill, from the Committee on Health and Human Resources, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section one, by striking out the section caption and inserting in lieu thereof the following:

**§27-9-1. License from ~~director of health~~ Secretary of Health and Human Resources; regulations.;**

And,

On page two, section three, by striking out the section caption and inserting in lieu thereof the following:

**§27-17-3. License from ~~director of health~~ Secretary of Health and Human Resources; regulations; and penalties.**

The bill (Eng. Com. Sub. for H. B. 4557), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4573**, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.



**Eng. Com. Sub. for House Bill 4581**, Relating to West Virginia Clearance for Access: Registry and Employment Screening.

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

The following amendments to the bill, from the Committee on Health and Human Resources, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section one, line twenty-eight, by striking out the words “of a covered provider”;

On page two, section one, line thirty-one, by striking out the words “a covered provider” and inserting in lieu thereof the words “the department, a covered provider,”;

And,

On page four, section two, line fifteen, by striking out the words “the covered provider” and inserting in lieu thereof the words “the department, the covered provider,”.

The bill (Eng. Com. Sub. for H. B. 4581), as amended, was then ordered to third reading.

**Eng. House Bill 4607**, Authorizing the operation of mobile shops for hair, nail, cosmetology, and aesthetics services.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4618**, Relating to deadly weapons for sale or hire.

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

**Eng. Com. Sub. for House Bill 4619**, Approving plans proposed by electric utilities to install middle-mile broadband fiber.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4634**, Southern West Virginia Lake Development Study Commission Act.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4665**, Reducing the amount of rebate going to the Purchasing Improvement Fund.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4668**, Creating the misdemeanor crime of trespass for entering a structure that has been condemned.

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

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

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

### **ARTICLE 3B. TRESPASS.**

#### **§61-3B-2. Trespass in structure or conveyance.**

(a) Any person who knowingly enters in, upon, or under a structure or conveyance without being authorized, licensed, or invited, or having been authorized, licensed, or invited is requested to depart by the owner, tenant, or the agent of ~~such~~ the owner or

tenant, and refuses to do so, ~~shall be~~ is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$100.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who, without permission, knowingly and willfully enters a structure which has a clear posting that the structure has been condemned by any municipal or county government as unfit for human habitation or use, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100, or confined in jail not more than six months, or both fined and confined: *Provided*, That for any first violation of this subsection offense of trespass on condemned property, a court may substitute community service or pretrial diversion in lieu of a fine or confinement for trespassing on condemned property.

~~(b)~~(c) If the offender is armed with a firearm or other dangerous weapon while in the structure or conveyance, with the intent to do bodily injury to a human being in ~~said~~ the structure or conveyance at the time the offender knowingly trespasses, ~~such~~ the offender ~~shall~~, notwithstanding the provisions of §61-7-1 of this code, ~~be~~ is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500, or be confined in ~~the~~ county jail for a ~~period not to exceed~~ not more than one year, or both ~~such~~ fined and ~~imprisonment~~ confined.

The bill (Eng. Com. Sub. for H. B. 4668), as amended, was then ordered to third reading.

**Eng. House Bill 4737**, Clarifying student eligibility for state-sponsored financial aid.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4747**, Extending electronic submission of various applications and forms for nonprofit and charitable organizations, professionals and licensees.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4748**, Relating to the increase of fees that private nongovernment notary publics may charge for notarial acts.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4777**, Relating to the right of disposition of remains.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4797**, Authorizing municipalities to enact ordinances that allow the municipal court to place a structure, dwelling or building into receivership.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4803**, Relating to certification of electrical inspectors.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4804**, Relating to comprehensive systems of support for teacher and leader induction and professional growth.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4823**, Developing a plan for periodic audits of the expenditure of the fees from the emergency 911 telephone system and wireless enhanced 911.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4892**, Reducing personal income tax rates when personal income tax reduction fund is funded at a certain threshold.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4946**, Eliminating the requirement that municipal police civil service commissions certify a list of three individuals for every position vacancy.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4958**, Relating to eliminating the ability of a person's driver license to be suspended for failure to pay court fines and costs.

Having been removed from the Senate second reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4960**, Relating to exempting from licensure as an electrician.

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

The end of today's second reading calendar having been reached, the Senate returned to the consideration of

**Eng. Com. Sub. for House Bill 4378**, Relating to disciplining teachers.

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

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

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

## **ARTICLE 2. SCHOOL PERSONNEL.**

### **§18A-2-8. Suspension and dismissal of school personnel by board; appeal.**

(a) Notwithstanding any other provisions of law, a board may suspend or dismiss any person in its employment at any time for: Immorality, incompetency, cruelty, insubordination, intemperance, willful neglect of duty, unsatisfactory performance, a finding of abuse by the Department of Health and Human Resources in accordance with §49-1-1 *et seq.* of this code, the conviction of a misdemeanor or a guilty plea or a plea of *nolo contendere* to a misdemeanor charge that has a rational nexus between the conduct and performance of the employee's job, the conviction of a felony or a guilty plea or a plea of *nolo contendere* to a felony charge.

(b) A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation pursuant to §18A-2-12 of this code. The charges shall be stated in writing served upon the employee within two days of presentation of the charges to the board.

(c) The affected employee shall be given an opportunity, within five days of receiving the written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions of §6C-2-1 *et seq.* of this code, except that dismissal for a finding of abuse or the conviction of a felony or guilty plea or plea of *nolo contendere* to a felony charge is not by itself a grounds for a grievance proceeding. An employee charged with the commission of a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee's job, or child abuse may be reassigned to duties which do not involve direct interaction with pupils pending final disposition of the charges.

(d) A county board of education has the duty and authority to provide a safe and secure environment in which students may learn and prosper; therefore, it may take necessary steps to suspend or dismiss any person in its employment at any time should the health, safety, and welfare of students be jeopardized or the learning environment of other students has been impacted. A county board shall complete an investigation of an employee that involves evidence that the employee may have engaged in conduct that jeopardizes the health, safety, or welfare of students despite the employee's resignation from employment prior to completion of the investigation.

(e) It shall be the duty of any county superintendent to report any employee suspended or dismissed, or resigned during the course of an investigation of the employee's alleged misconduct, in accordance with this section, including the rationale for the suspension or dismissal, to the state superintendent within seven business days of the suspension, dismissal, or resignation. The state superintendent shall maintain a database of all individuals suspended or dismissed for jeopardizing the health, safety, and welfare of students, or for impacting the learning environment of other students. The database shall also include the rationale for the suspension or dismissal. The database shall be confidential and shall only be accessible to county human resource directors, county superintendents, and the state superintendent.

### **ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.**

#### **§18A-3-6. ~~Ground~~ Grounds for revocation or suspension of certificates; other authorized actions by state superintendent; required reporting by county superintendents; and recalling certificates for correction.**

(a) The State Superintendent may, after 10 days' notice and upon proper evidence, revoke or suspend the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction,

guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to obtain the certificates: *Provided*, That in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The State Superintendent shall also have the authority to limit certificates, issue letters of admonishment, or enter into consent agreements requiring specific training in order for a teacher to maintain a certificate. The State Superintendent may designate the West Virginia commission for professional teaching standards or members thereof to conduct hearings on revocations or certificate denials and make recommendations for action by the State Superintendent. The State Superintendent may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person subject to licensure by the State Superintendent.

~~(b) Provided further, That~~ A teacher, as defined by West Virginia Code §18-1-1(g), convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state, any criminal offense that requires the teacher to register as a sex offender, or any criminal offense which has as an element delivery or distribution of a controlled substance, or pleads guilty to or is convicted under the provisions of §61-2-1 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 elements as those offenses described in §61-2-1, shall have his or her certificate or license automatically revoked. Should the conviction resulting in automatic revocation pursuant to this section be overturned by any Court of this State or the United States, the teacher's certification shall be reinstated unless otherwise prohibited by law.

(c) A teacher, as defined by §18-1-1(g) of this code, and including any individual holding a license granted pursuant to §18A-3-2a of this code, shall maintain a professional relationship



with all students at all times, both in and out of the classroom. Any teacher found to have committed any act of sexual abuse of a student or minor or to have engaged in inappropriate sexual conduct with a student or minor; committed an act of cruelty to children or an act of child endangerment or solicited, encouraged, engaged in or consummated an inappropriate relationship with any student, minor, or individual who was a student in the preceding 24 months; or engaged in grooming a student or minor shall have his or her license revoked for a period of time not less than five years. For the purposes of this subsection, “grooming a student or minor” means befriending and establishing an emotional connection with a student or minor, which may include the family of the student or minor, to lower the student’s or minor’s inhibitions with the objective of committing sexual abuse, child trafficking, child prostitution, the production of child pornography, or any other offense for which a license shall be revoked under this subsection.

~~(b)~~ (d) Any county superintendent, public school principal, or public charter school administrator who knows of any acts on the part of any teacher for which a certificate may be revoked or for which other action may be taken in accordance with this section shall report this, together with all the facts and evidence, to the State Superintendent for such action as in the State Superintendent’s judgment may be proper.

~~(e)~~ (e) If a certificate has been granted through an error, oversight, or misinformation, the State Superintendent may recall the certificate and make such corrections as will conform to the requirements of law and the state board.

(f) The state superintendent shall maintain a public database of individuals who have had adverse action taken against their teaching certificate by the state superintendent. Individuals whose certificate has been revoked by the state superintendent are not eligible to be employed by a county board unless the individual’s certificate is subsequently reinstated by the state superintendent.

(g) This section applies to all public school teachers whether employed by a county board or the governing board of a public charter school.

(h) The state superintendent shall periodically ensure that county boards are acting in compliance with this section.

(i) The state board may propose legislative rules pursuant to §29A-3B-1 et seq. of this code that are necessary to implement the provisions of this section.

On motion of Senator Weld, the following amendment to the Education committee amendment to the bill (Eng. Com. Sub. for H. B. 4378) was reported by the Clerk:

On pages three and four, section six, by striking out all of subsection (c) and inserting in lieu thereof a new subsection (c), to read as follows:

(c) A teacher, as defined by §18-1-1(g) of this code, and including any individual holding a license granted pursuant to §18A-3-2a of this code, shall maintain a professional relationship with all students at all times, both in and out of the classroom. Following a hearing as provided in subsection (a) of this section, any teacher found to have committed any act of sexual abuse of a student or minor or to have engaged in inappropriate sexual conduct with a student or minor; committed an act of cruelty to children or an act of child endangerment or solicited, encouraged, engaged in or consummated an inappropriate relationship with any student, minor, or individual; exploited a student by engaging in any of the aforementioned illegal or inappropriate conduct which then escalated into a relationship with the exploited student within 12 months of that student's graduation; or engaged in grooming a student or minor shall have his or her license revoked for a period of time not less than five years. For the purposes of this subsection, "grooming a student or minor" means befriending and establishing an emotional connection with a student or minor, which may include the family of the student or minor, to lower the student's or minor's inhibitions with the objective of committing sexual abuse.

child trafficking, child prostitution, the production of child pornography, or any other offense for which a license shall be revoked under this subsection.

Following discussion,

The question being on the adoption of Senator Weld's amendment to the Education committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Education committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4378), as amended, was then ordered to third reading.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senator Weld.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 1:47 p.m., the Senate recessed until 6:30 p.m. today.

The Senate reconvened at 7:19 p.m. and, without objection, returned to the third order of business.

### **Executive Communications**

Senator Carmichael (Mr. President) laid before the Senate the following proclamation from His Excellency, the Governor, extending this current legislative session until and including the eighth day of March, two thousand twenty, which was received and read by the Clerk:

**STATE OF WEST VIRGINIA****EXECUTIVE DEPARTMENT****Charleston****A PROCLAMATION****By the Governor**

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

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

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

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

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

WHEREAS, the Budget Bill has not been finally acted upon by the Legislature as of this fourth day of March, two thousand twenty.

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

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



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, on this the fourth day of March, in the year of our Lord, Two Thousand Twenty, and in the One Hundred Fifty-Seventh year of the State.

  
GOVERNOR

  
SECRETARY OF STATE

Senator Carmichael (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, consisting of executive nominations for appointees:



*Jim Justice*  
*Governor of West Virginia*

March 4, 2020

Senate Executive Message No. 2  
Regular Session 2020

TO: The Honorable Members of the  
West Virginia Senate

Ladies and Gentlemen:

I respectfully submit the following nominations for your advice and consent:

1. For Chief Administrative Law Judge, Workers' Compensation Office of Judges within the Office of the Insurance Commissioner, Bradley A. Crouser, Charleston, Kanawha County, for the term ending December 31, 2023.
2. For Member, West Virginia Board of Social Work Examiners, Natalie Buskirk Murphy, Huntington, Cabell County, for the term ending June 30, 2020.
3. For Member, West Virginia Board of Social Work Examiners, Joanne Mahood Boileau, Ghent, Raleigh County, for the term ending June 30, 2020.
4. For Member, West Virginia Board of Social Work Examiners, Charles S. Inghram, Athens, Mercer County, for the term ending June 30, 2020.
5. For Member, West Virginia Board of Social Work Examiners, Robert D. Musick, Morgantown, Monongalia County, for the term ending June 30, 2020.
6. For Member, West Virginia School of Osteopathic Medicine Board of Governors, Randall Belt, Johnson City, Tennessee, for the term ending June 30, 2021.
7. For Member, West Virginia Parole Board, David P. Reider, Bridgeport, Taylor County, for the term ending June 30, 2021.
8. For Member, West Virginia Investment Management Board of Trustees, Georgette Rashid George, Charleston, Kanawha County, for the term ending January 31, 2024.

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## OFFICE OF THE GOVERNOR

9. For Member, Board of Veterinary Medicine, Monica Patton, Charleston, Kanawha County, for the term ending June 30, 2024.
10. For Member, Board of Veterinary Medicine, Mark A. Ayers, Hurricane, Putnam County, for the term ending June 30, 2023.
11. For Member, Retail Liquor Licensing Board, Clarence Pennington, Martinsburg, Berkeley County, for the term ending December 1, 2022.
12. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, Douglas M. Wood, Hurricane, Putnam County, for the term ending June 30, 2022.
13. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, Edward F. Maguire II, Charleston, Kanawha County, for the term ending June 30, 2022.
14. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, James T. Anderson, Reedsville, Preston County, for the term ending June 30, 2023.
15. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, Elizabeth Wheatley, Charleston, Kanawha County, for the term ending June 30, 2023.
16. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, M. Lavonne Paden, Martinsburg, Berkeley County, for the term ending June 30, 2023.
17. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, Barbara Breshock, Arnett, Raleigh County, for the term ending June 30, 2020.
18. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, Zachary J. Loughman, Wheeling, Ohio County, for the term ending June 30, 2022.
19. For Commissioner, West Virginia Division of Motor Vehicles, Everett J. Frazier, Cyclone, Wyoming County, to serve at the will and pleasure of the Governor.
20. For Member, West Virginia Emergency Medical Services Advisory Council, Robert Craig Horn, Harpers Ferry, Jefferson County, for the term ending June 30, 2022.
21. For Member, West Virginia Emergency Medical Services Advisory Council, William A. Weese, Jr., Man, Logan County, for the term ending June 30, 2022.
22. For Member, Board of Barbers and Cosmetologists, Donald Snyder, Fayetteville, Fayette County, for the term ending June 30, 2024.
23. For Member, Board of Barbers and Cosmetologists, Catherine Donahoe, Barboursville, Cabell County, for the term ending June 30, 2020.
24. For Member, Board of Barbers and Cosmetologists, Chelsea McBee, Rippon, Jefferson County, for the term ending June 30, 2024.

## OFFICE OF THE GOVERNOR

25. For Member, Board of Barbers and Cosmetologists, Samantha Grady, Eleanor, Putnam County, for the term ending June 30, 2023.
26. For Member, Board of Barbers and Cosmetologists, Catelyne Nguyen, Hurricane, Putnam County, for the term ending June 30, 2023.
27. For Member, Board of Barbers and Cosmetologists, Margaret Osborne, Cross Lanes, Kanawha County, for the term ending June 30, 2022.
28. For Member, Board of Barbers and Cosmetologists, Tyler Yates, Morgantown, Monongalia County, for the term ending June 30, 2024.
29. For Member, Board of Barbers and Cosmetologists, Melissa Kelley, Kingwood, Preston County, for the term ending June 30, 2024.
30. For Member, Fairmont State University Board of Governors, Robert R. Hutson, Jr., Birmingham, Alabama, for the term ending June 30, 2021.
31. For Member, West Virginia Commission for the Deaf and Hard of Hearing, Nancy B. Mullins Gillispie, Sumerco, Lincoln County, for the term ending June 30, 2022.
32. For Member, Board of Risk and Insurance Management, Gordon Lane, Jr., Charleston, Kanawha County, for the term ending June 30, 2023.
33. For Member, Motor Vehicle Dealers Advisory Board, Larry Dawson, Winfield, Putnam County, for the term ending June 30, 2020.
34. For Member, Motor Vehicle Dealers Advisory Board, Johnnie Brown, Charleston, Kanawha County, for the term ending June 30, 2022.
35. For Member, Motor Vehicle Dealers Advisory Board, Kellee Turner Humphrey, Charleston, Kanawha County, for the term ending June 30, 2022.
36. For Member, West Virginia University - Parkersburg Board of Governors, Steven R. Hardman, Parkersburg, Wood County, for the term ending June 30, 2022.
37. For Member, West Virginia University - Parkersburg Board of Governors, John Denbigh, Spencer, Roane County, for the term ending June 30, 2022.
38. For Member, West Virginia University - Parkersburg Board of Governors, Stephanie McCoy, Cottageville, Jackson County, for the term ending June 30, 2022.
39. For Member, West Virginia Northern Community and Technical College Board of Governors, Davis S. Artman, New Cumberland, Hancock County, for the term ending June 30, 2023.



## OFFICE OF THE GOVERNOR

40. For Member, West Virginia Northern Community and Technical College Board of Governors, Amy Dobkin, Wheeling, Ohio County, for the term ending June 30, 2021.
41. For Member, West Virginia Northern Community and Technical College Board of Governors, Christine Mitchell, Pine Grove, Wetzel County, for the term ending June 30, 2020.
42. For Member, State Board of Sanitarians, Jesse J. Rose, Welch, McDowell County, for the term ending June 30, 2022.
43. For Member, State Board of Sanitarians, Phyllis L. Lowe, Chapmanville, Logan County, for the term ending June 30, 2024.
44. For Member, State Board of Sanitarians, Warren L. Elmer, Jane Lew, Lewis County, for the term ending June 30, 2021.
45. For Member, Board of Pharmacy, James E. Rucker, Elkview, Kanawha County, for the term ending June 30, 2024.
46. For Member, Solid Waste Management Board, Roger E. Bryant, Logan, Logan County, for the term ending June 30, 2023.
47. For Member, Solid Waste Management Board, Mallie J. Combs, Moorefield, Hardy County, for the term ending June 30, 2024.
48. For Member, West Virginia Children's Health Insurance Program Board, Lisa M. Costello, Morgantown, Monongalia County, for the term ending June 30, 2022.
49. For Member, West Virginia Children's Health Insurance Program Board, Kellie Wooten-Willis, Logan, Logan County, for the term ending June 30, 2022.
50. For Member, West Virginia Children's Health Insurance Program Board, Janet Allio, Elkview, Kanawha County, for the term ending June 30, 2021.
51. For Member, West Virginia Children's Health Insurance Program Board, Kelli Caseman, South Charleston, Kanawha County, for the term ending June 30, 2022.
52. For Member, West Virginia Children's Health Insurance Program Board, M. Jill Griffith, Bloomingrose, Boone County, for the term ending June 30, 2020.
53. For Member, West Virginia Children's Health Insurance Program Board, Robert D. Whitler, Elkview, Kanawha County, for the term ending June 30, 2022.
54. For Member, Board of Examiners of Psychologists, Shirley Vinciguerra, Bluefield, Mercer County, for the term ending June 30, 2021.
55. For Member, Board of Examiners of Psychologists, Beverly Ann Branson, Charleston, Kanawha County, for the term ending June 30, 2022.

## OFFICE OF THE GOVERNOR

56. For Member, Board of Examiners of Psychologists, Scott A. Fields, Charleston, Kanawha County, for the term ending June 30, 2021.
57. For Member, State Board of Sanitarians, Delores W. Cook, Ridgeview, Boone County, for the term ending June 30, 2023.
58. For Member, West Virginia School of Osteopathic Medicine Board of Governors, Gary L. Poling, Beckley, Raleigh County, for the term ending June 30, 2023.
59. For Member, West Virginia School of Osteopathic Medicine Board of Governors, Robert B. Holstein, Venice, Florida, for the term ending June 30, 2023.
60. For Member, Bridge Valley Community and Technical College Board of Governors, JB Akers, Charleston, Kanawha County, for the term ending June 30, 2020.
61. For Member, Bridge Valley Community and Technical College Board of Governors, Mark C. Blankenship, Charleston, Kanawha County, for the term ending June 30, 2020.
62. For Member, Athletic Commission, Paul E. Thornton, Williamstown, Wood County, for the term ending June 30, 2023.
63. For Member, Athletic Commission, Leon Ramsey, Glenville, Gilmer County, for the term ending June 30, 2023.
64. For Member, Athletic Commission, Anthony Figaretti, Wheeling, Ohio County, for the term ending June 30, 2022.
65. For Member, Athletic Commission, Michael Shawn Johnson, Crawley, Greenbrier County, for the term ending June 30, 2020.
66. For Member, Housing Development Fund, Wendy E. McCuskey, Charleston, Kanawha County, for the term ending June 30, 2023.
67. For Member, West Virginia Board of Licensed Dietitians, Susan J. Arnold, Morgantown, Monongalia County, for the term ending June 30, 2022.
68. For Member, West Virginia Board of Licensed Dietitians, Mallory Mount, Milton, Cabell County, for the term ending June 30, 2020.
69. For Member, West Virginia Commission on Holocaust Education, Barbara A. Lewine, Wheeling, Ohio County, for the term ending June 30, 2022.
70. For Member, West Virginia Commission on Holocaust Education, Matthew D. Cox, Hurricane, Putnam County, for the term ending June 30, 2022.

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71. For Member, West Virginia Commission on Holocaust Education, Marc J. Slotnick, Charleston, Kanawha County, for the term ending June 30, 2022.
72. For Member, West Virginia Commission on Holocaust Education, Victor H. Urecki, Charleston, Kanawha County, for the term ending June 30, 2022.
73. For Member, Real Estate Commission, Gregory A. Duckworth, Beaver, Raleigh County, for the term ending June 30, 2023.
74. For Member, Housing Development Fund, Patrick J. Martin, Morgantown, Monongalia County, for the term ending June 30, 2023.
75. For Member, Bluefield State College Board of Governors, Rebecca Peterson, Bluefield, Virginia, for the term ending June 30, 2023.
76. For Member, Board of Control for Southern Regional Education, The Honorable Roman W. Prezioso, Jr., Fairmont, Marion County, for the term ending June 30, 2023.
77. For Member, Board of Control for Southern Regional Education, Sarah Armstrong Tucker, Charleston, Kanawha County, for the term ending June 30, 2020.

Notice of these appointments was previously provided to the appropriate legislative staff at the time the appointments were made.

Sincerely,



Jim Justice  
Governor

JCJ: mrp

cc: Clerk of the Senate  
Assistant Clerk of the Senate  
Senate Confirmations Chair

Which communication was received and referred to the Committee on Confirmations.

On motion of Senator Takubo, consideration of the nominations immediately hereinbefore reported was made a special order of business for Saturday, March 7, 2020, at 11:30 a.m.

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 4, 2020, he had approved **Enr. Committee Substitute for House Bill 4026**.

The Senate again proceeded to the fourth order of business.

Senator Carmichael (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

**Com. Sub. for Senate Concurrent Resolution 23**, Requesting study of State Police's increased duties and responsibilities.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Mitch Carmichael,  
*Chair ex officio.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (Com. Sub. for S. C. R. 23) contained in the preceding report from the Committee on Rules was taken up for immediate consideration.

The question being on the adoption of the resolution, the same was put and prevailed.

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

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2088**, Relating to admissibility of certain evidence in a civil action for damages.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2088) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2419**, Relating to the authorization to release a defendant or a person arrested upon his or her own recognizance.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2419) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4123**, Clarifying that 911 telecommunication workers are included in the definition of those individuals who perform “emergency services” during a disaster.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4123) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on the Judiciary pending.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 4494**, Tobacco Use Cessation Initiative.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2020;

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

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4530**, Authorizing daily passenger rental car companies to charge reasonable administrative fees.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4530) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 4543**, Relating to insurance coverage for diabetics.

With an amendment from the Committee on Health and Human Resources pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 3, 2020;

And reports the same back with the recommendation that it do pass as amended by the Committee on Health and Human Resources to which the bill was first referred; and as last amended by the Committee on Finance.

Respectfully submitted,

Craig Blair,  
*Chair.*

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 4558**, Creating a personal income tax credit for volunteer firefighters in West Virginia.

And has amended same.

And,

**Eng. Com. Sub. for House Bill 4611**, Relating to fireworks.



And has amended same.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4558 and 4611) contained in the preceding report from the Committee on Finance were each taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 4715**, Authorizing municipalities to take action to grant certain fire department employees limited power of arrest.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4715) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. House Bill 4749**, Providing more efficient application processes for private investigators, security guards, and firms.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4749) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 4092**, Relating to foster care.

With amendments from the Committee on the Judiciary pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 4, 2020;

And reports the same back with the recommendation that it do pass as last amended by the Committee on Finance.

Respectfully submitted,

Craig Blair,  
*Chair.*

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions:

**Senate Concurrent Resolution 57:** Senators Stollings, Lindsay, Beach, Unger, and Jeffries;

**Senate Concurrent Resolution 58:** Senator Stollings;

**Senate Concurrent Resolution 59:** Senator Stollings;

**Senate Concurrent Resolution 60:** Senators Stollings and Cline;

**Senate Resolution 63:** Senators Stollings, Lindsay, Cline, Baldwin, Prezioso, Beach, Palumbo, Ihlenfeld, Hardesty, Woelfel, Jeffries, and Plymale;

**Senate Resolution 64:** Senators Stollings, Beach, Hamilton, Palumbo, and Unger;

**Senate Resolution 65:** Senators Lindsay, Unger, and Jeffries;

**Senate Resolution 66:** Senators Stollings and Cline;

**Senate Resolution 67:** Senator Stollings;

And,

**Senate Resolution 68:** Senators Stollings and Cline.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 7:33 p.m., the Senate adjourned until tomorrow, Thursday, March 5, 2020, at 11 a.m.

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## THURSDAY, MARCH 5, 2020

The Senate met at 11:32 a.m.

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

Prayer was offered by Pastor Paul Dunn, First Baptist Church of Charleston, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan W. Weld, a senator from the first district.

Pending the reading of the Journal of Wednesday, March 4, 2020,

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

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

At the request of Senator Takubo, unanimous consent being granted, the Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 58**, Requesting study of sexual violence in WV.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

**Senate Concurrent Resolution 59**, Rachel Hershey Smith Memorial Shelter.

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

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

**Senate Concurrent Resolution 60**, Requesting study on nutrition of public school students when schools are closed.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

**Senate Resolution 66**, Recognizing March as Red Cross Month.

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

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

On motion of Senator Takubo, at 11:42 a.m., the Senate recessed to present Senate Resolution 66.

The Senate reconvened at 11:47 a.m. and resumed business under the seventh order.

**Senate Resolution 67**, Designating March 5, 2020, as Treatment Court Day.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Weld, Stollings, Lindsay, Woelfel, Trump, and Roberts regarding the adoption of Senate Resolution 67 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:56 a.m., the Senate recessed to present Senate Resolution 67.

The Senate reconvened at 12:05 p.m. and resumed business under the seventh order.

**Senate Resolution 68**, Recognizing Buckhannon-Upshur 4-H Air Rifle Club.

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

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

The question being on the adoption of the resolution, and on this question, Senator Hamilton demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 68) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Hamilton regarding the adoption of Senate Resolution 68 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:09 p.m., the Senate recessed to present Senate Resolution 68.

The Senate reconvened at 12:14 p.m.

Senator Takubo announced that in the meeting of the Committee on Rules previously held, the committee, in accordance with Rule 17 of the Rules of the Senate, had removed from the Senate third reading calendar **Eng. House Bill 4499**.

Senator Takubo also announced that in the same meeting, the Committee on Rules had returned to the Senate calendar, on third reading, **Eng. Com. Sub. for House Bill 4398**; and on second reading calendar, **Eng. Com. Sub. for House Bill 2961, Eng. Com. Sub. for House Bill 2967, Eng. Com. Sub. for House Bill 4102, Eng. Com. Sub. for House Bill 4108, Eng. House Bill 4159, Eng. Com. Sub. for House Bill 4176, Eng. House Bill 4354, Eng. Com. Sub. for House Bill 4362, Eng. Com. Sub. for House Bill 4377, Eng. Com. Sub. for House Bill 4395, Eng. Com. Sub. for House Bill 4439, Eng. House Bill 4447, Eng. House Bill 4514, Eng. House Bill 4523, Eng. Com. Sub. for House Bill 4573, Eng. House Bill 4665, Eng. House Bill 4737, Eng. Com. Sub. for House Bill 4747, Eng. House Bill 4777, Eng. House Bill 4804, Eng. Com. Sub. for House Bill 4823, Eng. Com. Sub. for House Bill 4946, and Eng. House Bill 4958** under Rule 17 of the Rules of the Senate.

At the request of Senator Takubo, unanimous consent being granted, the Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for House Bill 2646**, Providing a safe harbor for employers to correct underpayment or nonpayment of wages and benefits due to separated employees.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2646 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—28.

The nays were: Baldwin, Beach, Jeffries, Lindsay, and Romano—5.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2646) passed.

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

**Eng. Com. Sub. for House Bill 2646**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21-5-4a, relating to providing a safe harbor for employers to correct underpayment or nonpayment of wages and fringe benefits due to separated employees prior to the filing of a lawsuit; prohibiting an employee from seeking liquidated damages or attorney’s fees when bringing an action for the underpayment or nonpayment of wages and fringe benefits due upon the employee’s separation of employment without first making a written demand to the employer; requiring the employer to inform the employee in writing of who the authorized representative is and where to send a written demand; exempting employee from compliance where employer fails to provide written notice; providing a time limit during which the employer must correct the nonpayment or underpayment; permitting an employee to file a written demand with the employer on behalf of a class; and allowing the class



action to proceed if only the named employee is paid; and defining the term “written demand”.

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

**Eng. Com. Sub. for House Bill 3049**, Improving dissemination of boiled water advisories to affected communities.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3049) passed with its title.

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

**Eng. Com. Sub. for House Bill 4001**, Creating West Virginia Impact Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Baldwin, Beach, and Romano—3.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4001) passed.

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

**Eng. Com. Sub. for House Bill 4001**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §12-6E-1, §12-6E-2, §12-6E-3, §12-6E-4, §12-6E-5, §12-6E-6, §12-6E-7, §12-6E-8, §12-6E-9, §12-6E-10, and §12-6E-11, all relating to creating West Virginia Impact Fund, Investment Committee and Mountaineer Impact Office to invest funds in certain projects with the goal of furthering economic development, infrastructure development, and job creation in the State of West Virginia, generally; providing definitions; creating West Virginia Impact Fund; providing for the transfer of funds to Investment Committee and the purposes for the expenditure of the funds; providing purpose and goal and investment standards; creating Investment Committee and providing for its membership, appointments, terms, removals, vacancies, and quorums; providing for powers and duties of Investment Committee; requiring disclosures of interest; establishing standard of care; creating Mountaineer Impact Office and providing for powers, duties, staffing, management, and processes for proposing and administering investments in projects approved by Investment Committee; providing for audits and reports; providing opportunity for consultation with West Virginia Investment Management Board; providing for immunities and exemptions; prohibiting political activities; and providing for confidentiality of information.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries,

Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Baldwin, Beach, and Romano—3.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4001) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 4019**, Downstream Natural Gas Manufacturing Investment Tax Credit Act of 2020.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4019 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—25.

The nays were: Baldwin, Beach, Ihlenfeld, Jeffries, Lindsay, Romano, Stollings, and Woelfel—8.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4019) passed with its title.

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

**Eng. Com. Sub. for House Bill 4020**, Removing authority of municipalities to require occupational licensure if licensure for the occupation is required by the state.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4020 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4020) passed with its title.

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

**Eng. Com. Sub. for House Bill 4088**, Disposition of funds from certain oil and natural gas wells due to unknown or unlocatable interest owners.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty,

Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Azinger—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4088) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub. for House Bill 4094**, Continuing the Foster Care Ombudsman.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4094) passed with its title.

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

**Eng. Com. Sub. for House Bill 4165**, West Virginia Remembers Program.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4165) passed with its title.

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

**Eng. Com. Sub. for House Bill 4198**, Permitting a person to obtain a 12-month supply of contraceptive drugs.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, March 4, 2020, for further amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Maroney, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page one, section twenty-eight, by striking out “§33-53-2” and inserting in lieu thereof “§33-53-1”;

On page one, section four-u, by striking out “§33-53-2” and inserting in lieu thereof “§33-53-1”;

On page one, section three-ff, by striking out “33-53-2” and inserting in lieu thereof “§33-53-1”;

On page two, section seven-u, by striking out “33-53-2” and inserting in lieu thereof “33-53-1”;

On page two, section eight-r, by striking out “33-53-2” and inserting in lieu thereof “33-53-1”;

On page two, section eight-u, by striking out “33-53-2” and inserting in lieu thereof “33-53-1”

And,

On page two, section two, by striking out the section caption and inserting in lieu thereof the following:

**§33-53-1. Coverage and dispensing birth control.**

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4198), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4198) passed.

The following amendment to the title of the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4198**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-28; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend said code by adding thereto a new section, designated 33-24-7u; to amend said code by adding thereto a new section, designated §33-25-8r; to amend said code by adding thereto by adding thereto a new section, designated, §33-25A-8u; and to amend said code by adding thereto a new section, designated §33-53-2, all relating to permitting a person to obtain a 12-month supply of contraceptive drugs; and incorporating these provisions into the West Virginia Public Employees Insurance Act and sections of insurance code.

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

**Eng. Com. Sub. for House Bill 4360**, Exempting certain persons from heating, ventilating, and cooling system licensing requirements.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—15.

Absent: Mann—1.



So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4360) passed with its title.

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

**Eng. Com. Sub. for House Bill 4361**, Relating to insurance law violations.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4361) passed.

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

**Eng. Com. Sub. for House Bill 4361**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §33-41-4a, and §33-41-11a; and to amend and reenact §33-41-2, §33-41-5, §33-41-8, §33-41-11, and §33-41-12 of said code, all relating to insurance law violations; defining “fraudulent insurance act”; allowing Insurance Commissioner to accept proceeds from court ordered forfeiture proceedings; creating special revenue fund; providing for legislative appropriation of fund; requiring person engaged in the business of

insurance to report to the Insurance Commissioner suspected insurance law violations; permitting insurance fraud unit to administer oaths or affirmations, execute search and arrest warrants, make arrests upon probable cause without a warrant, and participate in the prosecution of workers' compensation fraud; making the commission of a fraudulent insurance act a violation of law; mandating that a person convicted of a felony involving dishonesty, breach of trust, or a law reasonably related to the business of insurance is disqualified from participating in the business of insurance; requiring insurance companies to have antifraud initiatives; allowing the Insurance Commissioner to promulgate rules; and providing for criminal penalties and restitution for insurance law violations.

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

**Eng. Com. Sub. for House Bill 4363**, Establishing the West Virginia Division of Natural Resources Police Officer Retirement System.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4378**, Relating to disciplining teachers.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4378 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4378) passed.

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

**Eng. Com. Sub. for House Bill 4378**—A Bill to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended; and to amend §18A-3-6 of said code, all relating to school personnel; requiring a county board of education to complete an investigation of an employee that involves evidence that the employee may have engaged in certain conduct despite the employee's resignation; limiting time period for a county superintendent to report any employee suspended, dismissed, or who resigned during the course of an investigation of the employee's alleged misconduct; authorizing suspension of teaching certificate in certain instances and for certain causes; authorizing additional sanction options by the state superintendent with respect to violations; authorizing superintendent to issue subpoenas to aid investigation of allegations against persons subject to licensure; adding to reasons for which a teacher's certificate or license is automatically revoked; requiring professional relationship with students; providing minimum revocation period for offenses and specifying offenses; defining grooming a student or minor; adding a public school principal and public charter school administrator to the requirement to report certain acts of any teacher to the State Superintendent; requiring the State Superintendent to maintain a public database of individuals who have had adverse action taken against their teaching certificate; providing that individuals whose certificate

has been revoked are not eligible to be employed by a county board until their certificate is reinstated; clarifying that all of certain teacher certificate provisions apply to all public school teachers whether employed by a county board or a public charter school governing board; requiring State Superintendent to periodically ensure that county boards are in compliance with certain teacher certificate provisions; and allowing the state board to propose legislative rules that are necessary to implement certain provisions pertaining to action against a teacher certificate.

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

**Eng. Com. Sub. for House Bill 4398,** Relating to required courses of instruction.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. House Bill 4406,** Relating to the reproduction of checks and other records.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4406) passed.

The following amendment to the title of the bill, from the Committee on Banking and Insurance, was reported by the Clerk and adopted:

**Eng. House Bill 4406**—A Bill to amend and reenact §31A-4-35 of the Code of West Virginia, 1931, as amended, relating to the reproduction of checks and other records; the period for which banks shall retain or preserve records; providing clarification that an action against a bank for any balance, amount, or proceeds of an account must be brought during the retention or preservation period; providing duties of a bank in possession of records after expiration of the record retention or preservation period; and providing an exception to retention or preservation period limitation for actions brought on behalf of minors.

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

**Eng. House Bill 4410**, Permitting directors and executive officers of a banking institution to borrow from a banking institution with which he or she is connected.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 4410 pass?”

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is a director of a state-chartered bank and its parent holding company.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—15.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4410) passed with its title.

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

**Eng. Com. Sub. for House Bill 4421**, Natural Gas Liquids Economic Development Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Beach, Ihlenfeld, Jeffries, Lindsay, and Romano—6.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4421) passed with its title.

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

**Eng. Com. Sub. for House Bill 4452**, Modifying the notice requirements for the redemption of delinquent properties.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Baldwin, Beach, Facemire, Ihlenfeld, Jeffries, Lindsay, Prezioso, Romano, and Unger—9.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4452) passed.

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

**Eng. Com. Sub. for House Bill 4452**—A Bill to amend and reenact §11A-3-18, §11A-3-22, §11A-3-52, and §11A-3-55 of the Code of West Virginia, 1931, as amended, all relating generally to notice requirements on tax collections and sale of delinquent property conducted by the State Auditor; allowing purchaser extension of time for compliance with notice requirements upon written request to State Auditor and payment of fees; requiring State Auditor to pay fees for extensions of time to board of education for county where property is located; revising procedure for serving or providing notice to certain persons having interest in property to be sold.

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

**Eng. Com. Sub. for House Bill 4484**, Relating to the Hazardous Waste Management Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4484) passed with its title.

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

**Eng. House Bill 4499**, Relating to multicounty trail network authorities.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4502**, Relating to insurance adjusters.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.



The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4502) passed.

The following amendment to the title of the bill, from the Committee on Banking and Insurance, was reported by the Clerk and adopted:

**Eng. House Bill 4502**—A Bill to repeal §33-12B-4a and §33-12B-11a of the Code of West Virginia, 1931, as amended; to amend and reenact §33-12B-1, §33-12B-3, §33-12B-4, §33-12B-5, §33-12B-6, §33-12B-7, §33-12B-8, §33-12B-9, §33-12B-10, §33-12B-11, and §33-12B-12 of said code; and to amend said code by adding thereto three new sections, designated §33-12B-2, §33-12B-13, and §33-12B-15, all relating to insurance adjusters; defining terms; providing licensure requirements for company, independent, and public adjusters; providing exceptions to adjuster license requirements; permitting temporary licensure; providing for qualifications for a resident adjuster license; authorizing the Insurance Commissioner to conduct criminal history checks for prospective adjusters; requiring fingerprinting; authorizing imposition of fees and civil penalties; specifying jurisdiction and agent for service of process; authorizing change in license expiration date without fee refund or increase; providing for adjuster lines of authority; providing for probation, suspension, revocation, refusal, or termination of adjuster license; requiring adjusters to complete continuing education; requiring Board of Insurance Agent Education to develop program of continuing education for adjusters; authorizing rulemaking; and providing for an effective date.

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

**Eng. House Bill 4524**, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Palumbo, Pitsenbarger, Plymale, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Azinger, Facemire, Maynard, Prezioso, Roberts, and Unger—6.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4524) passed.

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

**Eng. House Bill 4524**—A Bill to amend and reenact §60-5-1, §60-5-2, §60-5-3, §60-5-4, §60-5-5, §60-5-6, §60-5-7, §60-5-8, of the code of West Virginia, as amended and to further amend said code by adding thereto a new section, designated §60-5-9, all relating to the off-premises sale of alcoholic liquors generally; allowing the off-premises sale of alcoholic liquors in every county and municipality in the state; creating procedures for counties and municipalities which prohibited off-premises sale of alcoholic liquors prior to January 1, 2020 to hold a local option election to retain the prohibition; allowing counties and municipalities which prohibit the off premises sale of alcoholic liquors to hold a local option election to reconsider the action; and updating code language.

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

**Eng. Com. Sub. for House Bill 4557**, Relating to centers and institutions that provide the care and treatment of mentally ill or intellectually disabled individuals.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4557) passed with its title.

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

**Eng. Com. Sub. for House Bill 4581**, Relating to West Virginia Clearance for Access: Registry and Employment Screening.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4581) passed with its title.

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

**Eng. House Bill 4618**, Relating to deadly weapons for sale or hire.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 4618 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4618) passed with its title.

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

**Eng. Com. Sub. for House Bill 4668**, Creating the misdemeanor crime of trespass for entering a structure that has been condemned.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4668) passed.

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

**Eng. House Bill 4668**—A Bill to amend and reenact §61-3B-2 of the Code of West Virginia, 1931, as amended, relating to creating the misdemeanor crime of trespass for entering a structure that has been clearly marked as condemned by a municipality as unfit for human habitation; providing criminal penalty; removing inconsistent language as to intent; and providing that for a first offense, a municipal judge or magistrate may impose community service or pretrial diversion in lieu of a fine or confinement.

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

**Eng. House Bill 4960**, Relating to exempting from licensure as an electrician.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

On motion of Senator Takubo, at 1:34 p.m., the Senate recessed until 2 p.m. today.

The Senate reconvened at 2:35 p.m. and, at the request of Senator Weld, unanimous consent being granted, returned to the second order of business and the introduction of guests.

At the request of Senator Takubo, and by unanimous consent, the Senate proceeded to the ninth order of business.

**Eng. Com. Sub. for House Bill 2088**, Relating to admissibility of certain evidence in a civil action for damages.

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

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

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

**ARTICLE 15. Traffic Regulations and Laws of the Road.**

**§17C-15-49. Operation of vehicles with safety belts; exception; penalty; civil actions; educational program by West Virginia State Police.**

(a) A person may not operate a passenger vehicle on a public street or highway of this state unless the person, any passenger in the back seat under 18 years of age, and any passenger in the front seat of the passenger vehicle is restrained by a safety belt meeting applicable federal motor vehicle safety standards. For the purposes of this section, the term "passenger vehicle" means a motor vehicle which is designed for transporting ~~ten~~ 15 passengers or less, including the driver, except that the term does not include a motorcycle, a trailer, or any motor vehicle which is not required on

the date of the enactment of this section under a federal motor vehicle safety standard to be equipped with a belt system. The provisions of this section apply to all passenger vehicles manufactured after January 1, 1967, and being 1968 models and newer.

(b) The required use of safety belts as provided ~~herein~~ in this section does not apply to a duly appointed or contracted rural mail carrier of the United States Postal Service who is actually making mail deliveries or to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in the safety belt if the condition is duly certified by a physician who states the nature of the disability as well as the reason the restraint is inappropriate. The Division of Motor Vehicles shall adopt rules, in accordance with the provisions of chapter 29A of this code, to establish a method to certify the physical disability and to require use of an alternative restraint system where feasible or to waive the requirement for the use of any restraint system.

(c) Any person who violates the provisions of this section shall be fined \$25. ~~No court~~ Court costs or other fees may not be assessed for a violation of this section.

(d) (1) A violation of this section is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages, and is not admissible in mitigation of damages: *Provided*, That, ~~the court may, upon motion of the defendant, conduct an in camera hearing to determine whether an injured party's failure to wear a safety belt was a proximate cause of the injuries complained of. Upon a finding by the court, the court may then, in a jury trial, by special interrogatory to the jury, determine:~~ (1) That the injured party failed to wear a safety belt; and (2) that the failure to wear the safety belt constituted a failure to mitigate damages. The trier of fact may reduce the injured party's recovery for medical damages by an amount not to exceed five percent thereof. In the event the plaintiff stipulates to the reduction of five percent of medical damages, the court shall make the calculations and the issue of mitigation of damages for failure to wear a safety belt may not be presented to

the jury. In all cases, the actual computation of the dollar amount reduction shall be determined by the court excluding minors who are passengers in the vehicle, evidence of the violation of this section may be admitted in a civil action as to the causal relationship between the violation and the injuries or death alleged if any of the following conditions have been satisfied:

(A) The plaintiff, or in the case of an occupant's death, the plaintiff's decedent, was ejected from the passenger vehicle which was equipped with a safety belt meeting the applicable federal motor vehicle standards for the seat in which the occupant was seated immediately prior to being ejected;

(B) The plaintiff filed a product liability claim alleging that a defect in the overall crashworthiness of the passenger vehicle exists;

(C) The occupant's alleged injuries resulted in death; or

(D) The medical expenses for which the plaintiff seeks recovery exceed \$50,000.00.

(2) A defendant alleging a violation of this section shall raise this defense in its answer or timely amendment thereto in accordance with the rules of civil procedure. Provided, however, if the defendant was driving under the influence of drugs or alcohol that defendant is precluded from raising this defense.

(3) Each defendant seeking to offer evidence alleging a violation of this section has the burden of proving all of the following:

(A) A violation of subsection (a) of this section;

(B) Use of the available seatbelt would have reduced the alleged injuries or, if applicable, prevented the death; and

(C) The extent of the reduction of injuries if the available seatbelt had been used.



(4) Except with respect to an ejection under paragraph (A), subdivision (1), subsection (d) of this section, the defendant's burden of proof regarding paragraph (B), subdivision (3), subsection (d) of this section and paragraph (C), subdivision (3), subsection (d) of this section must be supported by expert testimony, subject to a finding by the court that the testing and methodology supporting the expert testimony satisfies the threshold requirements of Rule 702 of the West Virginia Rules of Evidence.

(5) Upon request of any party, the trial judge shall conduct a hearing out of the presence of the jury as to the admissibility of the evidence in accordance with the provisions of this section and the rules of evidence.

(6) The finding of the trial judge shall not constitute a finding of fact but is limited to the issue of the admissibility of the evidence.

(e) Notwithstanding any other provision of this code to the contrary, no points may be entered on any driver's record maintained by the Division of Motor Vehicles as a result of a violation of this section.

(f) The Governor's Highway Safety Program, in cooperation with the West Virginia State Police and any other state departments or agencies and with county and municipal law-enforcement agencies, shall initiate and conduct an educational program designed to encourage compliance with safety belt usage laws. This program shall be focused on the effectiveness of safety belts, the monetary savings and the other benefits to the public from usage of safety belts and the requirements and penalties specified in this law.

(g) Nothing contained in this section abrogates or alters the provisions of §17C-15-46 of this code relating to the mandatory use of child passenger safety device.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 2088), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2419**, Relating to the authorization to release a defendant or a person arrested upon his or her own recognizance.

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

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

**Eng. Com. Sub. for House Bill 2961**, Permitting the commissioner to require a water supply system be equipped with a backflow prevention assembly.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 2967**, Permitting a county to retain the excise taxes for the privilege of transferring title of real estate.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 3098**, Allowing the same business owner to brew and sell beer to also distill and sell liquor.

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

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

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

## CHAPTER 11. TAXATION.

### ARTICLE 16. NONINTOXICATING BEER.

#### **§11-16-6. License in one capacity only; no connection between different licensees; when brewer may act as distributor; credit and rebates proscribed; brewer, resident brewer, and brewpub requirements.**

(a) ~~Ne~~ A person shall not be licensed in more than one capacity under the terms of this article, and there shall be no connection whatsoever between any retailer, distributor, resident brewer, or brewer, and ~~ne~~ a person shall be interested, directly or indirectly, through the ownership of corporate stock, membership in a partnership, or in any other way in the business of a retailer, if ~~such~~ the person is at the same time interested in the business of a brewer, resident brewer or distributor. A resident brewer may act as distributor in a limited capacity for his or her own product from ~~such~~ the resident brewery or place of manufacture or bottling, but a resident brewer, is not permitted to act as a distributor as defined in §11-16-3 of this code; *:Provided,* That nothing in this article may prevent a resident brewer from using the services of licensed distributors as specified in this article. A resident brewer or distributor may sell to a patron for personal use and not for resale, quantities of draught beer in original containers that are no larger in size than one-half barrel for off-premises consumption. A resident brewer who also has a brewpub license may sell nonintoxicating beer or nonintoxicating craft beer produced by the resident brewer in cans, bottles, or sealed growlers, pursuant to §11-16-6b of this code, for personal consumption off of the brewpub's licensed premises and not for resale.

(b) It is unlawful for any brewer, resident brewer, manufacturer, or distributor to assist any retailer or for any retailer to accept assistance from any brewer, manufacturer, or distributor, accept any gifts, loans, forbearance of money or property of any kind, nature, or description, or other thing of value, or give any rebates or discounts of any kind whatsoever, except as ~~may be~~ permitted by rule, ~~regulation~~ or order promulgated by the commissioner in accordance with this article.

(c) Notwithstanding subsections (a) and (b) of this section, a brewpub may offer for retail sale nonintoxicating beer or nonintoxicating craft beer so long as the sale of the nonintoxicating beer or nonintoxicating craft beer is limited to the brewpub's licensed premises, except as provided in §11-16-6 of this code.

(d) A brewer or resident brewer licensed under this section may also be licensed under §60-4-1 et seq. of this code: Provided, That the holder of the license meets all the requirements for the additional licenses required by the commissioner and pays all fees related to the license: Provided, however, That the licensee maintains all the rights and privileges associated with the license.

## CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

### ARTICLE 4. LICENSES.

#### §60-4-2. Licenses for manufacture.

(a) The commission may grant licenses for the manufacture of alcoholic liquors. Separate licenses shall be issued to the following classes of manufacturing establishments:

- (1) Distilleries in which only alcoholic liquors other than wine or beer is manufactured;
- (2) Wineries in which only wines are manufactured;
- (3) Breweries in which beer is manufactured;
- (4) Bottling plants in which beer only is bottled;

(5) Industrial plants in which alcohol is distilled, manufactured or otherwise produced for scientific, chemical, mechanical or industrial purposes;

(6) Farm wineries in which only wines are manufactured; and

(7) Mini-distilleries in which only alcoholic liquors other than wine, beer or nonintoxicating beer are manufactured.

(b) The commission may grant multiple licenses for the manufacture of alcoholic liquors or non-intoxicating beer to the same person or entity: *Provided*, That such licensure does not violate other provisions of this code, the licensee meets all requirements for the license established by the commissioner, and licensee submits the full payment of all fees required for licensure: *Provided, however*, That the licensee maintains all the rights and privileges associated with each license not violative of state or federal law.

The bill (Eng. Com. Sub. for H. B. 3098), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4003**, Relating to telehealth insurance requirements.

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

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

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

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES  
INSURANCE ACT.**

**§5-16-7b. Coverage for telehealth services.**

(a) The following terms are defined:

(1) “Distant site” means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient’s health care practitioner.

(2) “Health care practitioner” means a person licensed under §30-1-1 et seq. of this code who provides health care services.

(3) “Originating site” means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner’s office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

(4) “Remote patient monitoring services” means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

(5) “Telehealth services” means the use of synchronous or asynchronous telecommunications technology 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 audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) After July 1, 2020, the plan shall provide coverage of health care services provided through telehealth services if those same services are covered through face-to-face consultation by the policy.

(c) After July 1, 2020, the plan may not exclude a service for coverage solely because the service is provided through telehealth services.

(d) The plan shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company.

(e) The plan may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(f) An originating site may charge the plan a site fee.

(g) The coverage required by this section shall include the use of telehealth technologies as it pertains to medically necessary remote patient monitoring services to the full extent that those services are available.

## **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

### **ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

#### **§30-1-25. Telehealth practice.**

(a) For the purposes of this section:

“Health care practitioner” means a person licensed under §30-1-1 et seq. who provides health care services.

“Telehealth services” means the use of synchronous or asynchronous telecommunications technology 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 audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) Unless already provided for by statute or legislative rule, a health care board, referred to in this chapter, shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 et seq. 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 technologies are used;

(2) The health care practitioner who practices telehealth must be licensed as provided in this chapter;

(3) When the health care practitioner patient relationship is established;

(4) The standard of care;

(5) A prohibition of prescribing schedule II drugs, unless authorized by another section; and

(6) Implement the provisions of this section while ensuring competency, protecting the citizens of this state from harm, and addressing issues specific to each profession.

## **CHAPTER 33. INSURANCE.**

### **ARTICLE 53. REQUIRED COVERAGE FOR HEALTH INSURANCE.**

#### **§33-53-3. Coverage for telehealth services.**

(a) The following terms are defined:

(1) “Distant site” means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient’s health care practitioner.



(2) “Health care practitioner” means a person licensed under §30-1-1 et seq. of this code who provides health care services.

(3) “Originating site” means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner’s office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

(4) “Remote patient monitoring services” means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

(5) “Telehealth services” means the use of synchronous or asynchronous telecommunications technology 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 audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) Notwithstanding the provisions of §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide coverage of health care services provided through telehealth services if those same services are covered through face-to-face consultation by the policy.

(c) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after

July 1, 2020, may not exclude a service for coverage solely because the service is provided through telehealth services.

(d) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq., of this code shall provide reimbursement for a telehealth service at a rate negotiated between the provider and the insurance company.

(e) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code may not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(f) An originating site may charge an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code a site fee.

(g) The coverage required by this section shall include the use of telehealth technologies as it pertains to medically necessary remote patient monitoring services to the full extent that those services are available.

The bill (Eng. Com. Sub. for H. B. 4003), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4009**, Relating to the process for involuntary hospitalization.

Having been read a second time on yesterday, Wednesday, March 4, 2020, and now coming up in regular order with the Judiciary committee amendment to the bill (*shown in the Senate Journal of that day, pages 2059 to 2090, inclusive*) pending, was reported by the Clerk.

The question being on the adoption of the Judiciary committee amendment to the bill.

On motion of Senator Trump, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4009) were reported by the Clerk, considered simultaneously, and adopted:

On page nine, section two, subsection (f), after the word “not” by inserting “it is likely that deterioration will occur without clinically necessary treatment, or”;

On page nine, section two, subsection (h), after the word “agreement.” by inserting the following: “At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not it is likely that deterioration will occur without clinically necessary treatment, or there is probable cause to believe that the individual, as a result of mental illness or substance use disorder, is likely to cause serious harm to himself or herself or others.”;

On page eleven, section two, subsection (h), after the word “placement.” by inserting the following: “Outpatient treatment will be based upon a plan jointly prepared by the department and the comprehensive community mental health center or licensed behavioral health provider.”;

On page twenty-three, section four, subsection (l), subdivision (1), after the word “area” by inserting the following: “as evidenced by a discharge and treatment plan jointly developed by the department and the comprehensive community mental health center or licensed behavioral health provider”;

On page twenty-nine, section twelve, subsection (a), after the word “Institute,” by inserting the words “Prosecuting Attorney’s Association,”;

And,

On page twenty-nine, section twelve, subsection (a), after the word “Services,” by inserting the words “Behavioral Health Providers Association.”

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4009), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4061**, Health Benefit Plan Network Access and Adequacy Act.

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

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

At the request of Senator Maroney, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4092**, Relating to foster care.

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

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

**Eng. Com. Sub. for House Bill 4102**, Relating to opioid antagonists.

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

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

On page one, section three, by striking out the section caption and inserting in lieu thereof the following:

**§16-46-3. Licensed health care providers may prescribe opioid antagonists to initial responders and certain individuals; required educational materials; limited liability.**

The bill (Eng. Com. Sub. for H. B. 4102), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4108**, Relating generally to certificates of need for health care services.

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

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

On page one, section eleven, line five, by striking out the words “the approval of”.

On motion of Senator Maroney, the following amendment to the bill (Eng. Com. Sub. for H. B. 4108) was next reported by the Clerk and adopted:

On page one, section eleven, by striking out the section caption and inserting in lieu thereof the following:

**§16-2D-11. Exemptions from Certificate of Need which require the submission of information to the authority.**

The bill (Eng. Com. Sub. for H. B. 4108), as amended, was then ordered to third reading.

**Eng. House Bill 4159**, Relating to the manufacture and sale of hard cider.

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

**Eng. Com. Sub. for House Bill 4176**, West Virginia Intelligence/Fusion Center Act.

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

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

**Eng. House Bill 4178**, Requiring calls which are recorded be maintained for a period of five years.

Having been read a second time on yesterday, Wednesday, March 4, 2020, and now coming up in regular order with the Government Organization committee amendment to the bill (*shown in the Senate Journal of that day, pages 2101 to 2103, inclusive*) pending, was reported by the Clerk.

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

The bill (Eng. H. B. 4178), as amended, was then ordered to third reading.

**Eng. House Bill 4354**, Adding nabiximols to the permitted list of distributed and prescribed drugs.

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

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

On page two, section two hundred one, line forty-one, by striking out the word “nabiximol” and inserting in lieu thereof “nabiximols”.

The bill (Eng. H. B. 4354), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4362**, Relating to penalties for neglect, emotional abuse or death caused by a caregiver.

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

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

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

**§61-8D-5a. Verbal abuse of noncommunicative child; penalties.**

(a) Any person, 18 years of age or older, who has supervisory responsibility over a noncommunicative minor child, who repeatedly engages in verbal conduct toward the child in an insulting, demeaning or threatening manner, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$2,500 or confined in jail not more than six months, or both fined and confined.

(b) As used in section (a) of this section:

(1) “Noncommunicative child” means a child who, due to physical or developmental disabilities is unable to communicate verbally, in writing, or through a recognized sign language;

(2) “Repeatedly” means on two or more occasions;

(3) “Supervisory responsibility” means any situation where an adult has direct supervisory decision-making, oversight, instructive, academic, evaluative, or advisory responsibilities regarding the child. Supervisory responsibility can occur in a

residence, in or out of a school setting, institutional setting, and in curricular, co-curricular, or extra-curricular settings.

On motion of Senator Rucker, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4362) was reported by the Clerk and adopted:

On page one, section five-a, after the section caption by inserting the following:

*The amendments made to this section during the 2020 Regular Session of the Legislature shall be known as “Adri’s, Owen’s, and Emma’s Law”.*

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4362), as amended, was then ordered to third reading.

**Eng. House Bill 4375**, Speech-Language Pathologists and Audiologists Compact.

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

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

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

**ARTICLE 32A. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS COMPACT.**

**§30-32A-1. Purpose.**

The purpose of this compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language



pathology occurs in the state where the patient, client, or student is located at the time of the patient, client, or student encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:

(1) Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;

(2) Enhance the state's ability to protect the public's health and safety;

(3) Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;

(4) Support spouses of relocating active duty military personnel;

(5) Enhance the exchange of licensure, investigative, and disciplinary information between member states;

(6) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

(7) Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

### **§30-32A-2. Definitions.**

As used in this compact, except as otherwise provided, the following definitions shall apply:

“Active duty military” means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

“Adverse action” means any administrative, civil, equitable, or criminal action permitted by a state’s laws which is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual’s license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee’s practice.

“Alternative program” means a nondisciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.

“Audiologist” means an individual who is licensed by a state to practice audiology.

“Audiology” means the care and services provided by a licensed audiologist as set forth in the member state’s statutes and rules.

“Audiology and Speech-Language Pathology Compact Commission” or “Commission” means the national administrative body whose membership consists of all states that have enacted the compact.

“Audiology and speech-language pathology licensing board”, “audiology licensing board”, “speech-language pathology licensing board”, or “licensing board” means the agency of a state that is responsible for the licensing and regulation of audiologists or speech-language pathologists, or both, which in West Virginia is the West Virginia Board of Examiners for Speech-Language Pathology and Audiology (“board”).

“Compact privilege” means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the patient, client, or student is located at the time of the patient, client, or student encounter.

“Current significant investigative information” means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

“Data system” means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigation, compact privilege, and adverse action.

“Encumbered license” means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and the adverse action has been reported to the National Practitioners Data Bank (NPDB).

“Executive committee” means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

“Home state” means the member state that is the licensee’s primary state of residence.

“Impaired practitioner” means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

“Licensee” means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist.

“Member state” means a state that has enacted the compact.

“Privilege to practice” means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state.

“Remote state” means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege.

“Rule” means a regulation, principle, or directive promulgated by the commission that has the force of law.

“Single-state license” means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

“Speech-language pathologist” means an individual who is licensed by a state to practice speech-language pathology.

“Speech-language pathology” means the care and services provided by a licensed speech-language pathologist as set forth in the member state’s statutes and rules.

“State” means any state, commonwealth, district, or territory of the United States of America that regulates the practice of audiology and speech-language pathology.

“State practice laws” means a member state’s laws, rules, and regulations that govern the practice of audiology or speech-language pathology, define the scope of audiology or speech-language pathology practice, and create the methods and grounds for imposing discipline.

“Telehealth” means the application of telecommunication, audio-visual, or other technologies that meets the applicable standard of care to deliver audiology or speech-language pathology services at a distance for assessment, intervention, or consultation.

### **§30-32A-3. State participation in the compact.**

(a) Upon the grant of the compact privilege, a license issued to an audiologist or speech-language pathologist by a home state to a resident in that state shall be recognized by each member state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in the member state where the licensee obtains this privilege.

(b) A state must implement or use procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(1) A member state must fully implement a criminal background check requirement, within a timeframe established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and using the results in making licensure decisions.

(2) Communication between a member state, the commission, and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.

(c) Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice held by the applicant, and whether any adverse action has been taken against any license or privilege to practice held by the applicant.

(d) Each member state shall require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws.

(e) An audiologist:

(1) Must meet one of the following educational requirements:

(A) On or before, December 31, 2007, the applicant graduated with a master's degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is

accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education, and operated by a college or university accredited by a regional or national accrediting organization recognized by the board;

(B) After Jan. 1, 2008, the applicant graduated with a doctoral degree in audiology, or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education, and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

(C) The applicant graduated from an audiology program that is housed in an institution of higher education outside of the United States: (i) For which the program and institution have been approved by the authorized accrediting body in the applicable country; and (ii) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program;

(2) Completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the commission;

(3) Successfully passed a national examination approved by the commission;

(4) Holds an active, unencumbered license;

(5) Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of audiology under applicable state or federal criminal law; and

(6) Has a valid United States Social Security or National Practitioner Identification number.

(f) A speech-language pathologist:

(1) Must meet one of the following educational requirements:

(A) The applicant graduated with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

(B) The applicant graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States: (i) For which the program and institution have been approved by the authorized accrediting body in the applicable country; and (ii) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.

(2) Completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the commission;

(3) Completed a supervised postgraduate professional experience as required by the commission;

(4) Successfully passed a national examination approved by the commission;

(5) Holds an active, unencumbered license;

(6) Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of speech-language pathology under applicable state or federal criminal law; and

(7) Has a valid United States Social Security or National Practitioner Identification number.

(g) The privilege to practice is derived from the home state license.

(h) An audiologist or speech-language pathologist practicing in a member state must comply with the state practice laws of the state in which the client is located at the time service is provided. The

practice of audiology and speech-language pathology shall include all audiology and speech-language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts, and the laws of the member state in which the client is located at the time service is provided.

(i) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this compact affects the requirements established by a member state for the issuance of a single-state license.

(j) Member states may charge a fee for granting a compact privilege.

(k) Member states must comply with the bylaws and rules and regulations of the commission.

#### **§30-32A-4. Compact privilege.**

(a) To exercise the compact privilege under the terms and provisions of the compact, the audiologist or speech-language pathologist shall:

(1) Hold an active license in the home state;

(2) Have no encumbrance on any state license;

(3) Be eligible for a compact privilege in any member state in accordance with §30-32A-3 of this code;

(4) Had no adverse action against any license or compact privilege within the previous two years from date of application;



(5) Notify the Commission that the licensee is seeking the compact privilege within a remote state or states;

(6) Pay any applicable fees, including any state fee, for the compact privilege; and

(7) Report to the commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

(b) For the purposes of the compact privilege, an audiologist or speech-language pathologist may only hold one home state license at a time.

(c) Except as provided in §30-32A-6 of this code, if an audiologist or speech-language pathologist changes primary state of residence by moving between two member states, the audiologist or speech-language pathologist must apply for licensure in the new home state, and the license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the commission.

(d) The audiologist or speech-language pathologist may apply for licensure in advance of a change in primary state of residence.

(e) A license shall not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

(f) If an audiologist or speech-language pathologist changes primary state of residence by moving from a member state to a nonmember state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state, and the privilege to practice in any member state is deactivated in accordance with the rules promulgated by the commission.

(g) The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the

requirements of subsection (a) of this section to maintain the compact privilege in the remote state.

(h) A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(i) A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, or take any other necessary actions to protect the health and safety of its citizens.

(j) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

- (1) The home state license is no longer encumbered; and
- (2) Two years have elapsed from the date of the adverse action.

(k) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (a) of this section to obtain a compact privilege in any remote state.

#### **§30-32A-5. Compact privilege to practice telehealth.**

(a) Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with §30-32A-3 of this code and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

(b) A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the state where the patient, client, or student is located.

**§30-32A-6. Active duty military personnel or their spouses.**

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state.

**§30-32A-7. Adverse actions.**

(a) In addition to the other powers conferred by state law, a remote state may, in accordance with existing state due process law:

(1) Take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state; and

(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(b) Only the home state may take adverse action against an audiologist's or speech-language pathologist's license issued by the home state.

(c) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(d) The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes primary state of residence during the course of the investigation. The home state may also take appropriate action or actions and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system shall promptly notify the new home state of any adverse actions.

(e) If otherwise permitted by state law, the home state may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

(f) The home state may take adverse action based on the factual findings of the remote state, provided that the home state follows its own procedures for taking the adverse action.

(g) *Joint Investigations* -

(1) In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(h) If adverse action is taken by the home state against an audiologist's or speech-language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be suspended until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech language pathologist's license shall include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.

(i) If a member state takes adverse action against a licensee, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state and any remote states in which the licensee has the privilege to practice of any adverse actions by the home state or remote states.

(j) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

**§30-32A-8. Establishment of the Audiology and Speech-Language Pathology Compact Commission.**

(a) The compact member states hereby create and establish a joint public agency known as the Audiology and Speech-Language Pathology Compact Commission:

(1) The commission is an instrumentality of the compact states;

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings; and

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) *Membership, voting and meetings* -

(1) Each member state shall have two delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One shall be an audiologist and one shall be a speech-language pathologist.

(2) An additional five delegates, who are either a public member or board administrators from a state licensing board, shall be chosen by the executive committee from a pool of nominees provided by the commission at large.

(3) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

(4) The member state board shall fill any vacancy occurring on the commission within 90 days.

(5) Each delegate is entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

(6) A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(7) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(c) The commission may:

(1) Establish the fiscal year of the commission;

(2) Establish bylaws;

(3) Establish a code of ethics;

(4) Maintain its financial records in accordance with the bylaws;

(5) Meet and take actions as are consistent with the provisions of this compact and the bylaws;

(6) Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states to the extent and in the manner provided for in the compact;

(7) Bring legal proceedings or prosecute actions in the name of the commission, provided that the standing of any state audiology

or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;

(8) Purchase and maintain insurance and bonds;

(9) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

(10) Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(11) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, use, and dispose of the same: *Provided*, That at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(12) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; *Provided*, That at all times the commission shall avoid any appearance of impropriety;

(13) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(14) Establish a budget and make expenditures;

(15) Borrow money;

(16) Appoint committees, including standing committees composed of members and other interested persons designated in this compact and the bylaws;

(17) Provide and receive information from, and cooperate with, law enforcement agencies;

(18) Establish and elect an executive committee; and

(19) Perform other functions necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

(d) The commission may not change or modify the laws of the member states which define the practice of audiology and speech-language pathology in the respective states.

(e) The executive committee may act on behalf of the commission, within the powers of the commission, according to the terms of this compact. The executive committee shall be composed of 10 members:

(1) Seven voting members who are elected by the commission from the current membership of the commission;

(2) Two ex officio members, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and

(3) One ex officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

(f) The ex officio members shall be selected by their respective organizations.

(1) The commission may remove any member of the executive committee as provided in the bylaws.

(2) The executive committee shall meet at least annually.

(3) The executive committee shall:

(A) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;



(B) Ensure compact administration services are appropriately provided, contractual or otherwise;

(C) Prepare and recommend the budget;

(D) Maintain financial records on behalf of the commission;

(E) Monitor compact compliance of member states and provide compliance reports to the commission;

(F) Establish additional committees as necessary; and

(G) Perform duties as provided in rules or bylaws.

(4) All meetings of the commission or the executive committee shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in §30-32A-10 of this code.

(5) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(A) Noncompliance of a member state with its obligations under the compact;

(B) The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) Current, threatened, or reasonably anticipated litigation;

(D) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(E) Accusing any person of a crime or formally censuring any person;

(F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) Disclosure of investigative records compiled for law enforcement purposes;

(I) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with the responsibility of investigation or the determination of compliance issues pursuant to the compact; or

(J) Matters specifically exempted from disclosure by federal or member state statutes.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(7) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of meetings, other than closed meetings, shall be made available to members of the public upon request. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(8) *Financing of the commission -*

(A) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(B) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(C) The commission may levy on and collect an annual assessment from each member state's licensing board, which in West Virginia is the West Virginia Board of Examiners for Speech-Language Pathology and Audiology Board, or impose fees on parties, other than the member states, to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(9) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the obligation; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(10) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(g) *Qualified immunity, defense, and indemnification -*

(1) The members, officers, executive director, employees, and representatives of the Commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities: *Provided*, That nothing in this subdivision shall be construed to protect any person from suit or liability for any damage, loss,

injury, or liability caused by the intentional or willful or wanton misconduct of that person;

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities: *Provided*, That nothing in this subdivision prohibits that person from retaining his or her own counsel: *Provided, however*, That the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct; and

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities: *Provided*, That the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

### **§30-32A-9. Data system.**

(a) The commission shall provide for the development, maintenance, and use of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Adverse actions against a license or compact privilege;

(4) Nonconfidential information related to alternative program participation;

(5) Any denial of application for licensure, and the reason for denial; and

(6) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(c) Investigative information pertaining to a licensee in any member state shall only be available to other member states.

(d) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.

(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

#### **§30-32A-10. Rulemaking.**

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments become binding as of the date specified in each rule or amendment.

(b) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption

of the rule, the rule shall have no further force and effect in any member state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(d) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule shall be considered and voted upon, the commission shall file a Notice of Proposed Rulemaking:

(1) On the website of the commission or other publicly accessible platform; and

(2) On the website of each member state audiology or speech-language pathology licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(e) The Notice of Proposed Rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;

(2) The text of the proposed rule or amendment and the reason for the proposed rule or amendment;

(3) A request for comments on the proposed rule from any interested person; and

(4) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(f) Prior to the adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(g) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least 25 persons;

(2) A state or federal governmental subdivision or agency; or

(3) An association having at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings shall be recorded. A copy of the recording shall be made available to any person, upon request, at his or her own expense.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

(j) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(k) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the

effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(1) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rule-making procedures provided in the compact and in this section are retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety, or welfare;

(2) Prevent a loss of commission or member state funds; or

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision is subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

### **§30-32A-11. Dispute resolution and enforcement.**

(a) *Dispute resolution* -

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.



(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(b) *Enforcement* -

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney's fees.

(3) The remedies in this section are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

**§30-32A-12. Date of implementation of the interstate commission for audiology and speech-language pathology practice and associated rules, withdrawal, and amendment.**

(a) The compact takes effect on the date on which the compact statute is enacted into law in the 10th member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(b) Any state that joins the compact subsequent to the commission's initial adoption of the rules is subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

(c) Any member state may withdraw from this compact by enacting a statute repealing participation in this compact.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

### **§30-32A-13. Construction and severability.**

This compact shall be liberally construed so as to effectuate the purposes of the compact. 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 member 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. If this compact is held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

### **§30-32A-14. Binding effect of compact and other laws.**

(a) Nothing in this article prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(d) All agreements between the commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

The bill (Eng. H. B. 4375), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4377, The Protection of Vulnerable Adults from Financial Exploitation Act.**

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

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

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

**ARTICLE 6. THE PROTECTION OF ELIGIBLE ADULTS FROM FINANCIAL EXPLOITATION.**

**§32-6-601. Short title.**

This article may be cited as “The Protection of Eligible Adults from Financial Exploitation Act”.

**§32-6-602. Definitions.**

In this article, unless the context otherwise requires:

(1) “Agencies” means adult protective services and the Securities Commission, a Division of the State Auditor’s office.

(2) “Eligible adult” means a person 65 years of age or older or a person subject to §9-6-1 *et seq.* of this code.

(3) “Financial exploitation” means:

(A) The wrongful or unauthorized taking, withholding, appropriation, or use of securities, money, assets, or property of an eligible adult; or

(B) Any act or omission taken by a person, including using a power of attorney, guardianship, or conservatorship of an eligible adult to:

(i) Obtain control, through deception, intimidation, or undue influence over the eligible adult’s money, assets, or property to deprive the eligible adult of the ownership, use, benefit, or possession of his or her money, assets, or property; or

(ii) Convert money, assets, or property of the eligible adult to deprive the eligible adult of the ownership, use, benefit, or possession of his or her money, assets, or property.

### **§32-6-603. Governmental Disclosures.**

If a broker-dealer or investment adviser reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the broker-dealer or investment adviser shall promptly notify the agencies.

### **§32-6-604. Immunity for Governmental Disclosures.**

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, makes a disclosure of information pursuant to section 603 of this article is immune from administrative or civil liability that might otherwise arise from the disclosure or for any failure to notify the customer of the disclosure.

**§32-6-605. Third-Party Disclosures.**

If a broker-dealer or investment adviser reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the broker-dealer or investment adviser may notify any reasonably associated individuals. Disclosure may not be made to any third party that is suspected of financial exploitation or other abuse of the eligible adult.

**§32-6-606. Immunity for Third-Party Disclosures.**

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with §32-6-605 of this code is immune from any administrative or civil liability that might arise from the disclosure.

**§32-6-607. Delaying Transactions or Disbursements.**

(a) A broker-dealer or investment adviser may delay a transaction or disbursement from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) The broker-dealer or investment adviser reasonably believes, after initiating an internal review of the requested transaction or disbursement and the suspected financial exploitation, that the requested transaction or disbursement may result in financial exploitation of an eligible adult; and

(2) The broker-dealer or investment adviser:

(i) Immediately, but in no event more than two business days after the broker-dealer or investment adviser first delayed the transaction or disbursement, provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless any party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;

(ii) Immediately, but in no event more than two business days after the date on which the transaction or disbursement was first delayed, notifies the agencies; and

(iii) Continues its internal review of the suspected or attempted financial exploitation of the eligible adult as necessary and reports the investigation's results to the agencies on a reasonable and periodic basis, up to and including the resolution of the investigation.

(b) Any delay of a transaction or disbursement as authorized by this section expires upon the sooner of:

(1) A determination by the broker-dealer or investment adviser that the disbursement will not result in financial exploitation of the eligible adult; or

(2) Fifteen business days after the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement of the funds, unless either of the agencies requests that the broker-dealer or investment adviser extend the delay, in which case the delay expires when requested by an order of a court of competent jurisdiction.

### **§32-6-608. Immunity for Delaying Transactions or Disbursements.**

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with §32-6-607 of this code is immune from any administrative or civil liability that might otherwise arise from the delay in a transaction or disbursement.

### **§32-6-609. Records.**

A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to agencies charged with administering state adult protective services laws and to law enforcement, either as part of a referral to the agency or to law enforcement, or upon request of the agency or law enforcement pursuant to an investigation. The records may include historical

records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation of an eligible adult. All records made available to agencies under this section shall not be considered a public record as defined in §29B-1-1 et seq. of this code. Nothing in this provision may limit or otherwise impede the authority of the Securities Commission to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

**§32-6-610. Immunity for Complying with Records Requests.**

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with §32-6-609 of this code is immune from any administrative or civil liability that might otherwise arise from such disclosure.

The bill (Eng. Com. Sub. for H. B. 4377), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4388**, Limiting the Alcohol Beverage Control Commissioner's authority to restrict advertising.

Having been read a second time on yesterday, Wednesday, March 4, 2020, and now coming up in regular order with the Judiciary committee amendment to the bill (*shown in the Senate Journal of that day, pages 2122 to 2129, inclusive*) pending, was reported by the Clerk.

The question being on the adoption of the Judiciary committee amendment to the bill.

On motion of Senator Hardesty, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4388) was reported by the Clerk:

On page three, section eighteen, subsection (a), subdivision (5), by striking out "\$150.00" and inserting in lieu thereof "\$50.00".

Following discussion,

The question being on the adoption of Senator Hardesty's amendment to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4388), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4395**, Removing the requirement that a veterinarian access and report to the controlled substance monitoring database.

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

The following amendments to the bill, from the Committee on Health and Human Resources, were reported by the Clerk, considered simultaneously, and adopted:

On page seven, section five-a, line twelve, by striking out “§30-7-1” and inserting in lieu thereof “§30-4-1”;

On page seven, section five-a, line fourteen, by striking out the word “and”;

And,

On page seven, section five-a, after the word “code,” by inserting the words “and a pharmacist licensed by the West Virginia Board of Pharmacy as set forth in §30-5-1 *et seq.*”.

The bill (Eng. Com. Sub. for H. B. 4395), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4439**, Clarifying the method for calculating the amount of severance tax attributable to the increase in coal production.



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

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

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

**ARTICLE 13EE. COAL SEVERANCE TAX REBATE.**

**§11-13EE-1. Findings and purpose.**

The Legislature finds that the encouragement of economic growth and development in this state is in the public interest and promotes the general welfare of the people of this state. In order to encourage capital investment in the coal industry in this state and thereby increase economic development, there is hereby provided a coal severance tax rebate.

**§11-13EE-2. Definitions.**

(a) *General.* — When used in this article, or in the administration of this article, terms defined in subsection (b) shall have the meanings ascribed to them by this section, unless a different meaning is clearly required by either the context in which the term is used, or by specific definition, in this article.

(b) *Terms defined.*

(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) “Business” means and is limited to the activity of producing coal for sale, profit or commercial use including coal preparation and processing.

(3) “Capital investment in new machinery and equipment” means:

(A) Tangible personal property in the form of machinery and equipment that is purchased on or after the effective date of this article and placed in service for direct use in the production of coal, when the original or first use of the machinery or equipment commences in this State on or after the effective date of this article; and

(B) Tangible personal property in the form of machinery and equipment that is leased by the taxpayer and placed in service for direct use in the production of coal by the taxpayer on or after the effective date of this article, if the original or first use of the machinery or equipment commences in this State, with the taxpayer, on or after the effective date of this article and the machinery or equipment is depreciable, or amortizable, for federal income tax purposes and has a useful life of 5 or more years for federal income tax purposes.

(4) “Coal mine” or “mine” includes:

(A) A “surface mine,” or “surface mining operation” which means:

(i) Activities conducted on the surface of lands for the removal of coal, or, subject to the requirements of §11-13EE-14 of this code, surface operations and surface impacts incident to an underground coal mine, including the drainage and discharge from the mine. The activities include: Excavation for the purpose of obtaining coal, including, but not limited to, common methods as contour, strip, auger, mountaintop removal, box cut, open pit and area mining; the uses of explosives and blasting; reclamation; in situ distillation or retorting, leaching or other chemical or physical processing; the cleaning, concentrating or other processing or preparation and loading of coal for commercial purposes at or near the mine site; and

(ii) The areas upon which the above activities occur or where the activities disturb the natural land surface. The areas also include

any adjacent land, the use of which is incidental to the activities; all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage; and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to the activities: *Provided*, That the activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal prospecting. Surface mining does not include any of the following:

(I) Coal extraction authorized pursuant to a government-financed reclamation contract;

(II) Coal extraction authorized as an incidental part of development of land for commercial, residential, industrial or civic use; or

(III) The reclamation of an abandoned or forfeited mine by a no cost reclamation contract; and

(B) An “underground mine” which includes the shafts, slopes, drifts or inclines connected with, or intended in the future to be connected with, excavations penetrating coal seams or strata, which excavations are ventilated by one general air current or divisions thereof, and connected by one general system of mine haulage over which coal may be delivered to one or more points outside the mine, and the surface structures or equipment connected or associated therewith which contribute directly or indirectly to the mining, preparation or handling of coal.

(5) “Coal mining operation” includes the mine and the coal preparation and processing plant.

(6) “Coal preparation and processing plant” means any facility (excluding underground mining operations) which prepares coal by one or more of the following processes: breaking, crushing, screening, wet or dry cleaning, and thermal drying.

(7) “Coal production” means the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use and includes the processing of coal at a coal preparation and processing plant.

(8) “Commissioner” or “Tax Commissioner” are used interchangeably herein and mean the Tax Commissioner of the State of West Virginia, or his or her delegate.

(9) “Controlled group” means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 50 percent of the voting power of all classes of stock of each of the corporations is owned, directly or indirectly, by one or more of the corporations; and the common parent owns directly stock possessing at least 50 percent of the voting power of all classes of stock of at least one of the other corporations.

(10) “Controlling interest” means:

(A) For a corporation, either more than 50 percent ownership, directly or indirectly, of the total combined voting power of all classes of stock of the corporation, or more than 50 percent ownership, directly or indirectly, of the beneficial ownership interest in the voting stock of all classes of stock of the corporation;

(B) For a partnership, association, trust or other entity other than a limited liability company, more than 50 percent, ownership, directly or indirectly, of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity;

(C) For a limited liability company, either more than 50 percent ownership, directly or indirectly, of the total membership interest of the limited liability company, or more than 50 percent ownership, directly or indirectly, of the beneficial ownership interest in the membership interest of the limited liability company.

(11) "Corporation" means any corporation, joint-stock company or association, and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

(12) "Delegate" used in the phrase "or his delegate," when used in reference to the Tax Commissioner, means any officer or employee of the State Tax Department duly authorized by the Tax Commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article.

(13) "Directly used or consumed in the production of coal" means used or consumed in those activities or operations which constitute an integral and essential part of the production of coal, as contrasted with and distinguished from those activities or operations which are simply incidental, convenient or remote to the production of coal.

(A) Uses of tangible personal property which constitute direct use or consumption in the production of coal include only:

(i) New machinery and equipment that is depreciable, or amortizable, for federal income tax purposes, that has a useful life of 5 or more years for federal income tax purposes, and that are directly used in the production of coal in this state;

(ii) Transportation of coal within the coal mine from the coal face or coal deposit to the exterior of the mine or to a point where the extracted coal is transported away from the mine;

(iii) Directly and physically recording the flow of coal during the production of coal including those coal treatment processes specified in §11-13A-4 of this code;

(iv) Safety equipment and apparatus directly used in the production of coal, or to secure the safety of mine personnel is direct use in the production of coal;

(v) Controlling or otherwise regulating atmospheric conditions required for the production of coal;

(vi) Transformers, pumps, rock dusting equipment and other property used to supply electricity or water, or to supply or apply rock dust directly used in the production of coal;

(vii) Storing, removal or transportation of economic waste, including coal gob, resulting from the production of coal;

(viii) Engaging in pollution control or environmental quality or protection activity directly relating to the production of coal; or

(ix) Otherwise using as an integral and essential part of the production of coal.

(B) Uses of tangible personal property which do not constitute direct use or consumption in the production of coal include, but are not limited to:

(i) Heating and illumination of office buildings;

(ii) Janitorial or general cleaning activities;

(iii) Personal comfort of personnel: *Provided*, That safety equipment and apparatus directly used in the production of coal or to secure the safety of mine personnel is direct use in the production of coal when the tangible personal property is depreciable, or amortizable, for federal income tax purposes and has a useful life of 5 or more years for federal income tax purposes when it is placed in service or use;

(iv) Production planning, scheduling of work or inventory control;

(v) Marketing, general management, supervision, finance, training, accounting and administration;

(vi) Measuring or determining weight, and ash content, water content and other physical and chemical characteristics of the coal after production;

(vii) An activity or function incidental or convenient to the production of coal, rather than an integral and essential part of these activities.

(14) “Eligible taxpayer” means:

(A) Any person who pays the tax imposed by §11-13A-3 of this code on the privilege of producing coal for sale, profit or commercial use for at least 2 years before the capital investment in machinery and equipment is placed in service or use in this state;  
or

(B) A taxpayer that has experienced a change in business composition through merger, acquisition, split-up, spin-off or other ownership changes or changes in the form of the business organization from limited liability company to C corporation, or partnership, or from one form of business organization to a different form of business organization, may constitute an eligible taxpayer if the entity currently operating in this state was operating in a different form of business organization in this state at least 2 years before the capital investment in new machinery and equipment is placed in service or use in this state. In the case of business composition change through merger, acquisition, split-up, spin-off or other ownership changes the current business may constitute an eligible taxpayer if at least 50 percent of the business assets of such component were actively and directly used in coal production activity in this state for such two-year period. If less than 50 percent of the assets of the current entity were not actively and directly used in coal production activity in this state for such two-year period, then the current entity resulting from a business composition change through merger, acquisition, split-up, spin-off or other ownership, shall not constitute an eligible taxpayer.

(15) “Includes” and “including” when used in a definition contained in this article, shall not be deemed to exclude other things otherwise within the generally understood meaning of the term defined.

(16) “Original use” means the first use to which the property is put by anyone.

(17) “Partnership” includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, operation or venture is carried on, which is

taxed under Subchapter K of the Internal Revenue Code, as defined in §11-24-3 of this code, and which is not a trust or estate, a corporation or a sole proprietorship. The term “partner” includes a member in such a syndicate, group, pool, joint venture or other unincorporated organization taxed under Subchapter K of the Internal Revenue Code.

(18) “Person” includes any natural person, corporation, partnership, limited liability company or other business entity.

(19) “Production of coal” means privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use and includes the processing of coal at the coal preparation and processing plant.

(20) “Property” means tangible personal property and is limited to new machinery and equipment that is depreciable or amortizable for federal income tax purposes and that has a useful life of 5 or more years for federal income tax purposes.

(21) “Property purchased or leased for business expansion” means:

(A) *Included property.* — Except as provided in subparagraph (B) of this section, the term “property purchased or leased for business expansion” means tangible personal property, but only if the tangible personal property was purchased, or leased and placed in service or use by the taxpayer, for use in West Virginia. This term includes only:

(i) Tangible personal property placed in service or use by the taxpayer on or after the effective date of this article, with respect to which depreciation, or amortization in lieu of depreciation, is allowable in determining the personal or corporation net income tax liability of the business, or its equity owners, under §11-21-1 *et seq.* or §11-24-1 *et seq.* of this code, and which has a useful economic life at the time the property is placed in service or use in this state, of 5 or more years.

(ii) Tangible personal property acquired by written lease having a primary term of 5 years or more, that is depreciable or



amortizable by the lessor, or lessee, for federal income tax purposes and that has a useful life of 5 or more years for federal income purposes when it is placed in service or use, and when the lease commences and was executed by the parties thereto on or after the effective date of this article, if used as a component part of a new or expanded coal mining operation in this state shall be included within this definition.

(B) *Excluded property.* — The term “property purchased or leased for business expansion” shall not include:

(i) Machinery and equipment owned or leased by the taxpayer and for which credit was taken or is claimed under any other article of this chapter for capital investment in the new machinery and equipment;

(ii) Repair costs, including materials used in the repair, unless for federal income tax purposes, the cost of the repair must be capitalized and not expensed;

(iii) Motor vehicles licensed by the West Virginia Division of Motor Vehicles;

(iv) Airplanes;

(v) Off-premise transportation equipment;

(vi) Machinery and equipment that is primarily used outside this state;

(vii) Machinery and equipment that is acquired incident to the purchase of the stock or assets of the seller; and

(viii) Used machinery and equipment.

(C) *Purchase date.* — New machinery and equipment shall be deemed to have been purchased prior to a specified date only if:

(i) The machinery or equipment was owned by the taxpayer prior to the effective date of this article or was acquired by the taxpayer pursuant to a binding purchase contract which was in effect prior to the effective date of this article; or

(ii) In the case of leased machinery and equipment, there was a binding written lease or contract to lease identifiable machinery or equipment in effect prior to the effective date of this article.

(22) “Purchase” means any acquisition of new machinery or equipment, but only if:

(A) The machinery or equipment is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of deductions under Section 267 or 707 (b) of the United States Internal Revenue Code, as defined in §11-24-3 of this code;

(B) The machinery or equipment is not acquired by one component member of a controlled group from another component member of the same controlled group; and

(C) The basis of the machinery or equipment for federal income tax purposes, in the hands of the person acquiring it, is not determined:

(i) In whole or in part by reference to the federal adjusted basis of the machinery or equipment in the hands of the person from whom it was acquired; or

(ii) Under Section 1014 (e) of the United States Internal Revenue Code.

(23) “Qualified coal mining activity” means any business or other activity subject to the tax imposed by §11-13A-3 of this code on the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use including the treatment process described as mining in §11-13A-4(a)(1) of this code.

(24) “Qualified investment” means capital investment in new machinery and equipment directly used in the production of coal in this state that is depreciable, or amortizable, for federal income tax purposes and has a useful life for federal income tax purposes of 5 or more years when it is placed in service or use in this state.

(25) “Rebate” means the amount of rebate allowable under §11-13EE-4 of this article.

(26) “Related person” means:

(A) A corporation, partnership, association or trust controlled by the taxpayer;

(B) An individual, corporation, partnership, association or trust that is in control of the taxpayer;

(C) A corporation, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in control of the taxpayer; or

(D) A member of the same controlled group as the taxpayer.

For purposes of this subdivision, the term “control,” with respect to a corporation, means ownership, directly or indirectly, of stock possessing 50 percent or more of the total combined voting power of all classes of the stock of the corporation entitled to vote. “Control,” with respect to a trust, means ownership, directly or indirectly, of 50 percent or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust is determined in accordance with the rules for constructive ownership of stock provided in section 267 (c) of the United States Internal Revenue Code, other than paragraph (3) of that section.

(27) “State portion of severance taxes paid” means the portion of severance taxes due under §11-13A-3 of this code when computed at the 4.65 percent rate of tax.

(28) “Tangible personal property” means and is limited to new machinery and equipment that is depreciable, or amortizable, for federal income tax purposes and that has a useful life of 5 or more years for federal income tax purposes when it is placed in service or use in this state.

(29) “Taxpayer” means any person exercising the privilege of severing, extracting, reducing to possession and producing coal for

sale, profit or commercial use coal, which privilege is taxable under §11-13A-3 of this code.

(30) “This code” means the Code of West Virginia, 1931, as amended.

(31) “This state” means the State of West Virginia.

(32) “United States Internal Revenue Code” or “Internal Revenue Code” means the Internal Revenue Code as defined in §11-24-3 of this code.

### **§11-13EE-3. Rebate allowable.**

(a) *Rebate allowable.* — Eligible taxpayers shall be allowed a rebate for a portion of state severance taxes imposed by §11-13A-3 of this code on the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use that is attributable to the increase in the production of coal that is attributable to and the consequence of the taxpayer’s capital investment in new machinery and equipment used at the coal mine, or coal preparation and processing facility. The amount of this rebate shall be determined and applied as hereinafter provided in this article.

(b) *Amount of rebate.* — The amount of rebate allowable is determined by multiplying the amount of the taxpayer’s capital investment in new machinery and equipment directly used in the production of coal at a coal mining operation in this state by 35 percent. The product of this computation establishes the maximum amount of rebate allowable under this article for the capital investment in new machinery and equipment.

(c) *Application of rebate amount.* — The amount of rebate allowable is determined by applying the rebate amount determined in subsection (b) of this section against 80 percent of the state portion of the severance tax paid on the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use that is directly attributable to the increased production of coal at the mine due to taxpayer’s capital investment

in new machinery and equipment at the mine or coal processing and preparation plant.

(d) The amount of severance tax attributable to the increase in coal production at a mine due to the capital investment in new machinery and equipment shall be determined by comparing (1) the state portion of the severance tax due under §11-13A-3 of this code on coal produced from the mine during calendar year 2018, before allowance of any tax credits, except as provided in subsection (e) of this section (d), (2) with the state severance tax due on coal produced at the mine during the then current calendar year in which the capital investment in new mining machinery and equipment is placed in service or use, before allowance for any tax credits. When the amount in subdivision (2) of this section is greater than the amount in subdivision (1) of this section, the difference is the amount of state severance tax due to the increase in coal production at the mine that is attributable to the capital investment in new machinery and equipment: *Provided*, That when the producer of the coal operates more than one mine in this state, or is a member of a controlled or affiliated group that operates one or more coal mines in this state, no credit shall be allowed unless the total coal production from all mines operated by the taxpayer or by members of the affiliated or controlled group in this state has increased by at least the increase in production at the mine at which the capital investment in new machinery and equipment was made: *Provided, however*, That in no case shall the severance tax attributable to any mine other than the specific mine at which capital investment in new machinery and equipment is directly used in a coal mining operation has been placed in service or use be offset by this rebate.

(e) When the eligible taxpayer is a new business that has produced coal in this state for 2 years before making the capital investment in new machinery and equipment, then, for purposes of item (1) in subsection (d), the base shall be the amount of state severance tax due under §11-13A-3 of this code on coal produced in this state during the second year of this two-year period.

(f) When the operator of the coal mine at which capital investment in new machinery and equipment was made operates

one or more other coal mines in this state, the operator may not cease production of coal, or reduce the production of coal, at one or more of those mines during the tax years for which rebate is allowed under this article. The Tax Commissioner shall promulgate a legislative rule providing exceptions to this subsection.

(g) When the operator of the coal mine at which capital investment in new machinery and equipment was made is a member of a controlled or affiliated group that operates one or more other coal mines in this state, then the controlled or affiliated group, as the case may be, may not cease production of coal, or reduce the production of coal, at one or more of those mines during the tax years for which rebate is allowed under this article. The Tax Commissioner shall promulgate a legislative rule providing exceptions to this subsection.

(h) No rebate shall be allowed under this article when credit is claimed under any other article of this chapter for capital investment in the new machinery and equipment. No credit shall be allowed under any other article of this chapter when rebate is allowed under this article for the capital investment in new machinery and equipment.

**§11-13EE-4. Information required to determine amount of rebate allowable.**

(a) A taxpayer claiming rebate under this article who operates more than one coal mine in this state shall provide a schedule with the annual severance tax return filed under §11-13A-1 *et seq.* of this code that shows, for each coal mine, the number of tons of coal produced and the gross value of the coal produced at each mine during the taxable year.

(b) When a taxpayer claiming rebate under this article is a member of an affiliated or controlled group, as the case may be, that operates more than one coal mine in this state the group shall provide a schedule with its annual severance tax return filed under §11-13A-1 *et seq.* of this code for the taxable year that shows for each coal mine operated in this state by the affiliated or controlled group, as the case may be, the number of tons of coal produced at

each mine and the gross value of the coal produced at each mine during the taxable year.

**§11-13EE-5. Claim for rebate.**

(a) After the severance taxes due for the taxable year are paid, a taxpayer may file a claim under this article for rebate of up to 80 percent of the state portion of the additional severance taxes paid under §11-13A-3 of this code that are directly attributable to taxpayer's capital investment in new machinery and equipment placed in service or use during that taxable year as set forth in §11-13EE-4.

(b) When the amount of rebate claimed exceeds 80 percent of the additional state severance tax paid as provided in subsection (a) of this section, the unused portion of the rebate amount may be carried forward and refunded by the Tax Commissioner after severance taxes due in subsequent years are paid: *Provided*, That the carryforward period may not exceed 10 years from the date the capital investment in new machinery and equipment is placed in service or use in this state.

**§11-13EE-6. Suspension of payment of rebate.**

(a) No rebate may be paid under this article when the taxpayer, or any member of the taxpayer's combined or affiliated group, as the case may be, is delinquent in the payment of severance taxes imposed pursuant to §11-13A-3 of this code, and any local, state or federal tax or fee, until such time as the delinquency is cured.

(b) For purposes of this section, a taxpayer is not delinquent if the taxpayer is contesting an assessment in the Office of Tax Appeals or in any court of this state, or of the appropriate federal agency or court, or is complying with the terms of any payment plan agreement with the Tax Commissioner.

(c) In the case of a taxpayer that files a combined tax return as a member of a unitary group, no rebate under this article that is earned by one member of the combined group, but not fully used by or allowed to that member, may be claimed, in whole or in part, by another member of the group.

**§11-13EE-7. Burden of proof; application required; failure to make timely application.**

(a) *Burden of proof.* — The burden of proof is on the taxpayer to establish by clear and convincing evidence that the taxpayer is entitled to the benefits allowed by this article.

(b) *Application for rebate required.*

(1) Notwithstanding any provision of this article to the contrary, no rebate shall be paid under this article for any capital investment in new machinery and equipment placed in service or use until the person asserting a claim for the allowance of rebate under this article makes written application to the Tax Commissioner for allowance of rebate as provided in this section.

(2) An application for rebate shall be filed, in the form prescribed by the Tax Commissioner, no later than the last day for filing the severance tax return, determined by including any authorized extension of time for filing the return, for the taxable year in which the machinery and equipment to which the rebate relates is placed in service or use and all information required by the form is provided.

(3) A separate application for rebate is required for each taxable year during which the taxpayer places new machinery and equipment in service or use in a mine or coal preparation and processing facility in this state.

(c) *Failure to make timely application.* — The failure to timely apply for the rebate results in the forfeiture of 25 percent of the rebate amount otherwise allowable under this article. This penalty applies annually until the application is filed.

**§11-13EE-8. Identification of capital investment property.**

Every taxpayer who claims credit under this article shall maintain sufficient records to establish the following facts for each item of qualified investment property:

(1) Its identity;



- (2) Its actual or reasonably determined cost;
- (3) Its useful life for federal income tax purposes;
- (4) The month and taxable year in which it was placed in service;
- (5) The amount of credit taken; and
- (6) The date it was disposed of or otherwise ceased to be qualified investment property.

**§11-13EE-9. Failure to keep records of investment credit property.**

A taxpayer who does not keep the records required for identification of investment credit property is subject to the following rules:

(1) A taxpayer is treated as having disposed of, during the taxable year, any machinery and equipment that the taxpayer cannot establish was still on hand, in this state, at the end of that year.

(2) If a taxpayer cannot establish when capital investment in new machinery and equipment property was reported for purposes of claiming this credit during the taxable year the machinery or equipment was placed in service or use, the taxpayer is treated as having placed it in service or use in the most recent prior taxable year in which similar machinery and equipment was placed in service or use, unless the taxpayer can establish that the machinery and equipment placed in service or use in the most recent taxable year is still on hand. In that event, the taxpayer will be treated as having placed the returned machinery and equipment in service or use in the next most recent taxable year.

**§11-13EE-10. Transfer of qualified investment property to successors.**

(a) *Mere change in form of business.* – Machinery and equipment may not be treated as disposed of under §11-13EE-9 of

this article, by reason of a mere change in the form of conducting the business as long as the machinery and equipment is retained in the successor business in this state, and the transferor business retains a controlling interest in the successor business. In this event, the successor business is allowed to claim the rebate amount of credit still available with respect to the machinery and equipment transferred, and the transferor business may not be required to redetermine the amount of rebate allowed in earlier years.

(b) *Transfer or sale to successor.* – Machinery and equipment is not treated as disposed of under §11-13EE-11 of this article by reason of any transfer or sale to a successor business which continues to operate machinery and equipment at the mine in this state at which the machinery and equipment was first placed in service or use. Upon transfer or sale, the successor shall acquire the amount of rebate, if any, that remains available under this article, and the transferor business is not required to redetermine the amount of rebate allowed in earlier years.

**§11-13EE-11. Recapture of rebate; recapture tax imposed.**

(a) *When recapture tax applies.* —

(1) Any person who places machinery and equipment in service or use for purposes of this credit and who fails to use the machinery and equipment for at least 5 years in the production of coal in this state shall pay the recapture tax imposed by subsection (b) of this section.

(2) This section does not apply when §11-13EE-10 of this article applies. However, the successor, or the successors, and the person, or persons, who previously claimed credit under this article with respect to the machinery and equipment, are jointly and severally liable for payment of any recapture tax subsequently imposed under this section with respect to the machinery and equipment used to qualify for rebate under this article.

(b) *Recapture tax imposed.* — The recapture tax imposed by this subsection is the amount determined as follows. If the taxpayer prematurely removes machinery and equipment placed in service

(when considered as a class) from economic service in the taxpayer's coal production activity in this state, the taxpayer shall recapture the amount of rebate claimed under this article for the taxable year, and all preceding taxable years, attributable to the machinery and equipment which has been prematurely removed from service. The amount of tax due under this subsection is an amount equal to the amount of rebate that is recaptured under this subsection.

(d) *Payment of recapture tax.* — The amount of tax recaptured under this section is due and payable on the day the person's annual return is due for the taxable year, in which this section applies, under §11-13A-1 *et seq.* of this code. When the employer is a partnership, limited liability company or S corporation for federal income tax purposes, the recapture tax shall be paid by those persons who are partners in the partnership, members in the company, or shareholders in the S corporation, in the taxable year in which recapture tax is imposed under this section.

#### **§11-13EE-12. Interpretation and construction.**

(a) No inference, implication or presumption of legislative construction or intent may be drawn or made by reason of the location or grouping of any particular section, provision or portion of this article; and no legal effect may be given to any descriptive matter or heading relating to any section, subsection or paragraph of this article.

(b) The provisions of this article shall be reasonably construed in order to effectuate the legislative intent recited in §11-13EE-1 of this article.

#### **§11-13EE-13. Rebate report.**

(a) The Tax Commissioner shall provide to the Joint Committee on Government and Finance by July 1, 2022, and on the first day of July of each year thereafter, a report detailing the amount of rebate claimed pursuant to this article. The report is to include the amount of rebate claimed against the severance tax imposed pursuant to §11-13A-3 of this code.

(b) Taxpayers claiming the rebate shall provide the information the Tax Commissioner may require to prepare the report: *Provided*, That the information provided is subject to the confidentiality and disclosure provisions of §11-10-5d and §11-10-5s of this code.

(c) The Tax Commissioner shall also identify any issues the Tax Commissioner has in the administration and enforcement of this rebate and make suggestions the Commissioner may have for improving the credit or the administration of the rebate.

#### **§11-13EE-14. Rules.**

The Tax Commissioner may promulgate such interpretive, legislative and procedural rules as the Commissioner deems to be useful or necessary to carry out the purpose of this article and to implement the intent of the Legislature. The tax commissioner may promulgate emergency rules if they are filed in the West Virginia Register before January 1, 2020. All rules shall be promulgated in accordance with the provisions of §29A-3-1 *et seq.* of this code.

#### **§11-13EE-15. Severability.**

(a) If any provision of this article or the application thereof is for any reason adjudged by any court of competent jurisdiction to be invalid, the judgment may not affect, impair or invalidate the remainder of the article, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered, and the applicability of the provision to other persons or circumstances may not be affected thereby.

(b) If any provision of this article or the application thereof is made invalid or inapplicable by reason of the repeal or any other invalidation of any statute therein addressed or referred to, such invalidation or inapplicability may not affect, impair or invalidate the remainder of the article, but shall be confined in its operation to the provision thereof directly involved with, pertaining to, addressing or referring to the statute, and the application of the provision with regard to other statutes or in other instances not

affected by any such repealed or invalid statute may not be abrogated or diminished in any way.

**§11-13EE-16. Effective date.**

The rebate allowed by this article is allowed for capital investment in new machinery and equipment placed in service or use in this state on or after July 1, 2019.

The bill (Eng. Com. Sub. for H. B. 4439), as amended, was then ordered to third reading.

**Eng. House Bill 4447**, Creating the shared table initiative for senior citizens who suffer from food insecurity.

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

**Eng. Com. Sub. for House Bill 4494**, Tobacco Use Cessation Initiative.

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

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

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

**§16-9G-1. Tobacco Use Prevention and Cessation Task Force**

(a) The West Virginia Tobacco Use Prevention and Cessation Task Force is created for the purpose of recommending and monitoring the establishment and management of programs that are found to be effective in the reduction of tobacco, tobacco products, alternative nicotine products, and vapor products use by all state citizens, with a strong focus on the prevention of children and young adults use of tobacco, tobacco products, alternative nicotine products, and vapor products.

(b) The task force shall have the following members:

(1) The Commissioner of the Bureau for Public Health or his or her designee, who shall serve as chair;

(2) The Superintendent of the Department of Education or his or her designee;

(3) Ten members to be appointed by the Governor:

(A) A representative of a nationwide nonprofit organization dedicated to the elimination of cancer;

(B) A representative of a nonprofit national organization that funds cardiovascular medical research;

(C) A dentist, licensed pursuant to §30-4-1 *et seq.*, with an expertise in oral health;

(D) A physician, licensed pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* with expertise in health impacts associated with tobacco, tobacco products, alternative nicotine products, or vapor products consumption;

(E) A representative of a national voluntary health organization whose mission is to save lives by improving lung health and preventing lung disease through education, advocacy, and research;

(F) A representative who is certified from one of the programs accredited by the Council for Tobacco Treatment Training Programs or has received a National Certificate in Tobacco Treatment Practice, who has advanced education in evidence-based tobacco treatment competencies, skills, and practices;

(G) A representative from a national youth tobacco, tobacco products, alternative nicotine products, or vapor products prevention organization;

(H) A representative from the West Virginia Prevention First Network within the West Virginia Bureau for Behavioral Health/ and

(2) Two citizen members that through professional or medical experience or advocacy are committed to work and advocate for cessation of tobacco, tobacco products, alternative nicotine products, and vapor products consumption in all forms in the state.

(c) The task force shall meet quarterly at the call of the chair to study, monitor, and recommend funding and initiation of programs that reduce tobacco, tobacco products, alternative nicotine products, and vapor products consumption in West Virginia, and to initiate studies and processes to provide the most efficient and effective use of the funds dedicated for this purpose. The task force shall include a variety of persons in the health care field, including individuals certified from one of the programs accredited by the Council for Tobacco Treatment Training Programs or received a National Certificate in Tobacco Treatment Practice, advocates, and citizens, with the intention of the Legislature to create a dynamic and innovative group to focus, monitor, and facilitate state resources towards this goal.

(d) The Director of the Division of Tobacco Prevention shall attend each task force meeting and shall provide staff support services for the task force. The task force shall monitor the Division of Tobacco Prevention's programs and make recommendations to the division on expenditures and programs which are being administered by that office. The task force shall report annually to the Legislative Oversight Committee on Health and Human Resources Accountability by December 1<sup>st</sup>, which shall include at a minimum, the following:

(1) An assessment of each program administered by the Division of Tobacco Prevention towards reducing tobacco, tobacco products, alternative nicotine products, and vapor products consumption and include an overview of its budget for the prior year and how state moneys and any other funding or grants received by the office are being expended that year;

(2) Review and analysis the types of tobacco, tobacco products, alternative nicotine products, and vapor products consumption practices in the state and identify emerging trends related to tobacco, tobacco products, alternative nicotine products, or vapor

products delivery devices and related activities impacting tobacco, tobacco products, alternative nicotine products, and vapor products use, with particular emphasis on youth consumption trends and practices; and,

(3) Recommend for legislation or implementation of legislation, public policies; and funding of programs that can further facilitate a reduction in tobacco, tobacco products, alternative nicotine products, or vapor products usage in our state.

### **§16-9G-2. Division of Tobacco Prevention.**

In addition to administering and coordinating the program on tobacco, tobacco products, alternative nicotine products, and vapor products cessation, the Division of Tobacco Prevention may apply for and administer federal and private grants and donations made for the purpose of reducing and eliminating tobacco, tobacco products, alternative nicotine products, and vapor products consumption in this state.

The bill (Eng. Com. Sub. for H. B. 4494), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4509**, Transferring the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support.

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

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

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

## **ARTICLE 12. PROBATION AND PAROLE.**

### **§62-12-12. Parole Board generally.**

(a) The West Virginia Parole Board is continued as part of the Division of Corrections and Rehabilitation. The board shall consist



of nine members, each of whom shall have been a resident of this state for at least five consecutive years prior to his or her appointment. No more than five of the board members may at any one time belong to the same political party, except as provided in subsection (b) of this section. The board shall be appointed by the Governor, by and with the advice and consent of the Senate and shall serve at the will and pleasure of the Governor.

~~(b) Appointments shall be made in such a manner that each congressional district is represented and so that no more than four and no less than two members of the board reside in any one congressional district. No more than two members of the board may reside in any one county~~

(b) The Governor shall appoint one of the nine members to serve as chairperson at the Governor's will and pleasure. In addition to all other powers, duties, and responsibilities granted and assigned to the chairperson by law and rule, the chairperson has the following powers and duties:

(1) To provide for the management of facilities and personnel of the board;

(2) To supervise the administration and operation of the board;

(3) To delegate the powers and duties of his or her office to the vice chairperson or other members of the board, who shall act under the direction of the chairperson and for whose acts he or she is responsible: *Provided*, That if the position of chairperson becomes vacant by death, resignation, or otherwise, the vice chairperson shall assume all the powers and duties of the chairperson until such time as a new chairperson is appointed pursuant to the provisions of this subsection;

(4) To employ one full-time administrative employee, who shall be a classified exempt employee; and

(5) To exercise all other powers and perform all other duties necessary and proper in carrying out his or her responsibilities as chairperson.

(c) The board, from its membership, shall elect a vice chairperson, at least once every year, to serve as chair in the absence of a chairperson. In the absence of or at the direction of the chairperson, the vice chairperson may exercise the powers and duties of the chairperson. The vice chairperson shall, while performing the duties and responsibilities of the chairperson, have all of the statutorily authorized power and duties of the chairperson.

~~(e)~~(d) Any person initially appointed to the board on or after July 1, 2012, shall have a degree from an accredited college or university or at least five years of actual experience in the fields of corrections, law enforcement, sociology, law, education, psychology, social work, or medicine, or a combination thereof, and shall be otherwise competent to perform the duties of his or her office. All members currently serving on the board shall continue the terms they are currently serving, unless otherwise removed. The members shall be appointed for overlapping terms of six years. Members are eligible for reappointment. The members of the board shall devote their full time and attention to their board duties. ~~The Governor shall appoint one of the nine appointed members to serve as chairperson at the Governor's will and pleasure~~

(e) The Governor may, if he or she is informed that a vacancy is imminent, appoint a member to fill the imminent vacancy prior to it becoming vacant: *Provided*, That the new member may be appointed no more than 30 days prior to the vacancy occurring and only for purposes of training. He or she may not assume the powers and duties of the position until the vacancy has actually occurred.

(f) The Governor may appoint no more than five persons to a list of substitute board members. Substitute board members shall meet the qualifications set forth in subsection(d) of this section. The persons on the list shall be used in a rotating fashion. If a full-time board member is unable to serve, a substitute board member may serve in his or her place. These substitute board members shall have the same powers and duties of the fulltime board members while acting as a substitute. These members shall be reimbursed for expenses and paid a per diem rate set by the secretary.

(g) The Division of Corrections and Rehabilitation shall provide administrative and other services to the board as the board requires. Expenses of the board shall be included within the annual budget of the Division of Corrections and Rehabilitation: *Provided*, That the salaries of the members appointed pursuant to subsection (b) of this section are to be included in a separate budget for the Parole Board.

The bill (Eng. Com. Sub. for H. B. 4509), as amended, was then ordered to third reading.

**Eng. House Bill 4514**, Permitting the use of leashed dogs to track mortally wounded deer or bear.

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

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

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

## **ARTICLE 2. WILDLIFE RESOURCES.**

### **§20-2-5j. Leashed dogs for tracking mortally wounded deer 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 or bear may use leashed dogs to track and locate the mortally wounded deer or bear. The hunter is also permitted to use a dog handler of leashed dogs to track and locate the mortally wounded deer or bear. The hunter or the dog handler shall maintain physical control of the leashed dogs at all times.

(b) The act of tracking a mortally wounded deer or bear with a dog is hunting and the hunter and handler are subject to all applicable laws and rules. It is unlawful for a hunter or dog handler to track deer or bear with leashed dogs 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 or bear. The deer or bear shall count toward the bag limit of the hunter.

(c) Any dog handler providing tracking services for profit must be licensed as an outfitter or guide pursuant to §20-2-23 of this code.

### **§20-2-16. Dogs chasing deer.**

~~No~~ Except as provided in §20-2-5j of this code, no person may permit or use his or her dog to hunt or chase deer. A natural resources police officer shall take into possession any dog known to have unlawfully hunted or chased deer. and the director shall advertise that the dog is in his or her possession, giving a description of the dog and stating the circumstances under which it was taken. The notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty nine of this code, and the publication area for the publication is the county. He or she shall hold the dog for a period of ten days after the date of the publication. If, within ten days, the owner does not claim the dog, the director shall destroy it. In this event the cost of keeping and advertising shall be paid by the director. If, within ten days, the owner claims the dog, he or she may repossess it on the payment of costs of advertising and the cost of keep, not exceeding 50¢ per day. A natural resources police officer, or any officer or employee of the director authorized to enforce the provisions of this section, after a bona fide but unsuccessful effort to capture dogs detected chasing or pursuing deer, may kill the dogs If the owner of the dog can be determined, the dog shall be returned to the owner. If the owner of the dog cannot be determined, the natural resources police officer shall deliver the dog to the appropriate county humane officer or facility consistent with the provisions of this code.

**§20-2-22a. Hunting, tagging and reporting bear; procedures applicable to property destruction by bear; penalties.**

(a) A person may not hunt, capture, or kill any bear, or have in his or her possession any bear or bear parts, except during the hunting season for bear in the manner designated by rule or law. For the purposes of this section, bear parts include, but are not limited to, the pelt, gallbladder, skull and claws of bear.

(b) A person who kills a bear shall, within twenty-four hours after the killing, electronically register the bear. A game tag number shall be issued to the person and recorded in writing with the person's name and address, or on a field tag and shall remain on the skin until it is tanned or mounted. Any bear or bear parts not properly tagged shall be forfeited to the state for disposal to a charitable institution, school or as otherwise designated by the director.

(c) Training dogs on bears or pursuing bears with dogs is the hunting of bear for all purposes of this chapter, including all applicable regulations and license requirements.

(d) It is unlawful:

(1) To hunt bear without a bear damage stamp, as prescribed in section forty-four-b of this article, in addition to a hunting license as prescribed in this article;

(2) To hunt a bear with:

(A) A shotgun using ammunition loaded with more than one solid ball; or

(B) A rifle of less than twenty-five caliber using rimfire ammunition;

(3) To kill or attempt to kill, or wound or attempt to wound, any bear through the use of bait, poison, explosives, traps or deadfalls or to feed bears at any time. For purposes of this section, bait includes, but is not limited to, corn and other grains, animal carcasses or animal remains, grease, sugars in any form, scent

attractants and other edible enticements, and an area is considered baited for ten days after all bait has been removed;

(4) To shoot at or kill:

(A) A bear weighing less than seventy-five pounds live weight or fifty pounds field dressed weight, after removal of all internal organs;

(B) Any bear accompanied by a cub; or

(C) Any bear cub so accompanied, regardless of its weight;

(5) To transport or possess any part of a bear not tagged in accordance with the provisions of this section;

(6) To possess, harvest, sell or purchase bear parts obtained from bear killed in violation of this section; or

(7) Except as provided in §20-2-5j of this code, To organize for commercial purposes or to professionally outfit a bear hunt, or to give or receive any consideration whatsoever or any donation in money, goods or services in connection with a bear hunt, notwithstanding the provisions of sections twenty-three and twenty-four of this article.

(e) The following provisions apply to bear damaging or destroying property:

(1)(A) Any property owner or lessee who has suffered damage to real or personal property, including loss occasioned by the death or injury of livestock or the unborn issue of livestock, caused by an act of a bear may complain to any natural resources police officer of the division for protection against the bear.

(B) Upon receipt of the complaint, the officer shall immediately investigate the circumstances of the complaint. If the officer is unable to personally investigate the complaint, he or she shall designate a wildlife biologist to investigate on his or her behalf.

(C) If the complaint is found to be justified, the officer or designated wildlife biologist may issue a permit to kill the bear that caused the property damage or may authorize the owner and other residents to proceed to hunt, destroy or capture the bear that caused the property damage: *Provided*, That only the natural resources police officer or the wildlife biologist may recommend other measures to end or minimize property damage: *Provided, however*, That, if out-of-state dogs are used in the hunt, the owners of the dogs are the only nonresidents permitted to participate in hunting the bear.

(2)(A) When a property owner has suffered damage to real or personal property as the result of an act by a bear, the owner shall file a report with the director of the division. A bear damage report shall be completed by a representative of the division and shall state whether or not the bear was hunted and destroyed or killed under authorization of a depredation permit and, if so, the sex and weight shall be recorded and a premolar tooth collected from the bear, all of which shall be submitted with the report. The report shall also include an appraisal of the property damage occasioned by the bear fixing the value of the property lost. Bear damage claims will not be accepted for personal and real property which is commonly used for the purposes of feeding, baiting, observing or hunting wildlife, including, but not limited to, hunting blinds, tree stands, artificial feeders, game or trail cameras and crops planted for the purposes of feeding or baiting wildlife.

(B) The report shall be ruled upon and the alleged damages examined by a commission comprised of the complaining property owner, an officer of the division and a person to be jointly selected by the officer and the complaining property owner.

(C) The division shall establish the procedures to be followed in presenting and deciding claims, issuing bear depredation permits and organizing bear hunts under this section in accordance with §29A-3-1 *et seq.* of this code.

(D) All claims shall be paid in the first instance from the Bear Damage Fund provided in section forty-four-b of this article: *Provided*, That the claimant shall submit accurate information as

to whether he or she is insured for the damages caused by the acts of bear on forms prescribed by the director, and all damage claims shall first be made by the claimant against any insurance policies before payment may be approved from the Bear Damage Fund. Claims for an award of compensation from the Bear Damage Fund shall be reduced or denied in the amount the claimant is actually reimbursed by insurance for the economic loss upon which the claim is based. In the event the fund is insufficient to pay all claims determined by the commission to be just and proper, the remainder due to owners of lost or destroyed property shall be paid from the special revenue account of the division.

(3) In all cases where the act of the bear complained of by the property owner is the killing of livestock, the value to be established is the fair market value of the livestock at the date of death. In cases where the livestock killed is pregnant, the total value is the sum of the values of the mother and the unborn issue, with the value of the unborn issue to be determined on the basis of the fair market value of the issue had it been born.

(f) *Criminal penalties.* (1) Any person who commits a violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, which is not subject to suspension by the court, confined in jail not less than 10 nor more than 30 days, or both fined and confined. Further, the person's hunting and fishing licenses shall be assigned six points, however, the hunting and fishing licenses of any person convicted of a violation of this section which results in the killing or death of a bear shall be suspended for two years.

(2) Any person who commits a second violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000, which is not subject to suspension by the court, confined in jail not less than 30 days nor more than 100 days, or both fined and confined. The person's hunting and fishing licenses shall be suspended for five years.



(3) Any person who commits a third or subsequent violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,500 nor more than \$5,000, which is not subject to suspension by the court, confined in jail not less than six months nor more than one year, or both fined and confined. The person's hunting and fishing licenses shall be suspended for 10 years.

The bill (Eng. H. B. 4514), as amended, was then ordered to third reading.

**Eng. House Bill 4523**, Removing the limitation of number of apprentice hunting and trapping licenses a person may purchase.

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

**Eng. Com. Sub. for House Bill 4530**, Authorizing daily passenger rental car companies to charge reasonable administrative fees.

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

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

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

**ARTICLE 6D. DAILY PASSENGER RENTAL CAR BUSINESS.**

**§17A-6D-17. Authorized administrative fees.**

(a) As used in this section, "administrative fees" means reasonable costs expressly provided for in the master rental agreement pertaining to parking tickets, tolls, citations for other non-moving violations, and other costs incurred by the rental customer and not timely paid by the rental customer and paid by the daily passenger car rental company. Administrative fees may

not exceed \$25 per rental agreement or ten percent of the debt owed, whichever is less.

(b) Notwithstanding any provision of this code to the contrary, including, but not limited to §46A-2-128(d) of this code, a daily passenger rental car company may collect or charge administrative fees incidental to, or arising from, the rental transaction when the administrative fees are expressly provided for in the master rental agreement and affirmatively acknowledged by the rental customer.

The bill (Eng. Com. Sub. for H. B. 4530), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4543**, Relating to insurance coverage for diabetics.

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

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk:

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

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE, AND  
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;  
MISCELLANEOUS AGENCIES, COMMISSIONS,  
OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES  
INSURANCE ACT.**

**§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan, group prescription drug plan, and group life and accidental death insurance plan; rules for administration of plans; mandated benefits; what plans may provide; optional plans; separate rating for claims experience purposes.**

(a) The agency shall establish a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans, and a group life and accidental death insurance plan or plans for those employees herein made eligible, and establish and promulgate rules for the administration of these plans subject to the limitations contained in this article. These plans shall include:

(1) Coverages and benefits for x-ray and laboratory services in connection with mammograms when medically appropriate and consistent with current guidelines from the United States Preventive Services Task Force; pap smears, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists; and a test for the human papilloma virus (HPV) when medically appropriate and consistent with current guidelines from either the United States Preventive Services Task Force or the American College of Obstetricians and Gynecologists, when performed for cancer screening or diagnostic services on a woman age 18 or over;

(2) Annual checkups for prostate cancer in men age 50 and over;

(3) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing, and serum creatinine testing as recommended by the National Kidney Foundation;

(4) For plans that include maternity benefits, coverage for inpatient care in a duly licensed healthcare facility for a mother and her newly born infant for the length of time which the attending physician considers medically necessary for the mother or her newly born child. No plan may deny payment for a mother or her newborn child prior to 48 hours following a vaginal delivery or prior to 96 hours following a caesarean section delivery if the attending physician considers discharge medically inappropriate;

(5) For plans which provide coverages for post-delivery care to a mother and her newly born child in the home, coverage for inpatient care following childbirth as provided in §5-16-7(a)(4) of this code if inpatient care is determined to be medically necessary by the attending physician. These plans may include, among other things, medicines, medical equipment, prosthetic appliances, and any other inpatient and outpatient services and expenses considered appropriate and desirable by the agency; and

(6) Coverage for treatment of serious mental illness:

(A) The coverage does not include custodial care, residential care, or schooling. For purposes of this section, “serious mental illness” means an illness included in the American Psychiatric Association’s diagnostic and statistical manual of mental disorders, as periodically revised, under the diagnostic categories or subclassifications of: (i) Schizophrenia and other psychotic disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv) substance-related disorders with the exception of caffeine-related disorders and nicotine-related disorders; (v) anxiety disorders; and (vi) anorexia and bulimia. With regard to a covered individual who has not yet attained the age of 19 years, “serious mental illness” also includes attention deficit hyperactivity disorder, separation anxiety disorder, and conduct disorder.

(B) Notwithstanding any other provision in this section to the contrary, if the agency demonstrates that its total costs for the treatment of mental illness for any plan exceeds two percent of the total costs for such plan in any experience period, then the agency may apply whatever additional cost-containment measures may be necessary in order to maintain costs below two percent of the total costs for the plan for the next experience period. These measures may include, but are not limited to, limitations on inpatient and outpatient benefits.

(C) The agency shall not discriminate between medical-surgical benefits and mental health benefits in the administration of its plan. With regard to both medical-surgical and mental health benefits, it may make determinations of medical necessity and appropriateness and it may use recognized healthcare quality and

cost management tools, including, but not limited to, limitations on inpatient and outpatient benefits, utilization review, implementation of cost-containment measures, preauthorization for certain treatments, setting coverage levels, setting maximum number of visits within certain time periods, using capitated benefit arrangements, using fee-for-service arrangements, using third-party administrators, using provider networks, and using patient cost-sharing in the form of copayments, deductibles, and coinsurance.

(7) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed health care individuals in conjunction with dental care if the covered person is:

(A) Seven years of age or younger or is developmentally disabled and is an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual, or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia.

(B) A child who is 12 years of age or younger with documented phobias or with documented mental illness and with dental needs of such magnitude that treatment should not be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of teeth, or other increased oral or dental morbidity and for whom a successful result cannot be expected from dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

(8) (A) Any plan issued or renewed on or after January 1, 2012, shall include coverage for diagnosis, evaluation, and treatment of autism spectrum disorder in individuals ages 18 months to 18 years. To be eligible for coverage and benefits under this subdivision, the individual must be diagnosed with autism spectrum disorder at age eight or younger. Such plan shall provide coverage for treatments that are medically necessary and ordered

or prescribed by a licensed physician or licensed psychologist and in accordance with a treatment plan developed from a comprehensive evaluation by a certified behavior analyst for an individual diagnosed with autism spectrum disorder.

(B) The coverage shall include, but not be limited to, applied behavior analysis which shall be provided or supervised by a certified behavior analyst. The annual maximum benefit for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$30,000 per individual for three consecutive years from the date treatment commences. At the conclusion of the third year, coverage for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$2,000 per month, until the individual reaches 18 years of age, as long as the treatment is medically necessary and in accordance with a treatment plan developed by a certified behavior analyst pursuant to a comprehensive evaluation or reevaluation of the individual. This subdivision does not limit, replace, or affect any obligation to provide services to an individual under the Individuals with Disabilities Education Act, 20 U. S. C. §1400 *et seq.* as amended from time to time or other publicly funded programs. Nothing in this subdivision requires reimbursement for services provided by public school personnel.

(C) The certified behavior analyst shall file progress reports with the agency semiannually. In order for treatment to continue, the agency must receive objective evidence or a clinically supportable statement of expectation that:

(i) The individual's condition is improving in response to treatment;

(ii) A maximum improvement is yet to be attained; and

(iii) There is an expectation that the anticipated improvement is attainable in a reasonable and generally predictable period of time.

(D) On or before January 1 each year, the agency shall file an annual report with the Joint Committee on Government and

Finance describing its implementation of the coverage provided pursuant to this subdivision. The report shall include, but not be limited to, the number of individuals in the plan utilizing the coverage required by this subdivision, the fiscal and administrative impact of the implementation, and any recommendations the agency may have as to changes in law or policy related to the coverage provided under this subdivision. In addition, the agency shall provide such other information as required by the Joint Committee on Government and Finance as it may request.

(E) For purposes of this subdivision, the term:

(i) “Applied behavior analysis” means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences in order to produce socially significant improvement in human behavior and includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(ii) “Autism spectrum disorder” means any pervasive developmental disorder, including autistic disorder, Asperger’s Syndrome, Rett Syndrome, childhood disintegrative disorder, or Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

(iii) “Certified behavior analyst” means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.

(iv) “Objective evidence” means standardized patient assessment instruments, outcome measurements tools, or measurable assessments of functional outcome. Use of objective measures at the beginning of treatment, during, and after treatment is recommended to quantify progress and support justifications for continued treatment. The tools are not required but their use will enhance the justification for continued treatment.

(F) To the extent that the application of this subdivision for autism spectrum disorder causes an increase of at least one percent

of actual total costs of coverage for the plan year, the agency may apply additional cost containment measures.

(G) To the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of insurance plans offered by the Public Employees Insurance Agency.

(9) For plans that include maternity benefits, coverage for the same maternity benefits for all individuals participating in or receiving coverage under plans that are issued or renewed on or after January 1, 2014: *Provided*, That to the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of a health benefit plan when the plan is offered in this state.

(10) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(i) Immunoglobulin E and Non-immunoglobulin E-medicated allergies to multiple food proteins;

(ii) Severe food protein-induced enterocolitis syndrome;

(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and



(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract (short bowel).

(B) The coverage required by §5-16-7(a)(10)(A) of this code shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(C) For purposes of this subdivision, “medically necessary foods” or “medical foods” shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or soy.

(11) A policy, plan, or contract that is issued or renewed on or after July 1, 2020, shall provide coverage for prescription insulin drugs pursuant to this section.

(A) For the purposes of this subdivision, “prescription insulin drug” means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

(B) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs.

(C) Nothing in this section prevents the agency from reducing a covered person's cost sharing by an amount greater than the amount specified in this subsection.

(D) No contract between the agency or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision (i) authorizing the agency's pharmacy benefits manager or the pharmacy to charge, (ii) requiring the pharmacy to collect, or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the agency as provided in §5-16-7(a)(11)(B) of this code.

(E) The agency shall provide coverage for the following equipment and supplies for the treatment or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

(F) The agency shall provide coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets. Coverage for self-management education and education relating to diet shall be provided by a health care practitioner who has been appropriately trained as provided in §33-53-1(k) of this code.

(G) The education may be provided by a health care practitioner as part of an office visit for diabetes diagnosis or treatment, or by a licensed pharmacist for instructing and monitoring a patient regarding the proper use of covered

equipment, supplies, and medications, or by a certified diabetes educator or registered dietitian.

(H) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted.

(b) The agency shall, with full authorization, make available to each eligible employee, at full cost to the employee, the opportunity to purchase optional group life and accidental death insurance as established under the rules of the agency. In addition, each employee is entitled to have his or her spouse and dependents, as defined by the rules of the agency, included in the optional coverage, at full cost to the employee, for each eligible dependent.

(c) The finance board may cause to be separately rated for claims experience purposes:

(1) All employees of the State of West Virginia;

(2) All teaching and professional employees of state public institutions of higher education and county boards of education;

(3) All nonteaching employees of the Higher Education Policy Commission, West Virginia Council for Community and Technical College Education, and county boards of education; or

(4) Any other categorization which would ensure the stability of the overall program.

(d) The agency shall maintain the medical and prescription drug coverage for Medicare-eligible retirees by providing coverage through one of the existing plans or by enrolling the Medicare-eligible retired employees into a Medicare-specific plan, including, but not limited to, the Medicare/Advantage Prescription Drug Plan. If a Medicare-specific plan is no longer available or advantageous for the agency and the retirees, the retirees remain eligible for coverage through the agency.

**CHAPTER 33. INSURANCE.****ARTICLE 15C. DIABETES INSURANCE.****§33-15C-1. Insurance for diabetics.**

[Repealed.]

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.****§33-16-16. Insurance for diabetics.**

[Repealed.]

**ARTICLE 53. REQUIRED COVERAGE FOR HEALTH INSURANCE.****§33-53-1. Cost sharing in prescription insulin drugs.****(a) Findings. –**

(1) It is estimated that over 240,000 West Virginians are diagnosed and living with type 1 or type 2 diabetes and another 65,000 are undiagnosed;

(2) Every West Virginian with type 1 diabetes and many with type 2 diabetes rely on daily doses of insulin to survive;

(3) The annual medical cost related to diabetes in West Virginia is estimated at \$2.5 billion annually;

(4) Persons diagnosed with diabetes will incur medical costs approximately 2.3 times higher than persons without diabetes;

(5) The cost of insulin has increased astronomically, especially the cost of insurance copayments, which can exceed \$600 per month. Similar increases in the cost of diabetic equipment and supplies, and insurance premiums have resulted in out-of-pocket costs for many West Virginia diabetics in excess of \$1,000 per month;

(6) National reports indicate as many as one in four type 1 diabetics underuse, or ration, insulin due to these increased costs. Rationing insulin has resulted in nerve damage, diabetic comas, amputation, kidney damage, and even death; and

(7) It is important to enact policies to reduce the costs for West Virginians with diabetes to obtain life-saving and life-sustaining insulin.

(b) As used in this section:

(1) “Cost-sharing payment” means the total amount a covered person is required to pay at the point of sale in order to receive a prescription drug that is covered under the covered person’s health plan.

(2) “Covered person” means a policyholder, subscriber, participant, or other individual covered by a health plan.

(3) “Health plan” means any health benefit plan, as defined in §33-16-1a(h) of this code, that provides coverage for a prescription insulin drug.

(4) “Pharmacy benefits manager” means an entity that engages in the administration or management of prescription drug benefits provided by an insurer for the benefit of its covered persons.

(5) “Prescription insulin drug” means a prescription drug that contains insulin and is used to treat diabetes.

(c) Each health plan shall cover at least one type of insulin in all the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

(d) Notwithstanding the provisions of §33-1-1 et seq. of this code, an insurer subject to §5-16-1 et seq., §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide coverage for prescription insulin drugs pursuant to this section.

(e) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs.

(f) Nothing in this section prevents an insurer from reducing a covered person's cost sharing to an amount less than the amount specified in subsection (e) of this section.

(g) No contract between an insurer subject to §5-16-1 et seq., §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision: (i) Authorizing the insurer's pharmacy benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the insurer pursuant to subsection (e) of this code.

(h) An insurer subject to §5-16-1 et seq., §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code shall provide coverage for the following equipment and supplies for the treatment and/or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion

devices, pharmacological agents for controlling blood sugar, and orthotics.

(i) An insurer subject to §5-16-1 et seq., §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code shall include coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets.

(j) All health care plans must offer an appeals process for persons who are not able to take one or more of the offered prescription insulin drugs noted in subsection (c) of this code. The appeals process shall be provided to covered persons in writing and afford covered persons and their health care providers a meaningful opportunity to participate with covered persons health care providers.

(k) Diabetes self-management education shall be provided by a health care practitioner who has been appropriately trained. The Secretary of the Department of Health and Human Resources shall promulgate legislative rules to implement training requirements and procedures necessary to fulfill provisions of this subsection: *Provided*, That any rules promulgated by the secretary shall be done after consultation with the Coalition for Diabetes Management, as established in §16-5Z-1 et seq. of this code.

(l) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted.

The following amendments to the Health and Human Resources committee amendment to the bill (Eng. Com. Sub. for H. B. 4543), from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page eleven, section one, subsection (d), by striking out “§5-16-1 et seq.”;

On page twelve, section one, subsection (g), by striking out “§5-16-1 *et seq.*”;

On page twelve, section one, subsection (h), by striking out “§5-16-1 *et seq.*”;

And,

On page twelve, section one, subsection (i), by striking out “§5-16-1 *et seq.*”.

The question now being on the adoption of the Health and Human Resources committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4543), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4558**, Creating a personal income tax credit for volunteer firefighters in West Virginia.

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

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

On page one, section two, after line five, by inserting the following:

“Activities” means responses to emergencies, monthly or quarterly meetings, fund raising activities, and fire department management”.

At the request of Senator Blair, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4558) was advanced to third reading with the Finance committee amendment pending and the right reserved to consider other amendments on that reading.

**Eng. Com. Sub. for House Bill 4560**, Relating to deliveries by a licensed wine specialty shop.



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

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

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

## **ARTICLE 8. SALES OF WINES.**

### **§60-8-6b. Deliveries by licensed wine specialty shop.**

(a) A wine specialty shop with a current active license and in good standing with the commissioner may apply for the additional license privilege of delivering wine with a gift basket, to the purchaser or other person designated by the purchaser, as provided in this section.

(b) The wine specialty shop:

(1) May only deliver in the county where the wine specialty shop is located with all sales and municipal taxes accounted for and paid, as long as such county is not a dry county or such county does not contain dry local option areas. The delivery of wine is not permitted in a dry county or the dry local option areas;

(2) Shall ensure that all wine delivered is sealed in the original container and is clearly and conspicuously labeled with the words “CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 OR OLDER REQUIRED FOR DELIVERY”;

(3) Shall provide proof or records to the commissioner by filing monthly returns to the commissioner, on a form as prescribed by the commissioner, and the Tax Commissioner of all deliveries of wine which were purchased by and delivered to a person at least 21 years of age in the wine specialty shop’s county of operation;

(4) Shall only deliver wine with a gift basket to addresses within the State of West Virginia and within the requirements noted in this subsection;

(5) Shall not deliver in excess of two cases of wine with a gift basket per month to any person or address;

(6) Shall not deliver wine to any private club, private wine restaurant, wine retailer, private wine bed and breakfast, or private wine spa; and

(7) May only deliver wine with a gift basket for personal use and not for resale to a person. The wine shall not be delivered and left at any address without verifying a person's age and identification as required in this section.

(c) The nonprorated, nonrefundable fee for the additional wine specialty shop delivery license privilege is \$250.

(d) The wine delivered by the authority of this section ~~must be purchased in person with a face to face transaction at the shop;~~ may ~~not~~ be ordered or purchased by telephonic, electronic, mobile, or web-based wine ordering when the purchaser is verified to be 21 years of age or older, and must be delivered by an officer or employee of the wine specialty shop licensee who is 21 years of age or older. If the person receiving the delivery is not the purchaser, the licensee must verify that the person receiving the wine is 21 years of age or older and not noticeably intoxicated prior to completing the delivery. Nonlicensed third parties may not deliver wine with a gift basket on behalf of a licensed wine specialty shop.

(e) Any vehicle delivering wine in a gift basket shall meet the permit requirements set forth in this chapter.

(f) The commissioner may propose rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to effectuate the purposes of this section.

The bill (Eng. Com. Sub. for H. B. 4560), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4573**, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

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

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

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

## **ARTICLE 5. MISCELLANEOUS PROVISIONS.**

**§9-5-11. Definitions; assignment of rights; right of subrogation by the department for third-party liability; notice requirement for claims and civil actions; notice requirement for settlement of third-party claim; penalty for failure to notify the department; provisions related to trial; attorneys fees; class actions and multiple plaintiff actions not authorized; and secretary's authority to settle.**

(a) *Definitions.* — As used in this section, unless the context otherwise requires:

~~(1)~~ “Bureau” means the Bureau for Medical Services.

~~(2)~~ “Department” means the West Virginia Department of Health and Human Resources, or its contracted designee.

~~(3)~~ “Recipient” means a person who applies for and receives assistance under the Medicaid Program.

~~(4)~~ “Secretary” means the Secretary of the Department of Health and Human Resources.

~~(5)~~ “Third party” means:

(1) An individual or entity that is alleged to be liable to pay all or part of the costs of a recipient's medical treatment and medical-related services for personal injury, disease, illness or disability, as well as any entity including, but not limited to, a business organization, health service organization, insurer, or public or private agency acting by or on behalf of the allegedly liable third party; and

(2) Any insurer that may be liable under an uninsured or underinsured motorist policy covering the injuries to the recipient.

(b) *Assignment of rights.* —

(1) Submission of an application to the department for medical assistance is, as a matter of law, an assignment of the right of the applicant or his or her legal representative to recover from third parties past medical expenses paid for by the Medicaid program.

(2) At the time an application for medical assistance is made, the department shall include a statement along with the application that explains that the applicant has assigned all of his or her rights as provided in this section and the legal implications of making this assignment.

(3) This assignment of rights does not extend to Medicare benefits.

(4) This section does not prevent the recipient or his or her legal representative from maintaining an action for injuries or damages sustained by the recipient against any third party, and from including, as part of the compensatory damages sought to be recovered, the amounts of his or her past medical expenses.

(5) The department shall be legally subrogated to the rights of the recipient against the third party.

(6) The department shall have a priority right to be paid first out of any payments made to the recipient for past medical expenses before the recipient can recover any of his or her own costs for medical care.

(7) A recipient is considered to have authorized all third parties to release to the department information needed by the department to secure or enforce its rights as assignee under this chapter.

(c) *Notice requirement for claims and civil actions; Secretary's authority to intervene and to settle.* —

(1) A recipient's legal representative shall provide notice to the department within 60 days of asserting a claim against a third party. ~~If the claim is asserted in a formal civil action, the recipient's legal representative shall notify the department within 60 days of service of the complaint and summons upon the third party by causing a copy of the summons and a copy of the complaint to be served on the department as though it were named a party defendant.~~

(2) If the recipient has no legal representative, and the third party knows or reasonably should know that a recipient has no representation, then the third party shall provide notice to the department within 60 days of receipt of a claim or within 30 days of receipt of information or documentation reflecting the recipient is receiving Medicaid benefits, whichever is later in time.

(3) In any civil action implicated by this section, the department may file a notice of appearance and shall thereafter have the right to file and receive pleadings, intervene, and take other action permitted by law.

(4) The department shall provide the recipient and the third party, if the recipient is without legal representation, notice of the amount of the purported subrogation lien within 30 days of receipt of notice of the claim. The department shall provide related supplements in a timely manner, but no later than 15 days after receipt of a request for same.

(5) When determined by the department to be cost effective, the secretary or his or her designee may, in his or her discretion, negotiate for a reduction in the lien.

(d) *Notice of settlement requirement.* —

(1) A recipient or his or her representative shall notify the department of a settlement with a third party and retain in escrow an amount equal to the amount of the subrogation lien asserted by the department. The notification shall include the amount of the settlement being allocated for past medical expenses paid for by the Medicaid program. ~~Within 30 days of the receipt of any such notice, the department shall notify the recipient of its consent or~~

~~rejection of the proposed allocation. If the department consents, the recipient or his or her legal representative shall issue payment out of the settlement proceeds in a manner directed by the secretary or his or her designee within 30 days of consent to the proposed allocation~~

(2) Within 30 days of the receipt of any such notice of a proposed settlement, the department shall notify the recipient of its consent or rejection of the proposed allocation. If the department consents, the recipient or his or her legal representative shall issue payment out of the settlement proceeds in a manner directed by the secretary or his or her designee within 30 days of consent to the proposed allocation.

(3) If the total amount of the settlement is less than the department's subrogation lien, then the settling parties shall obtain the department's consent to the settlement before finalizing the settlement. The department shall advise the parties within ~~30~~ 60 days and provide a detailed itemization of all past medical expenses paid by the department on behalf of the recipient for which the department seeks reimbursement out of the settlement proceeds.

~~(4) If the department rejects the proposed allocation, the department recipient or his or her legal representative shall seek a judicial determination within 30 days and provide a detailed itemization of all past medical expenses paid by the department on behalf of the recipient for which the department seeks reimbursement out of the settlement proceeds regarding the appropriateness of the proposed settlement in the court in which the action is then pending or, in the event no such action is pending, in any court in which the recipient could have filed such action for damages.~~

(A) If judicial determination becomes necessary, the trial court is required to hold an evidentiary hearing. The recipient and the department shall be provided ample notice of the same and be given just opportunity to present the necessary evidence, including fact witness and expert witness testimony, to establish the amount to which the department is entitled to be reimbursed pursuant to this section.

(B) The ~~department~~ recipient shall have the burden of proving by a preponderance of the evidence that the allocation agreed to by the parties ~~was improper~~ is proper. The trial court shall give due consideration to the department's interests in being fairly reimbursed for purposes of the operation of the Medicaid program. ~~For purposes of appeal, the~~ The trial court's decision should be set forth in a detailed order containing the requisite findings of fact and conclusions of law to support its rulings.

~~(4) (5) Any settlement by a recipient with one or more third parties which would otherwise fully resolve the recipient's claim for an amount collectively~~ If the amount of the department's final subrogation lien does not exceed \$1,500, the settlement ~~not to exceed \$20,000~~ shall be exempt from the provisions of this section.

~~(5) (6)~~ (6) Nothing herein prevents a recipient from seeking judicial intervention to resolve any dispute as to allocation prior to effectuating a settlement with a third party.

(e) *Department failure to respond to notice of settlement.* — If the department fails to appropriately respond to a notification of settlement, the amount to which the department is entitled to be paid from the settlement shall be limited to the amount of the settlement the recipient has allocated toward past medical expenses.

(f) *Penalty for failure to notify the department.* — A legal representative acting on behalf of a recipient or third party that fails to comply with the provisions of this section is liable to the department for all reimbursement amounts the department would otherwise have been entitled to collect pursuant to this section but for the failure to comply, plus interest at the legal rate from the date of the settlement. Under no circumstances may a pro se recipient be penalized for failing to comply with the provisions of this section.

(g) *Miscellaneous provisions relating to trial.* —

(1) Where an action implicated by this section is tried by a jury, the jury may not be informed at any time as to the subrogation lien of the department.

(2) Where an action implicated by this section is tried by judge or jury, the trial judge shall, or in the instance of a jury trial, require that the jury, identify precisely the amount of the verdict awarded that represents past medical expenses.

(3) Upon the entry of judgment on the verdict, the court shall direct that upon satisfaction of the judgment any damages awarded for past medical expenses be withheld and paid directly to the department, not to exceed the amount of past medical expenses paid by the department on behalf of the recipient.

(h) *Attorneys' fees.* — Irrespective of whether an action or claim is terminated by judgment or settlement without trial, from the amount required to be paid to the department there shall be deducted the reasonable costs and attorneys' fees attributable to the amount in accordance with and in proportion to the fee arrangement made between the recipient and his or her attorney of record so that the department shall bear the pro-rata share of the reasonable costs and attorneys' fees: *Provided*, That if there is no recovery, the department shall under no circumstances be liable for any costs or attorneys' fees expended in the matter.

(i) *Class actions and multiple plaintiff actions not authorized.* — Nothing in this article shall authorize the department to institute a class action or multiple plaintiff action against any manufacturer, distributor, or vendor of any product to recover medical care expenditures paid for by the Medicaid program.

(j) *Secretary's authority.* — The secretary or his or her designee may, in his or her sole discretion, compromise, settle, and execute a release of any claim relating to the department's right of subrogation, in whole or in part.

(k) *Effective Date.* — The amendments to this section enacted during the 2020 regular session of the West Virginia Legislature



shall be effective with respect to claims against third parties arising on or after July 1, 2020.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4573) was reported by the Clerk:

On page five, section eight, subsection (d), subdivision (4), by striking out all of paragraph (B) and inserting in lieu thereof a new paragraph (B), to read as follows:

(B) The department shall have the burden to prove by a preponderance of the evidence the amount of its subrogation lien, and the recipient shall have the burden of proving by a preponderance of the evidence that the allocation agreed to by the parties is proper. The trial court shall give due consideration to the department's interests in being fairly reimbursed for purposes of the operation of the Medicaid program. The trial court's decision should be set forth in a detailed order containing the requisite findings of fact and conclusions of law to support its rulings.

Following discussion,

The question being on the adoption of Senator Trump's amendment to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4573), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4611**, Relating to fireworks.

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

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

On page one, section five, lines six and seven, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

“(3) Pay a fee of \$500 for each temporary retail sales location and \$1,000 for each permanent retail sales location to the State Fire Marshal;”.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 4611), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4619**, Approving plans proposed by electric utilities to install middle-mile broadband fiber.

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

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

**Eng. House Bill 4665**, Reducing the amount of rebate going to the Purchasing Improvement Fund.

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

**Eng. House Bill 4715**, Authorizing municipalities to take action to grant certain fire department employees limited power of arrest.

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

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

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

**ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS, AUTHORITY, AND DUTIES OF LAW-ENFORCEMENT OFFICIALS AND POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE AND PARKING LOT OR PARKING BUILDING POLICE OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.**

**§8-14-3. Powers, authority, and duties of law-enforcement officials and policemen.**

The chief and any member of the police force or department of a municipality, ~~and~~ any municipal sergeant, and any municipal fire marshal shall have all of the powers, authority, rights, and privileges within the corporate limits of the municipality with regard to the arrest of persons, the collection of claims, and the execution and return of any search warrant, warrant of arrest, or other process, which can legally be exercised or discharged by a deputy sheriff of a county: Provided, That any municipal fire marshal granted authority under this section shall have these powers, authority, rights, and privileges only to the limits described in §8-15-1 of this code. In order to arrest for the violation of municipal ordinances and as to all matters arising within the corporate limits and coming within the scope of his or her official duties, the powers of any chief, policeman, municipal fire marshal, or sergeant shall extend anywhere within the county or counties in which the municipality is located, and any ~~such~~ chief, policeman, municipal fire marshal, or sergeant shall have the same authority of pursuit and arrest beyond his or her normal jurisdiction as has a sheriff. For an offense committed in his or her presence, any such officer may arrest the offender without a warrant and take ~~him~~ the offender before the mayor or police court or municipal court to be dealt with according to law. ~~He and~~ His or her sureties ~~shall~~ be liable to all the fines, penalties, and forfeitures which a deputy

sheriff is liable to, for any failure or dereliction in such office, to be recovered in the same manner and in the same courts in which ~~such~~ the fines, penalties, and forfeitures are recovered against a deputy sheriff. In addition to the mayor, or police court judge or municipal court judge, if any, of a city, the chief of police of any municipality and in the absence from the station house of the chief of police the captains of police and lieutenants of police shall each have authority to administer oaths to complainants and to issue arrest warrants thereon for all violations of the ordinances of ~~such~~ the municipality.

~~It shall be the duty of~~ The mayor and police officers of every municipality and any municipal sergeant ~~to~~ shall aid in the enforcement of the criminal laws of the state within the municipality, independently of any charter provision or any ordinance or lack of an ordinance with respect thereto, and to cause the arrest of, or arrest, any offender and take him or her before a magistrate to be dealt with according to the law. Failure on the part of any such official or officer to discharge any duty imposed by the provisions of this section ~~shall be deemed~~ is official misconduct for which he or she may be removed from office. Any ~~such~~ official or officer ~~shall have~~ has the same authority to execute a warrant issued by a magistrate, and the same authority to arrest without a warrant for offenses committed in his or her presence, as a deputy sheriff.

~~No~~ An officer or member of the police force or department of a municipality may not aid or assist either party in any labor trouble or dispute between employer and employee. They shall in ~~such~~ these cases see that the statutes and laws of this state and municipal ordinances are enforced in a legal way and manner. Nor shall he or she engage in off-duty police work for any party engaged in or involved in ~~such~~ the labor dispute or trouble between employer and employee.

The chief of police shall be charged with the keeping and security of the jail, and at any time that one or more prisoners are being held in the jail, he or she shall require that the jail be attended by a police officer or other responsible person.

**ARTICLE 15. FIREFIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.**

PART I. FIRE FIGHTING GENERALLY.

**§8-15-1. Power and authority of governing body with respect to fires.**

The governing body of every municipality shall have plenary power and authority to provide for the prevention and extinguishment of fires and, for this purpose, it may, among other things, regulate how buildings shall be constructed, procure proper engines and implements, provide for the organization, equipment, and government of volunteer fire companies or of a paid fire department, prescribe the powers and duties of ~~such~~ the companies or department, and of the several officers, provide for the appointment of officers to have command of firefighting, prescribe what their powers and duties shall be, and impose on those who fail or refuse to obey any lawful command of ~~such~~ the officers any penalty which the governing body is authorized by law to impose for the violation of an ordinance. It may give authority to any ~~such~~ the officer or officers to direct the pulling down or destroying of any fence, house, building, or other thing, if ~~deemed~~ determined necessary to prevent the spreading of a fire. It may give authority to municipal fire marshals to (1) arrest any individual disobeying lawful orders at the scene of a fire, (2) arrest any individual who violates prohibitions against arson and explosives offenses, malicious burning, obstructing a fire marshal, or failing to obey lawful orders, (3) arrest without a warrant, if the unlawful conduct occurs in their presence, and (4) file criminal complaints with the municipal court or other appropriate judicial officer in order to obtain a warrant for the arrest and initiate a criminal matter: *Provided*, That any officer given this authority shall receive initial and annual training that complies with Law Enforcement Core Training Standards of the West Virginia State Fire Commission and the West Virginia State Fire Marshal.

The bill (Eng. H. B. 4715), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4717**, Seizure and Forfeiture Reporting Act.

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

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

**Eng. House Bill 4737**, Clarifying student eligibility for state-sponsored financial aid.

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

**Eng. Com. Sub. for House Bill 4747**, Extending electronic submission of various applications and forms for nonprofit and charitable organizations, professionals and licensees.

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

**Eng. House Bill 4749**, Providing more efficient application processes for private investigators, security guards, and firms.

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

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

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

**ARTICLE 18. PRIVATE INVESTIGATIVE AND SECURITY SERVICES.**

**§30-18-2. Eligibility requirements for license to conduct the private investigation business.**

(a) In order to be eligible for any license to conduct the private investigation business, an applicant shall:

(1) Be at least 18 years of age;

(2) Be a citizen of the United States or an alien who is legally residing within the United States;

(3) Not have had any previous license to conduct a private investigation business or to conduct a security guard business revoked or any application for any such licenses or registrations denied by the appropriate governmental authority in this or any other state or territory;

(4) Not have been declared incompetent by reason of mental defect or disease by any court of competent jurisdiction unless a court has subsequently determined that the applicant's competency has been restored;

(5) Not suffer from habitual drunkenness or from narcotics addiction or dependence;

~~(6) Be of good moral character;~~

~~(7)~~ (6) Have a minimum of ~~two years~~ one year of experience, education, or training in any one of the following areas, or some combination thereof:

(A) Course work that is relevant to the private investigation business at an accredited college or university;

(B) Employment as a member of any United States government investigative agency, employment as a member of a state or local law-enforcement agency, or service as a sheriff;

(C) Employment by a licensed private investigative or detective agency for the purpose of conducting the private investigation business;

(D) Service as a magistrate in this state; or

(E) Any other substantially equivalent training or experience;  
or

(F) Military service.

~~(8)~~ (7) Not have been convicted of a felony in this state or any other state or territory;

~~(9)~~ (8) Not have been convicted of any of the following:

(A) Illegally using, carrying, or possessing a pistol or other dangerous weapon;

(B) Making or possessing burglar's instruments;

(C) Buying or receiving stolen property;

(D) Entering a building unlawfully;

(E) Aiding an inmate's escape from prison;

(F) Possessing or distributing illicit drugs; and

~~(G) Any misdemeanor involving moral turpitude or for which dishonesty of character is a necessary element; and~~

~~(10)~~ (9) Not have violated any provision of §30-18-8 of this code.

The provisions of this section shall not prevent the issuance of a license to any person who, subsequent to his or her conviction, shall have received an executive pardon therefor, removing this disability.

(b) Any person who qualifies for a private investigator's license shall also be qualified to conduct security guard business upon notifying the Secretary of State in writing that the person will be conducting such business.

(c) No person may be employed as a licensed private investigator while serving as magistrate.



**§30-18-3. Application requirements for a license to conduct the private investigation business.**

(a) To be licensed to be a private detective, a private investigator or to operate a private detective or investigative firm, each applicant shall ~~complete and file a written~~ file an application ~~under oath~~ with the Secretary of State in a manner or method authorized and in such form as the secretary may prescribe.

(b) On the application each applicant shall provide the following information: The applicant's name, birth date, citizenship, physical description, military service, current residence, residences for the preceding seven years, qualifying education or experience, the location of each of his or her offices in this state, and any other information requested by the Secretary of State in order to comply with the requirements of this article.

(c) In the case of a corporation that is seeking a firm license, the application shall be signed by the president ~~and verified by the secretary or treasurer~~ of such corporation and shall specify the name of the corporation, the date and place of its incorporation, the names and titles of all officers, the location of its principal place of business, and the name of the city, town or village, stating the street and number, and otherwise such apt description as will reasonably indicate the location. If the corporation has been incorporated in a state other than West Virginia, a certificate of good standing from the state of incorporation must accompany the application. This information must be provided in addition to that required to be provided by the applicant.

(d) The applicant shall provide:

(1) Information in the application about whether the applicant has ever been arrested for or convicted of any crime or wrongs, either done or threatened, against the government of the United States;

(2) Information about offenses against the laws of West Virginia or any state; and

(3) Any facts as may be required by the Secretary of State to show the good character, competency and integrity of the applicant.

To qualify for a firm license, the applicant shall provide such information for each person who will be authorized to conduct the private investigation business and for each officer, member, or partner of the firm.

(e) As part of the application, each applicant shall give the Secretary of State permission to review the records held by the West Virginia State Police for any convictions that may be on record for the applicant.

(f) For each applicant ~~for a license and for each officer, member and partner of the firm~~ applying for a license, the application shall be accompanied by one recent full-face photograph. ~~and one complete set of the person's fingerprints~~

(g) For each applicant, the application shall be accompanied by:

(1) Character references from at least five reputable citizens. Each reference must have known the applicant for at least five years preceding the application. No reference may be connected to the applicant by blood or marriage. All references must have been written for the purpose of the application for a license to conduct the private investigation business; and

(2) A nonrefundable application processing service charge of \$50, which shall be payable to the Secretary of State to offset the cost of license review and criminal investigation background report from the West Virginia State Police, along with a license fee of \$100 if the applicant is an individual, or \$200 if the applicant is a firm. ~~or \$500 if the applicant is a nonresident of West Virginia or a foreign corporation or business entity.~~ The license fee shall be deposited to the General Revenue Fund and shall be refunded only if the license is denied.

(h) All applicants for private detective or private investigator licenses or for private investigation firm licenses shall file in the

office of Secretary of State a surety bond or sufficient proof of liability insurance as required by the Secretary of State.

(i) If a surety bond is obtained in lieu of liability insurance, such bond shall:

(1) Be in the sum of ~~\$2,500~~ \$5,000 and conditioned upon the faithful and honest conduct of such business by such applicant;

(2) Be written by a company recognized and approved by the Insurance Commissioner of West Virginia and approved by the Attorney General of West Virginia with respect to its form;

(3) Be in favor of the State of West Virginia for any person who is damaged by any violation of this article. The bond must also be in favor of any person damaged by such a violation.

~~(h)~~ (j) Any person claiming against the bond required by subsection ~~(h)~~ (i) of this section for a violation of this article may maintain an action at law against any licensed individual or firm and against the surety. The surety shall be liable only for damages awarded under §30-18-12 of this code and not the punitive damages permitted under that section. The aggregate liability of the surety to all persons damaged by a person or firm licensed under this article may not exceed the amount of the bond.

**§30-18-5. Eligibility requirements to be licensed to conduct security guard business.**

(a) In order to be eligible for any license to conduct security guard business, an applicant shall:

(1) Be at least 18 years of age;

(2) Be a citizen of the United States or an alien who is legally residing within the United States;

(3) Not have had any previous license to conduct security guard business or to conduct the private investigation business revoked or any application for any such licenses or registrations denied by

the appropriate governmental authority in this or any other state or territory;

(4) Not have been declared incompetent by reason of mental defect or disease by any court of competent jurisdiction unless said court has subsequently determined that the applicant's competency has been restored;

(5) Not suffer from habitual drunkenness or from narcotics addiction or dependence;

~~(6) Be of good moral character;~~

~~(7)~~ (6) Have had at least one year verified, full time employment conducting security guard business or conducting the private investigation business working for a licensed firm or have one year of substantially equivalent training or experience;

~~(8)~~ (7) Not have been convicted of a felony in this state or any other state or territory;

~~(9)~~ (8) Not have been convicted of any of the following:

(A) Illegally using, carrying, or possessing a pistol or other dangerous weapon;

(B) Making or possessing burglar's instruments;

(C) Buying or receiving stolen property;

(D) Entering a building unlawfully;

(E) Aiding an inmate's escape from prison;

(F) Possessing or distributing illicit drugs; and

~~(G) Any misdemeanor involving moral turpitude or for which dishonesty of character is a necessary element; and~~

~~(10)~~ (9) Not have violated any provision of §30-18-8 of this code.

The provisions of this section shall not prevent the issuance of a license to any person who, subsequent to his or her conviction, shall have received an executive pardon therefor, removing this disability.

**§30-18-6. Application requirements for a license to conduct security guard business.**

(a) To be licensed as a security guard or to operate a security guard firm, each applicant shall ~~complete and~~ file a written application, under oath, and file an application with the Secretary of State in a manner or method authorized and in such form as the secretary may prescribe.

(b) On the application, each applicant shall provide the following information: The applicant's name, birth date, citizenship, physical description, military service, current residence, residences for the preceding seven years, qualifying education or experience, the location of each of his or her offices in this state, and any other information requested by the Secretary of State in order to comply with the requirements of this article.

(c) In the case of a corporation that is seeking a firm license, the application shall be signed by the president ~~and verified by the secretary or treasurer~~ of such corporation and shall specify the name of the corporation, the date and place of its incorporation, the names and titles of all officers, the location of its principal place of business, and the name of the city, town, or village, stating the street and number, and otherwise such apt description as will reasonably indicate the location. If the corporation has been incorporated in a state other than West Virginia, a certificate of good standing from the state of incorporation must accompany the application. This information shall be provided in addition to that required to be provided the applicant.

(d) The applicant shall provide:

(1) Information in the application about whether the applicant has ever been arrested for or convicted of any crime or wrongs,

either done or threatened, against the government of the United States;

(2) Information about offenses against the laws of West Virginia or any state; ~~and~~

(3) Any facts as may be required by the Secretary of State to show the good character, competency, and integrity of the applicant; and

(4) To qualify for a firm license, ~~the applicant shall provide such~~ the same information for each person who would be authorized to conduct security guard business under the applicant's firm license and for each officer, member, or partner in the firm.

(e) As part of the application, each applicant shall give the Secretary of State permission to review the records held by the ~~department of public safety~~ West Virginia State Police for any convictions that may be on record for the applicant.

(f) For each applicant for a license, ~~and for each officer, member and partner of the firm applying for a license~~ the application shall be accompanied by one recent full-face photograph ~~and one complete set of the person's fingerprints~~ of the applicant.

(g) For each applicant, the application shall be accompanied by:

(1) Character references from at least five reputable citizens. Each reference must have known the applicant for at least five years preceding the application. No reference may be connected to the applicant by blood or marriage. All references must have been written for the purpose of the application for a license to conduct security guard business; and

(2) A nonrefundable application processing service charge of \$50, which shall be payable to the Secretary of State to offset the cost of license review and criminal investigation background report from the West Virginia State Police, along with a license fee of \$100 if the applicant is an individual, or \$200 if the applicant is a

firm. ~~or \$500 if the applicant is a nonresident of West Virginia or a foreign corporation or business entity.~~ The license fee shall be deposited to the General Revenue Fund, and shall be refunded only if the license is denied.

(h) All applicants for security guard licenses or security guard firm licenses shall file in the office of the Secretary of State a surety bond or sufficient proof of liability insurance as required by the Secretary of State.

(i) If a surety bond is obtained in lieu of liability insurance, such bond shall:

(1) Be in the sum of ~~\$2,500~~ \$5,000 and conditioned upon the faithful and honest conduct of such business by such applicant;

(2) Be written by a company recognized and approved by the Insurance Commissioner of West Virginia and ~~approved by~~ the Attorney General of West Virginia with respect to its form;

(3) Be in favor of the State of West Virginia for any person who is damaged by any violation of this article. The bond must also be in favor of any person damaged by such a violation.

~~(h)~~ (j) Any person claiming against the bond required by subsection ~~(h)~~ (i) of this section for a violation of this article may maintain an action at law against any licensed individual or firm and against the surety. The surety shall be liable only for damages awarded under §30-18-12 of this code and not the punitive damages permitted under that section. The aggregate liability of the surety to all persons damaged by a person or firm licensed under this article may not exceed the amount of the bond.

### **§30-18-9. Renewal of license.**

A license granted under the provisions of this article shall be in effect for ~~one year~~ two years from the date the certificate of license is issued and may be renewed for a period of one year by the Secretary of State upon application, in such form as the secretary may prescribe, and upon payment of the fee and the filing of the surety bond or proof of liability insurance. At the time of applying

for renewal of a license, the Secretary of State may require any person to provide additional information to reflect any changes in the original application or any previous renewal. Any fee charged by the Secretary of State for renewal of a license shall not exceed \$50.

**§30-18-10. Authority of Secretary of State.**

(a) When the Secretary of State is satisfied as to the good character, competency, and integrity of an applicant, of all employees or individuals conducting the private investigation business or security guard services under a firm license and, if the applicant is a firm, of each member, officer or partner, he or she shall issue and deliver to the applicant a certificate of license. Each license issued shall be for a period of one year and is revocable at all times for cause shown pursuant to subsection (b) of this section or any rules promulgated pursuant thereto.

(b) The Secretary of State may propose for promulgation in accordance with the provisions of chapter 29A of this code legislative rules necessary for the administration and enforcement of this article and for the issuance, suspension, and revocation of licenses issued under the provisions of this article. The Secretary of State shall afford any applicant an opportunity to be heard in person or by counsel when a determination is made to deny, revoke, or suspend an applicant's license or application for license, including a renewal of a license. The applicant has 15 days from the date of receiving written notice of the Secretary of State's adverse determination to request a hearing on the matter of denial, suspension, or revocation. The action of the Secretary of State in granting, renewing, or in refusing to grant or to renew, a license is subject to review by the circuit court of Kanawha County or other court of competent jurisdiction.

(c) At any hearing before the Secretary of State to challenge an adverse determination by the Secretary of State on the matter of a denial, suspension, or revocation of a license, if the adverse determination is based upon a conviction for a crime which would bar licensure under the provisions of this article, the hearing shall be an identity hearing only and the sole issue which may be



contested is whether the person whose application is denied or whose license is suspended or revoked is the same person convicted of the crime.

(d) The Secretary of State shall require each applicant to submit to a state and national criminal history record check, as set forth in this subsection:

(1) The criminal history record check shall be based on fingerprints submitted to the West Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

(2) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(A) Submitting fingerprints for the purposes set forth in this section, if required by the Secretary of State, West Virginia State Police, or the Federal Bureau of Investigation; and

(B) Authorizing the Secretary of State, 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.

(3) The results of the state and national criminal history record check may not be released to or by a private entity except:

(A) To the individual who is the subject of the criminal history record check;

(B) With the written authorization of the individual who is the subject of the criminal history record check; or

(C) Pursuant to a court order.

(4) The criminal history record check and related records are not public records for the purposes of chapter 29B of this code.

(5) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original application for registration.

(6) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

On motion of Senator Tarr, the following amendments to the Government Organization committee amendment to the bill (Eng. H. B. 4749) were next reported by the Clerk, considered simultaneously, and adopted:

On page one, section two, subsection (a), after subdivision (5), by inserting the following:

“(6) Be of good moral character;”;

And renumbering the remaining subdivisions;

On page two, section two, subsection (a), subdivision (8), paragraph (F), by striking out the word “and”;

And,

On page two, section two, subsection (a), subdivision (8), after paragraph (F), by inserting the following:

“(G) Any misdemeanor involving moral turpitude or for which dishonesty of character is a necessary element; and”.

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

The bill (Eng. H. B. 4749), as amended, was then ordered to third reading.

**Eng. House Bill 4777**, Relating to the right of disposition of remains.

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

**Eng. House Bill 4797**, Authorizing municipalities to enact ordinances that allow the municipal court to place a structure, dwelling or building into receivership.

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

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

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

**ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES, AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES, AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.**

**§8-12-16. Ordinances regulating the repair, alteration, improvement, closing, demolition, etc., of structures, dwellings, or buildings that are unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare; procedures.**

(a) For the purposes of this section:

(1) “Code enforcement agency” means either a code enforcement department as defined by 87 CSR 7-2, as may be amended, or an enforcement agency as permitted by subsection (c) of this section.

(2) “Code enforcement agency official” means any lawful agent of a code enforcement agency.

(3) “Owner” or “landowner” means a person who individually or jointly with others:

(A) Has legal title to the property, with or without actual possession of the property;

(B) Has charge, care, or control of the property as owner or agent of the owner;

(C) Is an executor, administrator, trustee, or guardian of the estate of the owner;

(D) Is the agent of the owner for the purpose of managing, controlling, or collecting rents; or

(E) May control or direct the management or disposition of the property.

(4) "Unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare" means:

(A) Any door, aisle, passageway, stairway, exit, or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings;

(B) The walking surface of any aisle, passageway, stairway, exit, or other means of egress is so warped, worn loose, torn, or otherwise unsafe as to not provide safe and adequate means of egress;

(C) Any portion of a dwelling, building, structure, or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism, or by any other cause to an extent that it is likely to partially or completely collapse, or to become detached or dislodged;

(D) Any portion of a structure or building, or any member, appurtenance, or ornamentation on the exterior that is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value;

(E) The dwelling, building, or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely

to partially or completely collapse, or some portion of the foundation or underpinning of the dwelling, building or structure is likely to fail or give way;

(F) The dwelling, building, or structure, or any portion, is clearly unsafe for its use;

(G) The dwelling, building, or structure is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children, becomes a harbor for vagrants, criminals, and criminal activity, or enables persons to resort to the dwelling, building, or structure for committing a nuisance or an unlawful act;

(H) Any dwelling, building, or structure constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to any dwelling, building, or structure provided by the approved building or fire code of the jurisdiction or of any law or ordinance that presents either a substantial risk of fire, building collapse, or any other threat to life and safety;

(I) A dwelling, building, or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, contamination by any hazardous substance or material, including, but not limited to, substance resulting from the illegal manufacture of drugs, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical, or plumbing system, or otherwise, is determined by the code enforcement agency to be unsanitary, unfit for human habitation, or in ~~such~~ a condition that is likely to cause sickness or disease;

(J) Any dwelling, building, or structure, because of a lack of sufficient or proper fire resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system, or other cause, is determined by the code official to be a threat to life or health; or

(K) Any portion of a building that remains on a site after the demolition or destruction of the building or structure, or whenever any building or structure is abandoned.

(b) Plenary power and authority are hereby conferred upon every municipality to adopt ordinances regulating the repair, alteration, or improvement, or the vacating and closing or removal or demolition, or any combination, of any structure, dwelling, or building, whether used for human habitation or not, that is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare.

(c) ~~The governing body in formally adopting any ordinance under this section~~ In formally adopting any ordinance under this section, the governing body shall designate the enforcement agency, which shall consist of the code enforcement agency as provided by the state building code and authorized by §29-3-5b and §8-12-13 of this code; or municipal officials as may otherwise be authorized by this code; or municipal officials or agents as authorized by rules promulgated by the State Fire Commission and approved by the Legislature; or municipal officials or agents as may otherwise be authorized by the State Fire Commission. Notwithstanding any provision of this code to the contrary, for the purposes of this section any municipality that has not adopted the state building code may designate an enforcement agency consisting of the mayor, the municipal engineer or building inspector, and one member at large, to be selected by and to serve at the will and pleasure of the mayor, and the ranking health officer and fire chief or their designees, who shall serve as ex officio members of the enforcement agency.

(d) Any ordinance adopted under the provisions of this section must provide fair and equitable rules of procedure and any other procedures required by law or necessary and appropriate to guide the code enforcement agency, or its officials, in the investigation of any structure, dwelling, or building conditions, and in any corrective action taken by the code enforcement agency.

(e) When a code enforcement agency official enters the premises of the property for investigating or inspecting any structure, dwelling, or building, the investigation shall be performed to minimize the inconvenience to the owner or persons in possession and shall be consistent with the following:

(1) Except in exigent circumstances and as permitted by law, the enforcement agency shall provide reasonable advance notice to the owner and request permission from the owner to enter the property;

(2) If the owner cannot be located after reasonable inquiry by the code enforcement agency as required by this section, or if the owner refuses entry, the code enforcement agency may obtain an administrative search warrant from either the municipal court or the magistrate court located in the jurisdiction of the municipality or county where the structure, dwelling, or building is located. Before obtaining an administrative search warrant, a code enforcement agency official is required to make a sworn statement and prima facie case showing that the code enforcement agency was unable to gain access to the structure, dwelling, or building after reasonable and good faith efforts, and that there is a legitimate and substantial safety concern involving the structure, dwelling, or building that supports the requested entry;

(3) If granted by the court, and if the owner can be located, the code enforcement agency shall provide the owner a copy of the administrative search warrant five days before entering the property. If applicable, the code enforcement agency shall also provide the same notice to any tenant or other person in possession of the structure, dwelling, or building; and

(4) Entry is for the sole purpose of inspection of the structure, dwelling, or building for unsafe or unsanitary conditions and not for the purpose of criminal prosecution or gathering evidence for use in any criminal charge or proceeding unrelated to the unsafe or unsanitary condition of the structure, dwelling, or building.

(f) The governing body of every municipality has plenary power and authority to adopt an ordinance providing for the vacating, closing, removal, or demolition of any dwelling, structure or building by the municipality in the absence of owner agreement or court order: *Provided*, That the ordinance requires the code enforcement agency to provide lawful notice to and undertake reasonable efforts to seek agreement from the owner before taking

any action permitted by this section and shall comply with the requirements set forth in this subsection:

(1) Any ordinance adopted under this subsection applies only to dwellings, structures, or buildings which meet the definition of unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare as set forth in:

(A) Paragraph (C), (E) or (H), subdivision (4), subsection (a) of this section; or

(B) Paragraph (F), (G), (I) or (K), subdivision (4), subsection (a) of this section: *Provided*, That the dwelling, building, or structure is vacant, abandoned, or has been lawfully declared unfit for human habitation; and the reasonable estimated cost of repair, rehabilitation, or corrective action exceeds the fair market value of the dwelling, building, or structure.

(2) Any ordinance adopted under this subsection must provide for the following:

(A) The code enforcement agency shall produce a written notice containing the date of the last inspection, the name of the inspector, a reasonable description of the unsafe, unsanitary, dangerous, or detrimental ~~condition(s)~~ conditions, the corrective measures required, the allotted time to correct the substandard ~~condition(s)~~ conditions and the allotted time the owner has to apply to the circuit court for a temporary injunction or other similar relief restraining action by the enforcement agency.

(B) The notice shall be served upon the owner or landowner by conspicuously posting and attaching a copy of the notice to the subject property, and by serving the notice on the owner or landowner in the same manner as service of a complaint as set forth in subsection (j) of this section.

(C) If the code enforcement agency cannot effect personal service on the owner, a code enforcement agency official shall subscribe a written affidavit, to be maintained for a minimum of two years, that demonstrates the structure, dwelling, or building falls within one of the categories set forth in paragraph (A) or (B),



subdivision (1), subsection (f) of this section and sets forth the basis in reasonable detail, including documentation of same, and memorializes the code enforcement agency official's efforts to contact or get permission for entry and any corrective action from the owner; and the code enforcement agency shall publish notice of its intent to enter the property for the purpose of demolition or correction, along with the address of the property, the name of the ~~owner(s)~~ owners and the date of the proposed action, as a Class II legal advertisement consistent with the requirements of §59-3-2 of this code, the first of which shall run at least 30 days before the date of the proposed action by the enforcement agency, and the last being no later than 20 days before the date of the proposed action by the enforcement agency.

(D) If there is no response to the notice by the owner or landowner in the time specified in the notice, then the municipality ~~shall have the authority to~~ may proceed in correction or demolition of the subject dwelling, building, or structure.

(3) It ~~shall be~~ is an absolute defense to any civil action by an owner, landowner, or tenant for damages resulting from the closure, demolition, or other corrective action taken by a municipality under this section: *Provided*, That the municipality acted in good faith, can demonstrate that the structure, dwelling, or building falls within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section, that the municipality followed the procedures set forth in this subsection, and that the municipality had adopted the state building code at the time of the closure, demolition, or other corrective action occurred.

(4) Any ordinance adopted under this subsection must also provide for notice to the owner of the ~~right of the owner~~ owner's right to apply to the circuit court for a temporary injunction or other similar relief restraining correction or demolition by the enforcement agency. If the application is made by the owner, a hearing shall be had within 20 days of the application, or as soon as reasonably possible.

(A) Continuances of the hearing provided for in this subdivision may be made for cause only. If a continuance is granted

upon request by the owner, the owner is required to pay into court, in the form of a bond, any reasonable and necessary costs related to the property likely to be incurred by the municipality during the continuance.

(B) At the conclusion of a hearing held under this subdivision, if the court finds that the property is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, the court shall make and enter an order granting the relief as requested by the municipality. The court may disburse any moneys paid into court by the owner in accordance with this section.

(g)(1) The governing body of every municipality has plenary power and authority to adopt an ordinance requiring the owner of any dwelling or building under determination of the State Fire Marshal, as provided in §29-3-12 of this code, or under order of the code enforcement agency of the municipality, to pay for the costs of repairing, altering, or improving, or of vacating and closing, removing or demolishing any dwelling or building, and may file a lien against the real property in question for an amount that reflects all costs incurred by the municipality for repairing, altering, or improving, or of vacating and closing, removing, or demolishing any dwelling or building, or structure. Any municipality that adopts an ordinance under this section may authorize the municipal court to place a structure, dwelling, or building into receivership when the following circumstances are present:

(A) The owner cannot be located after reasonable inquiry by the code enforcement agency as required by this section or if the owner refuses entry,

(B), The code enforcement agency has obtained an administrative search warrant from either the municipal court or the magistrate court located in the jurisdiction of the municipality or county where the structure, dwelling, or building is located;

(C) Upon entry, the code enforcement agency has determined that the structure, dwelling, or building is salvageable and does not require immediate demolition; and

(D) The code enforcement agency has proffered to the court that the structure, dwelling or building will require demolition or presents a substantial threat to nearby structures, property, or residents due to risk of fire, structural instability, or attractive nuisance if it is not repaired, altered, or improved in the near future.

(2) If all of these circumstances are present, the municipal court may place the structure, dwelling, or building into receivership with the municipality or another entity that is capable of making the necessary repairs, alterations, and improvements to the structure, dwelling or building. Any owner of the structure, dwelling, or building may petition the municipal court to terminate the receivership at any time and, upon showing that the owner will either demolish the structure, dwelling, or building or make the necessary repairs, alterations, and improvements to the satisfaction of the code enforcement agency, the municipal court may terminate the receivership.

(h) Every municipality may also institute a civil action in circuit court against the landowner or other responsible party to ~~get~~ obtain an order allowing the municipality to take corrective action up to and including demolition of any structure, dwelling or building that is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare; and to recover all reasonable costs and expenses incurred by the municipality with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action:

(1) No fewer than 10 days before instituting a civil action as provided in this subsection, the municipality shall send notice to the landowner by certified mail, return receipt requested, advising the landowner of the governing body's intention to institute such action.

(2) The notice shall be sent to the most recent address of the landowner of record in the office of the assessor of the county where the subject property is located and to any other address for the landowner as may exist on record with the municipality. If, for any reason, ~~such~~ the certified mail is returned without evidence of proper receipt, the municipality shall resend the ~~notice(s)~~ notices

by first class mail, postage prepaid, and shall also post notice on the front door or other conspicuous location on the subject property.

(i) To the extent not otherwise authorized by state law, all notices of violation or correction for violations that do not fall within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section issued by the enforcement agency of a municipality that has adopted the state building code shall be served in accordance with the process set forth in the state building code. All notices of violation or correction orders for violations that do not fall within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section issued by a code enforcement agency of a municipality that has not adopted the state building code shall be served in accordance with the law of this state concerning the service of process in civil actions, except that personal service may be made by a code enforcement agency official and the method of service effectuated by mail by the clerk of a court as permitted by Rule 4(d)(1)(D) of the West Virginia Rules of Civil Procedure is effectuated by mailing by a code enforcement agency official and shall be posted in a conspicuous place on the property that is the subject of the notice of violation or correction.

(j) Any violation of an ordinance adopted under this section, may be prosecuted by the municipality consistent with state and local laws. Unless otherwise authorized by state law, prosecution of a violation shall be initiated by a complaint presented to and sworn or affirmed before a municipal judge or other municipal official with lawful authority to hear and determine violations of municipal code in the municipality where the offense is alleged to have occurred. Unless otherwise provided by statute, the presentation and oath or affirmation shall be made by a code enforcement agency official or municipal attorney showing reason to have reliable information and belief. If from the facts stated in the complaint the municipal judge or other municipal official with lawful authority to hear and determine violations of municipal code finds probable cause, the complaint becomes the charging instrument initiating a criminal proceeding. A complaint lawfully

authorized by this subsection along with a summons setting forth the date, time, and place of appearance before a municipal judge ~~and~~ or other municipal official with lawful authority to hear and determine violations of municipal code shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, except that personal service of a summons and complaint may be made by a code enforcement agency official. If service is made by certified mail under Rule 4(d)(1)(D) of the West Virginia Rules of Civil Procedure and delivery of the summons and complaint is refused, the code enforcement agency official, promptly upon the receipt of the notice of the refusal, shall mail to the person or entity being noticed, by first class mail, postage prepaid, a copy of the summons and complaint. If the first class mailing is not returned as undeliverable by the U. S. Postal Service, service of the summons and complaint is presumed to have been effectuated. Upon service of the summons and complaint consistent with this subsection, the violation may be prosecuted consistent with state and local law.

The bill (Eng. H. B. 4797), as amended, was then ordered to third reading.

**Eng. House Bill 4804**, Relating to comprehensive systems of support for teacher and leader induction and professional growth.

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

**Eng. Com. Sub. for House Bill 4823**, Developing a plan for periodic audits of the expenditure of the fees from the emergency 911 telephone system and wireless enhanced 911.

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

**Eng. Com. Sub. for House Bill 4852**, Relating to the penalties for the manufacture, delivery, possession, or possession with intent to manufacture or deliver methamphetamine.

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

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

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

#### **ARTICLE 4. OFFENSES AND PENALTIES.**

##### **§60A-4-401. Prohibited acts A; 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;

(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, ~~said~~ 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-methylenedioxypropylvalerone (MPVD) and 3,4-methylenedioxypropylvalerone 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, ~~or~~ deliver, or possess with intent to distribute or deliver, an imitation controlled substance; or

(2) To create, possess, ~~or~~ sell, or otherwise transfer any equipment with the intent that ~~such~~ 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 ~~being~~ 18 years old or more who violates subdivision (1) of this subsection and ~~in doing so~~, distributes or delivers an imitation controlled substance to a minor child who is at least three years younger than ~~such~~ 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.



The bill (Eng. Com. Sub. for H. B. 4852), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4946**, Eliminating the requirement that municipal police civil service commissions certify a list of three individuals for every position vacancy.

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

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

On page one, section fifteen, line five, by striking out the words “up to” and inserting in lieu thereof the words “at least one but no more than”.

The bill (Eng. Com. Sub. for H. B. 4946), as amended, was then ordered to third reading.

**Eng. House Bill 4958**, Relating to eliminating the ability of a person’s driver license to be suspended for failure to pay court fines and costs.

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

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

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

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.**

**§8-10-2a. Payment of fines by electronic payments, credit cards, cash, money orders, or certified checks; ~~payment plan; suspension of driver’s license for failure to pay motor vehicle violation fines or to appear in court.~~**

A municipal court may accept electronic payments, credit cards, cash, money order, or certified checks for of all costs, fines, forfeitures, or penalties electronically, by mail, or in person. Any charges made by the credit company shall be paid by the person responsible for paying the cost, fine, fee, or penalty. A municipal court may collect a substantial portion of all costs, fines, forfeitures or penalties at the time such amount is imposed by the court as described in this section. so long as the court requires the balance to be paid within 180 days from the date of judgment and in accordance with a: *Provided, That all costs, fines, forfeitures or penalties imposed by the municipal court upon a nonresident of this state by judgment entered upon a conviction must be paid within 80 days from the date of judgment.*

~~(b) If costs, fines, forfeitures or penalties imposed by the municipal court for motor vehicle violations as defined in section three a, article three, chapter seventeen b of this code are not paid within the time limits imposed pursuant to subsection (a) of this section, or if a person fails to appear or otherwise respond in court when charged with a motor vehicle violation as defined in section three a, article three, chapter seventeen b of this code, the municipal court must notify the Commissioner of the Division of Motor Vehicles of such failure to pay or failure to appear: *Provided, That notwithstanding any other provision of this code to the contrary, the municipal court shall wait at least ninety days from the date that all costs, fines, forfeitures or penalties are due in full or, for failure to appear or otherwise respond, ninety days from the date of such failure before notifying the Division of Motor Vehicles thereof.*~~

**§8-10-2b. Payment plan; failure to pay will result in late fee and judgment lien; suspension of licenses for failure to pay fines and costs or failure to appear in court.**

~~(a) If costs, fines, forfeitures or penalties imposed by the municipal court upon conviction of a person for a criminal offense as defined in section three c, article three, chapter seventeen b of this code are not paid in full within one hundred eighty days of the judgment, the municipal court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Division of Motor~~

~~Vehicles of the failure to pay: *Provided*, That notwithstanding any other provision of this code to the contrary, for residents of this state, the municipal court shall wait at least ninety days from the date that all costs, fines, forfeitures or penalties are due in full before notifying the Division of Motor Vehicles thereof: *Provided, however*, That at the time the judgment is imposed, the judge shall provide the person with written notice that failure to pay the same as ordered may result in the withholding of any income tax refund due the licensee and shall result in the suspension of the person's license or privilege to operate a motor vehicle in this state and that the suspension could result in the cancellation of, the failure to renew or the failure to issue an automobile insurance policy providing coverage for the person or the person's family: *Provided further*, That the failure of the judge to provide notice does not affect the validity of any suspension of the person's license or privilege to operate a motor vehicle in this state. For purposes of this section, payment shall be stayed during any period an appeal from the conviction which resulted in the imposition of costs, fines, forfeitures or penalties is pending.~~

Upon request and subject to the following requirements, the municipal court clerk or, upon a judgment rendered on appeal, the clerk shall establish a payment plan for a person owing costs, fines, forfeitures, or penalties imposed by the court for a motor vehicle violation as defined in §17B-3-3a of this code, a criminal offense as defined in §17B-3-3c of this code, or other applicable municipal ordinances, so long as the person signs and files with the clerk, an affidavit, stating that he or she is financially unable to pay the costs, fines, forfeitures, or penalties imposed:

(1) A \$25 administrative processing fee shall be paid at the time the payment form is filed or, in the alternative, the fee may be paid in no more than 5 equal monthly payments;

(2) Unless incarcerated, a person must enroll in a payment plan no later than 90 calendar days after the date the court enters the order assessing the costs, fines, forfeitures, or penalties; and

(3) If the person is incarcerated, he or she may enroll in a payment plan within 90 calendar days after release.

(b) The West Virginia Supreme Court of Appeals shall develop a uniform payment plan form and financial affidavit for requests for the establishment of a payment plan pursuant to subsection (a) of this section. The forms shall be made available for distribution to the offices of municipal clerks, and municipal clerks shall use the payment plan form and affidavit form developed by the West Virginia Supreme Court of Appeals when establishing payment plans.

(c)(1) The payment plan shall specify: (A) The number of payments to be made; (B) The dates on which such payments are due; (C) The amounts due for each payment; (D) all acceptable payment methods; and (E) the circumstances under which the person may receive a late fee, have a judgment lien recorded against him or her, or have the debt sent to collections for nonpayment;

(2) The monthly payment under the payment plan shall be calculated based upon all costs, fines, forfeitures, or penalties owed within the court, and shall be two percent of the person's annual net income divided by 12, or \$10, whichever is greater;

(3) The court may review the reasonableness of the payment plan, and may on its own motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, or penalties to community service if the court determines that the individual has had a change in circumstances and is unable to comply with the terms of the payment plan.

(d) (1) The clerk may assess a \$10 late fee each month if a person fails to comply with the terms of a payment plan and if any payment due is not received within 30 days after the due date, and the person:

(A) Is not incarcerated;

(B) Has not brought the account current;

(C) Has not made alternative payment arrangements with the court; or

(D) Has not entered into a revised payment plan with the clerk before the due date.

(2) If after 90 days, a payment has not been received, the clerk may (A) Record a judgment lien as described in subsection (f) of this section, or (B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount. The clerk may send notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

(e)(1) If after 90 days of a judgment a person fails to enroll in a payment plan and fails to pay their costs, fines, forfeitures, or penalties, the clerk may assess a \$10 late fee and shall notify the person of the following:

(A) That he or she is 90 days past due in the payment of costs, fines, forfeitures, or penalties imposed pursuant to a judgment of the court;

(B) That he or she has failed to enroll in a payment plan;

(C) Whether a \$10 late fee has been assessed; and

(D) That he or she may be the subject of a judgment lien or have his or her debt sent to a collection agency if the overdue payment of costs, fines, forfeitures, or penalties is not resolved within 30 days of the date of the notice issued pursuant to this subsection.

(2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this subsection, a payment has not been received, the clerk may:

(A) Record a judgment lien as described in subsection (f) of this section; or

(B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount.

(f) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county in which the defendant resides or owns property. The clerk of the county commission shall record and index these abstracts of judgment without charge or fee to the prosecuting attorney and when recorded, the amount stated to be owed in the abstract constitutes a lien against all property of the defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerk of the county commission shall record and index the release of judgment without charge or fee to the prosecuting attorney.

(g) A person whose driver's license was suspended prior to July 1, 2020, solely for the nonpayment of costs, fines, forfeitures, or

penalties, if otherwise eligible, shall have his or her license reinstated:

(1) Upon payment in full of all outstanding costs, fines, forfeitures, or penalties and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

(2) Upon establishing a payment plan pursuant to subsection (a) and the payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a payment plan is in effect, and upon receipt of the notification, the division shall waive the reinstatement fee.

~~Upon notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the costs, fines, forfeitures or penalties are paid.~~

~~(b) Notwithstanding the provisions of this section to the contrary, the notice of the failure to pay costs, fines, forfeitures or penalties may not be given where the municipal court, upon application of the person upon whom the costs, fines, forfeitures or penalties were imposed filed prior to the expiration of the period within which these are required to be paid, enters an order finding that the person is financially unable to pay all or a portion of the costs, fines, forfeitures or penalties: *Provided*, That where the municipal court, upon finding that the person is financially unable to pay a portion of the costs, fines, forfeitures or penalties, requires the person to pay the remaining portion, the municipal court shall notify the Division of Motor Vehicles of the person's failure to pay if not paid within the period of time ordered by the court~~

~~(e) (h) If a person charged with a motor vehicle violation as defined in §17B-3-3a of this code or criminal offense fails to appear or otherwise respond in court, the municipal court clerk shall notify the Division of Motor Vehicles of the failure to appear: *Provided*, That notwithstanding any other provision of this code to the contrary, for residents of this state, the municipal court clerk shall wait at least 90 days from the date of the person's failure to appear or otherwise respond before notifying the Division of Motor~~

Vehicles thereof. Upon notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the person appears as required.

~~(d) On and after July 1, 2008, if the licensee fails to respond to the Division of Motor Vehicles order of suspension within ninety days of receipt of the certified letter, the municipal court of original jurisdiction shall notify the Tax Commissioner that the licensee has failed to pay the costs, fines, forfeitures or penalties assessed by the court or has failed to respond to the citation. The notice provided by the municipal court to the Tax Commissioner must include the licensee's Social Security number. The Tax Commissioner, or his or her designee, shall withhold from any personal income tax refund due and owing to a licensee the costs, fines, forfeitures or penalties due to the municipality, the Tax Commissioner's administration fee for the withholding and any and all fees that the municipal court would have collected had the licensee appeared: *Provided*, That the Tax Commissioner's administration fee may not exceed \$25: *Provided, however*, That the Tax Commissioner may change this maximum amount limitation for this fee for fiscal years beginning on or after July 1, 2008, by legislative rule promulgated in accordance with the provisions of article three, chapter twenty nine a of this code: *Provided further*, That the administrative fees deducted shall be deposited in the special revolving fund hereby created in the State Treasury, which shall be designated as the Municipal Fines and Fees Collection Fund, and the Tax Commissioner shall make such expenditures from the fund as he or she deems appropriate for the administration of this subsection. After deduction of the Tax Commissioner's administration fee, the Tax Commissioner shall remit to the municipality all remaining amounts withheld pursuant to this section and the municipal court shall distribute applicable costs, fines, forfeitures or penalties owed to the municipality, the Regional Jail Authority Fund, the Crime Victims Compensation Fund, the Community Corrections Fund, the Governor's subcommittee on law enforcement training or any other fund or payee that may be applicable. After the costs, fines, forfeitures or penalties are withheld, the Tax Commissioner shall refund any~~



~~remaining balance due the licensee. If the refund is not sufficient to cover all the costs, fines, forfeitures or penalties being withheld pursuant to this section, the Tax Commissioner's administration fee shall be retained by the Tax Commissioner and the remaining money withheld shall be remitted by the Tax Commissioner to the municipality. The municipality shall then allocate the money so remitted to the municipality in the following manner: (1) Any costs, fines, forfeitures or penalties due to the municipality; (2) seventy five percent of the remaining balance shall be paid to the appropriate Regional Jail Authority Fund; (3) fifteen percent of the remaining balance shall be paid to the Crime Victims Compensation Fund; (4) six percent of the remaining balance shall be paid into the Community Corrections Fund; and (5) the final four percent shall be paid to the Governor's subcommittee on law enforcement training. When the costs, fines, forfeitures or penalties exceed the licensee's income tax refund, the Tax Commissioner shall withhold the remaining balance in subsequent years until such time as the costs, fines, forfeitures or penalties owed are paid in full. The Tax Commissioner shall remit the moneys that he or she collects to the appropriate municipality no later than July 1, of each year. If the municipal court or the municipality subsequently determines that any such costs, fines, forfeitures or penalties were erroneously imposed, the municipality shall promptly notify the Tax Commissioner. If the refunds have not been withheld and remitted, the Tax Commissioner may not withhold and remit payment to the municipality and shall so inform the municipality. If the refunds have already been withheld and remitted to the municipality, the Tax Commissioner shall so inform the municipality. In either event, all refunds for erroneously imposed costs, fines, forfeitures or penalties shall be made by the municipality and not by the Tax Commissioner.~~

~~(e) Rules and effective date. — The Tax Commissioner may promulgate such rules as may be useful or necessary to carry out the purpose of this section and to implement the intent of the Legislature, to be effective on July 1, 2008. Rules shall be promulgated in accordance with the provisions of article three, chapter twenty nine a of this code.~~

~~(f) On or before July 1, 2005, the municipal court may elect to reissue notice as provided in subsections (a) and (e) of this section to the Division of Motor Vehicles for persons who remain noncompliant: *Provided*, That the person was convicted or failed to appear on or after January 1, 1993. If the original notification cannot be located, the Division of Motor Vehicles shall accept an additional or duplicate notice from the municipal court clerk~~

## CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

### ARTICLE 3. CANCELLATION, SUSPENSION, OR REVOCAION OF LICENSES.

#### ~~§17B-3-3a. Suspending license for failure to pay fines or penalties imposed by magistrate court or municipal respond or appear in court.~~

~~(a) The division shall suspend the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice from a magistrate court or municipal court of this state, pursuant to subsection (b), section two a, article three, chapter fifty of this code or subsection (b), section two a, article ten, chapter eight of this code, that such person has defaulted on the payment of costs, fines, forfeitures or penalties which were imposed on the person by the magistrate court or municipal court by judgment entered upon conviction of any motor vehicle violation or that such person has failed to respond or appear in court when charged with a motor vehicle violation.~~

~~(b) The magistrate court or municipal court shall notify the division upon a default of payment as follows:~~

~~(1) For a resident of this state, after 180 days following the date of judgment upon the conviction; or~~

~~(2) For a nonresident of this state, after eighty days following the date of judgment upon the conviction~~

~~(c)(b) For the purposes of this section, §50-3-2a of this code and §8-10-2a §8-10-2b of this code, "motor vehicle violation" shall~~

~~be defined~~ is as any violation designated in chapters 17A, 17B, 17C, 17D, or 17E of this code, or the violation of any municipal ordinance relating to the operation of a motor vehicle for which the violation thereof would result in a fine or penalty: *Provided*, That any parking violation or other violation for which a citation may be issued to an unattended vehicle shall not be considered a motor vehicle violation for the purposes of this section, §50-3-2a of this code, or ~~§8-10-2a~~ §8-10-2b of this code.

**§17B-3-3c. Suspending license for failure to pay fines or penalties imposed as the result of criminal conviction or for failure to appear in court.**

(a) The division shall suspend the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice from a circuit court, magistrate court, or municipal court of this state, pursuant to ~~§50-3-2b~~ §8-10-2b or §62-4-17 of this code, that the person has ~~defaulted on the payment of costs, fines, forfeitures, penalties, or restitution imposed on the person by the circuit court, magistrate court, or municipal court upon conviction for any criminal offense by the date the court had required the person to pay the same, or that the person has failed to appear in court when charged with an~~ criminal offense. For the purposes of this section, ~~§50-3-2b~~ §8-10-2b or §62-4-17 of this code, “criminal offense” shall be defined as any violation of the provisions of this code, or the violation of any municipal ordinance, for which the violation of the offense may result in a fine, confinement in jail, or imprisonment in a correctional facility of this state: *Provided*, That any parking violation or other violation for which a citation may be issued to an unattended vehicle shall not be considered a criminal offense for the purposes of this section, ~~§8-10-2b~~ §50-3-2b or §62-4-17 of this code.

(b) A copy of the order of suspension shall be forwarded to the person by certified mail, return receipt requested. No order of suspension becomes effective until 10 days after receipt of a copy of the order. The order of suspension shall advise the person that because of the receipt of notice of the failure to pay costs, fines,

~~forfeitures, or penalties, or the failure~~ to appear, a presumption exists that the person named in the order of suspension is the same person named in the notice. 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 shall be for the person requesting the hearing to present evidence that he or she is not the person named in the notice. In the event the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(c) A suspension under this section and §17B-3-3a of this code will continue until the person provides proof of compliance from the municipal, magistrate, or circuit court and pays the reinstatement fee as provided in §17B-3-9 of this code. The reinstatement fee is assessed upon issuance of the order of suspension regardless of the effective date of suspension.

(d) Upon notice from an appropriate state official that the person is successfully participating in an approved treatment and job program as prescribed in §61-11-26a of this code, and that the person is believed to be safe to drive, the Division of Motor Vehicles shall stay or supersede the imposition of any suspension under this section or §17B-3-3a of this code. The Division of Motor Vehicles shall waive the reinstatement fee established by the provisions §17B-3-9 upon receipt of proper documentation of the person's successful completion of a program under §61-11-26a of this code and proof of compliance from the municipal, magistrate, or circuit court. The stay or supersedeas shall be removed by the Division of Motor Vehicles upon receipt of notice from an appropriate state official of a participant's failure to complete or comply with the approved treatment and job program as established under §61-11-26a of this code.

**CHAPTER 50. MAGISTRATE COURTS.****ARTICLE 3. COSTS, FINES AND RECORDS.****§50-3-2a. Payment by electronic payments, credit card payments, cash, money orders, or certified checks; restitution; payment plan; failure to pay fines results in a late fee and judgment liens.**

(a) A magistrate court may accept electronic payments, credit cards, cash, money order, or certified check for payment of all costs, fines, fees, forfeitures, restitution, or penalties in accordance with rules promulgated by the Supreme Court of Appeals. Any charges made by the credit company shall be paid by the person responsible for paying the cost, fine, forfeiture or penalty.

(b) Upon request and subject to the following requirements, the magistrate clerk shall establish a payment plan for a person owing costs, fines, forfeitures, or penalties imposed by the court, so long as the person signs and files with the clerk, an affidavit stating that he or she is financially unable to pay the costs, fines, forfeitures, or penalties imposed:

(1) A \$25 administrative processing fee shall be paid at the time the payment form is filed or, in the alternative, the fee may be paid in no more than 5 equal monthly payments;

(2) Unless incarcerated, a person must enroll in a payment plan no later than 180 calendar days after the date the court enters the order assessing the costs, fines, forfeitures, or penalties; and

(3) If the person is incarcerated, he or she may enroll in a payment plan within 180 calendar days after release.

(c) The West Virginia Supreme Court of Appeals shall develop a uniform payment plan form and financial affidavit for requests for the establishment of payment plan pursuant to subsection (a) of this section. The forms shall be made available for distribution to the offices of magistrate clerks, and magistrate clerks shall use the payment plan form and affidavit form developed by the West Virginia Supreme Court of Appeals when establishing payment plans.

~~(b)(d)(1) Unless otherwise required by law, a magistrate court may collect a portion of any costs, fines, fees, forfeitures, restitution or penalties at the time the amount is imposed by the court so long as the court requires the balance to be paid in accordance with a~~ The payment plan shall specify: which specifies:  
(A) The number of payments to be made; (B) The dates on which the payments are due; ~~and~~ (C) The amounts due for each payment; (D) All acceptable payment methods; and (E) The circumstances under which the person may receive a late fee, have a judgment lien recorded against him or her, or have the debt sent to collections for nonpayment.

(2) The monthly payment under the payment plan shall be calculated based upon all costs, fines, forfeitures, or penalties owed within the court, and shall be two percent of the person's annual net income divided by 12 or \$10, whichever is greater.

(3) The court may review the reasonableness of the payment plan, and may on its own motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, or penalties to community service if the court determines that the individual has had a change in circumstances and is unable to comply with the terms of the payment plan. The written agreement represents the minimum payments and the last date those payments may be made. The obligor or the obligor's agent may accelerate the payment schedule at any time by paying any additional portion of any costs, fines, fees, forfeitures, restitution or penalties.

(e) (1) The clerk may assess a \$10 late fee each month if a person fails to comply with the terms of a payment plan, and if any payment due is not received within 30 days after the due date, and the person:

(A) Is not incarcerated;

(B) Has not brought the account current;

(C) Has not made alternative payment arrangements with the court; or

(D) Has not entered into a revised payment plan with the clerk before the due date.

(2) If, after 90 days, a payment has not been received, the clerk may (A) Record a judgment lien as described in subsection (f) of this section, or (B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount. The clerk may send notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

(f)(1) If after 180 days of a judgment a person fails to enroll in a payment plan and fails to pay his or her costs, fines, forfeitures, or penalties, the clerk may assess a \$10 late fee and shall notify the person of the following:

(A) That he or she is 180 days past due in the payment of costs, fines, forfeitures, or penalties imposed pursuant to a judgment of the court;

(B) That he or she has failed to enroll in a payment plan;

(C) Whether a \$10 late fee has been assessed; and

(D) That he or she may be the subject of a judgment lien or have his or her debt sent to a collection agency if the overdue payment of costs, fines, forfeitures, or penalties is not resolved within 30 days of the date of the notice issued pursuant to this subsection.

(2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this subsection, a payment has not been received, the clerk may:

(A) Record a judgment lien as described in subsection (f) of this section; or

(B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount.

(e)(1) (g) To record a judgment lien, the clerk ~~If costs, fines, forfeitures or penalties imposed by the municipal court upon conviction of a person for a criminal offense as defined in §17B 3-3e of this code are not paid in full within 180 days of the judgment, the municipal court clerk or, upon a judgment rendered on appeal, the circuit clerk~~ shall notify the prosecuting attorney of the county of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county wherein the defendant resides or owns property. The clerk of the county commission shall record and index these abstracts of judgment without charge or fee to the prosecuting attorney and when recorded, the amount stated to be owed in the abstract constitutes a lien against all property of the defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerk of the county commission shall



record and index the release of judgment without charge or fee to the prosecuting attorney.

(h) A person whose driver's license was suspended before July 1, 2020, solely for the nonpayment of costs, fines, forfeitures, or penalties, if otherwise eligible, shall have his or her license reinstated:

(1) Upon payment in full of all outstanding costs, fines, forfeitures, or penalties and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

(2) Upon establishing a payment plan pursuant to subsection (a) of this section and the payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a payment plan is in effect, and upon receipt of the notification, the division shall waive the reinstatement fee.

~~notify the Commissioner of the Division of Motor Vehicles of the failure to pay: *Provided*, That in a criminal case in which a nonresident of this state is convicted of a motor vehicle violation defined in section three a, article three, chapter seventeen b of this code, the appropriate clerk shall notify the Division of Motor Vehicles of the failure to pay within eighty days from the date of judgment and expiration of any stay of execution. Upon notice, the Division of Motor Vehicles shall suspend any privilege the person defaulting on payment may have to operate a motor vehicle in this state, including any driver's license issued to the person by the Division of Motor Vehicles, until all costs, fines, fees, forfeitures, restitution or penalties are paid in full. The suspension shall be imposed in accordance with the provisions of section six, article three, chapter seventeen b of this code: *Provided*, That any person who has had his or her license to operate a motor vehicle in this state suspended pursuant to this subsection and his or her failure to pay is based upon inability to pay, may, if he or she is employed on a full or part time basis, petition to the circuit court for an order authorizing him or her to operate a motor vehicle solely for employment purposes. Upon a showing satisfactory to the court of inability to pay, employment and compliance with other applicable motor vehicle laws, the court shall issue an order granting relief.~~

~~(2)(i)(1)~~ In addition to the provisions of subdivision (1) of this subsection, If any costs, fines, fees, forfeitures, restitution, or penalties imposed or ordered by the magistrate court for a hunting violation described in chapter 20 of this code are not paid within 180 days from the date of judgment and the expiration of any stay of execution, the magistrate court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Director of the Division of Natural Resources of the failure to pay. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to hunt in this state, including any hunting license issued to the person by the Division of Natural Resources, until all the costs, fines, fees, forfeitures, restitution, or penalties are paid in full.

~~(3)(2)~~ In addition to the provisions of subdivision (1) of this subsection, If any costs, fines, fees, forfeitures, restitution, or penalties imposed or ordered by the magistrate court for a fishing violation described in chapter 20 of this code are not paid within 180 days from the date of judgment and the expiration of any stay of execution, the magistrate court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Director of the Division of Natural Resources of the failure to pay. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to fish in this state, including any fishing license issued to the person by the Division of Natural Resources, until all the costs, fines, fees, forfeitures, restitution, or penalties are paid in full.

~~(4)(j)(1)~~ If a person charged with any criminal violation of this code fails to appear or otherwise respond in court, the magistrate court shall notify the Commissioner of the Division of Motor Vehicles thereof within 90 days of the scheduled date to appear unless the person sooner appears or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Division of Motor Vehicles shall suspend any privilege the person failing to appear or otherwise respond may have to operate a motor vehicle in this state, including any driver's license issued to the person by the Division of Motor Vehicles, until final judgment in the case and, if a judgment of guilty, until all costs, fines, fees, forfeitures,

restitution, or penalties imposed are paid in full. The suspension shall be imposed in accordance with the provisions of §17B-3-6 of this code.

(2) In addition to the provisions of subdivision (1) of this subsection, if a person charged with any hunting violation described in chapter 20 of this code fails to appear or otherwise respond in court, the magistrate court shall notify the Director of the Division of Natural Resources of the failure thereof within 15 days of the scheduled date to appear unless the person sooner appears or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to hunt in this state, including any hunting license issued to the person by the Division of Natural Resources, until final judgment in the case and, if a judgment of guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full.

(3) In addition to the provisions of subdivision (1) of this subsection, if a person charged with any fishing violation described in chapter 20 of this code fails to appear or otherwise respond in court, the magistrate court shall notify the Director of the Division of Natural Resources of the failure thereof within 15 days of the scheduled date to appear unless the person sooner appears or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to fish in this state, including any fishing license issued to the person by the Division of Natural Resources, until final judgment in the case and, if a judgment of guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full.

~~(e)~~(k) In every criminal case which involves a misdemeanor violation, a magistrate may order restitution where appropriate when rendering judgment.

~~(f)(1) If all costs, fines, fees, forfeitures, restitution or penalties imposed by a magistrate court and ordered to be paid are not paid~~

~~within 180 days from the date of judgment and the expiration of any stay of execution, the clerk of the magistrate court shall notify the prosecuting attorney of the county of nonpayment and provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county wherein the defendant resides or owns property. The clerks of the county commissions shall record and index the abstracts of judgment without charge or fee to the prosecuting attorney and when so recorded, the amount stated to be owing in the abstract shall constitute a lien against all property of the defendant.~~

~~(2) When all the costs, fines, fees, forfeitures, restitution or penalties described in subdivision (1) of this subsection for which an abstract of judgment has been recorded are paid in full, the clerk of the magistrate court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerks of the county commissions shall record and index the release of judgment without charge or fee to the prosecuting attorney.~~

~~(g)~~(1) Notwithstanding any provision of this code to the contrary, except as authorized by this section, payments of all costs, fines, fees, forfeitures, restitution, or penalties imposed by the magistrate court in civil or criminal matters shall be made in full. Partial payments of costs, fines, fees, forfeitures, restitution, or penalties made pursuant to this section shall be credited to amounts due in the following order:

- (1) Regional Jail Fund;
- (2) Worthless Check Payee;
- (3) Restitution;

- (4) Magistrate Court Fund;
- (5) Worthless Check Fund;
- (6) Per Diem Regional Jail Fee;
- (7) Community Corrections Fund;
- (8) Regional Jail Operational Fund;
- (9) Law Enforcement Training Fund;
- (10) Crime Victims Compensation Fund;
- (11) Court Security Fund;
- (12) Courthouse Improvement Fund;
- (13) Litter Control Fund;
- (14) Sheriff arrest fee;
- (15) Teen Court Fund;
- (16) Other costs, if any;
- (17) Fine.

## CHAPTER 62. CRIMINAL PROCEDURE.

### ARTICLE 4. RECOVERY OF FINES IN CRIMINAL CASES.

#### **§62-4-17. Suspension of licenses for failure to pay fines and costs or failure to appear in court; payment plan; failure to pay fines will result in late fee and judgment lien.**

(a) ~~If costs, fines, forfeitures, penalties or restitution imposed by the circuit court upon conviction of a person for any criminal offense under this code are not paid in full when ordered to do so by the court, the circuit clerk shall notify the Division of Motor Vehicles of such failure to pay: *Provided*, That at the time the judgment is imposed, the court shall provide the person with written notice that failure to pay the same when ordered to do so~~

~~shall result in the suspension of such person's license or privilege to operate a motor vehicle in this state and that such suspension could result in the cancellation of, the failure to renew or the failure to issue an automobile insurance policy providing coverage for such person or such person's family: *Provided, however,* That the failure of the court to provide such notice shall not affect the validity of any suspension of such person's license or privilege to operate a motor vehicle in this state. For purposes of this section, such period of time within which the person is required to pay shall be stayed during any period an appeal from the conviction which resulted in the imposition of such costs, fines, forfeitures or penalties is pending.~~

~~Upon such notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the costs, fines, forfeitures or penalties are paid.~~

Upon request and subject to the following requirements, the circuit clerk shall establish a payment plan for a person owing costs, fines, forfeitures, or penalties imposed by the court, so long as the person signs and files with the clerk, an affidavit, stating that he or she is financially unable to pay the costs, fines, forfeitures, or penalties imposed:

(1) A \$25 administrative processing fee shall be paid at the time the payment form is filed or, in the alternative, the fee may be paid in no more than 5 equal monthly payments;

(2) Unless incarcerated, a person must enroll in a payment plan no later than 180 calendar days after the date the court enters the order assessing the costs, fines, forfeitures, or penalties; and

(3) If the person is incarcerated, he or she enroll in a payment plan within 180 calendar days after release.

~~(b) Notwithstanding the provisions of this section to the contrary, the notice of the failure to pay such costs, fines, forfeitures or penalties shall not be given where the circuit court, upon application of the person upon whom the same were imposed~~

~~filed prior to the expiration of the period within which the same are required to be paid, enters an order finding that such person is financially unable to pay all or a portion of the same: *Provided*, That where the circuit court, upon finding that the person is financially unable to pay the full amount thereof, requires the person to pay the remaining portion thereof, the circuit clerk shall notify the Division of Motor Vehicles of such person's failure to pay the same if the same is not paid within the period of time ordered by such court. The West Virginia Supreme Court of Appeals shall develop a uniform payment plan form and financial affidavit for requests for the establishment of payment plan pursuant to subsection (a) of this section. The forms shall be made available for distribution to the offices of circuit clerks and circuit clerks shall use the payment plan form and affidavit form developed by the West Virginia Supreme Court of Appeals when establishing payment plans.~~

(c)(1) The payment plan shall specify: (A) The number of payments to be made; (B) The dates on which such payments are due; (C) The amount due for each payment; (D) All acceptable payment methods; and (E) The circumstances under which the person may receive a late fee, have a judgment lien recorded against them, or have the debt sent to collections for nonpayment.

(2) The monthly payment under the payment plan shall be calculated based upon all costs, fines, forfeitures, or penalties owed within the court, and shall be two percent of the person's annual net income divided by 12, or \$10, whichever is greater.

(3) The court may review the reasonableness of the payment plan, and may on its own motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, or penalties to community service if the court determines that the individual has had a change in circumstances and is unable to comply with the terms of the payment plan.

(d) (1) The clerk may assess a \$10 late fee each month if a person fails to comply with the terms of a payment plan, and if any payment due is not received within 30 days after the due date, and the person:

(A) Is not incarcerated;

(B) Has not brought the account current;

(C) Has not made alternative payment arrangements with the court; or

(D) Has not entered into a revised payment plan with the clerk before the due date.

(2) If, after 90 days, a payment has not been received, the clerk may (A) Record a judgment lien as described in subsection (f) of this section, or (B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount. The clerk may send notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

(e)(1) If after 180 days of a judgment a person fails to enroll in a payment plan and fails to pay his or her costs, fines, forfeitures, or penalties, the clerk may assess a \$10 late fee and shall notify the person of the following:

(A) That he or she is 180 days past due in the payment of costs, fines, forfeitures, or penalties imposed pursuant to a judgment of the court;

(B) That he or she has failed to enroll in a payment plan;

(C) Whether a \$10 late fee has been assessed; and

(D) That he or she may be the subject of a judgment lien or have his or her debt sent to a collection agency if the overdue payment of costs, fines, forfeitures, or penalties is not resolved



within 30 days of the date of the notice issued pursuant to this subsection.

(2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this subsection, a payment has not been received, the clerk may:

(A) Record a judgment lien as described in subsection (f) of this section; or

(B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount.

(f) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county wherein the defendant resides or owns property. The clerk of the county commission shall record and index these abstracts of judgment without charge or fee to the prosecuting attorney, and when recorded, the amount stated to be owed in the abstract constitutes a lien against all property of the defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the

judgment was recorded. The clerk of the county commission shall record and index the release of judgment without charge or fee to the prosecuting attorney.

(g) A person whose driver's license was suspended prior to July 1, 2020, solely for the nonpayment of costs, fines, forfeitures, or penalties, if otherwise eligible, shall have his or her license reinstated:

(1) Upon payment in full of all outstanding costs, fines, forfeitures, or penalties and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

(2) Upon establishing a payment plan pursuant to subsection (a) and the payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a payment plan is in effect, and upon receipt of the notification, the division shall waive the reinstatement fee.

~~(e)~~(h) If a person charged with a criminal offense fails to appear or otherwise respond in court after having received notice to do so, the court shall notify the Division of Motor Vehicles thereof within 15 days of the scheduled date to appear unless such person sooner appears or otherwise responds in court to the satisfaction of the court. Upon such notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the person appears as required.

The bill (Eng. H. B. 4958), as amended, was then ordered to third reading.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 5th day of March, 2020, presented to His Excellency, the Governor, for his action, the following bills, signed

by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for H. B. 2149)**, Relating to the Farm-To-Food Bank Tax Credit.

**(Com. Sub. for H. B. 3127)**, Relating to the Secondary School Activities Commission and participation by home schooled students.

**(H. B. 4365)**, Granting of college credit hours for learning English as a second language.

**(H. B. 4412)**, Relating to education benefits to members of the West Virginia Army National Guard and West Virginia Air National Guard.

**(H. B. 4437)**, Relating to the West Virginia Pay Card program.

**(H. B. 4450)**, Relating to instruction permits issued by the Division of Motor Vehicles.

**(Com. Sub. for H. B. 4513)**, Increasing the replacement costs required of a person causing injury or death of game or protected species.

**(H. B. 4582)**, Declaring certain claims against agencies of the state to be moral obligations of the state.

**(H. B. 4929)**, Relating to the administrative closing of stale or unprogressed estates.

And,

**(H. B. 4969)** Relating to providing tax credit for the donation or sale of a vehicle to certain charitable organizations.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

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

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution 15**, Kaylee Grace Whetzel Memorial Bridge.

**House Concurrent Resolution 53**, U. S. Army Air Corps T SGT Ralph H. Ray Memorial Bridge.

And,

**House Concurrent Resolution 105**, U. S. Air Force Colonel Rishel C. Walker Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 15 and H. C. R. 53 and 105) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

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

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2478**, Modifying the Fair Trade Practices Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2478) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4004**, Creating the West Virginia Sentencing Commission.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4004) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4015**, Relating to Broadband Enhancement and Expansion.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4015) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Transportation and Infrastructure has had under consideration

**Eng. Com. Sub. for House Bill 4017**, Establishing country roads accountability and transparency.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on Transportation and Infrastructure on March 4, 2020;

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4155**, Relating generally to the regulation of plumbers.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4155) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4422**, The Patient Brokering Act.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on March 3, 2020;

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4474**, Relating to peer-to-peer car sharing programs.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4474) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 4585**, Providing immunity from civil or criminal liability for making good faith reports of suspected or known instances of child abuse or neglect.



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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4585) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4587**, Modernizing the Public Service Commission's regulation of solid waste motor carriers and solid waste facilities.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4587) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. House Bill 4606**, Listing contractor classifications on a contractor license.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4606) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4615**, West Virginia Critical Infrastructure Protection Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4615) contained in the preceding report from the Committee on the Judiciary was taken

up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

**Eng. Com. Sub. for House Bill 4693**, Expanding the scope of the Veterans to Agriculture Program.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4693) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the sixth order of business.

Senator Rucker offered the following resolution:

**Senate Concurrent Resolution 62**—Requesting the Joint Committee on Government and Finance study the possibility of requiring proof of a vision examination by an optometrist or ophthalmologist for all children enrolling in West Virginia public and private schools.

Whereas, Damage to one or more parts of the eye or brain that are used for visual processing can result in severe or total loss of vision; and

Whereas, The National Center for Health Statistics, a subdivision of the Centers for Disease Control and Prevention, reported that in 2016, 65.3 percent of children between the ages of six and 17 wore either corrective eyeglasses or contact lenses; and

Whereas, The National Center for Biotechnology Information and the National Institutes of Health found that visual function parameters and vision-related risk factors play a leading role in predicting a child's performance in school; and

Whereas, Early diagnosis of serious and potentially blinding disorders, such as amblyopia, which is critical to treat before the ages of seven to nine, can preserve a patient's eyesight; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the possibility of requiring proof of a vision examination by an optometrist or ophthalmologist for all children enrolling in West Virginia public and private schools; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senator Rucker offered the following resolution:

**Senate Concurrent Resolution 63**—Requesting the Joint Committee on Government and Finance study the current student-

to-school nurse staffing ratios and student-to-professional counselor staffing ratios in all West Virginia public schools.

Whereas, The American Academy of Pediatrics has found that the role of school nurses has evolved and become increasingly important in our schools, and that the use of current ratios for workload determination in school nursing alone is inadequate to meet the increasingly complex health needs of students; and

Whereas, The National Association of School Nurses found that school nursing services should be determined at levels that are sufficient for providing the range of health care necessary to meet the needs of school children; and

Whereas, The Centers for Disease Control and Prevention found that smaller school nurse-to-student ratios are associated with lower absenteeism rates, higher graduation rates, and an overall improvement in educational outcomes; and

Whereas, The American School Counselor Association recognizes that the role of professional counselors involves helping students in areas of academic achievement, personal and social development, and career development; and

Whereas, Based on data from the 2014-2015 National Education Survey, a nationwide assessment administered by the United States Department of Education and the National Association for College Admission Counseling found that overwhelmingly large student caseloads and inequitable access to counseling can significantly reduce the effect of these outcomes; and

Whereas, The West Virginia Department of Education reported an enrollment number of 261,633 students, grades K-12, in West Virginia public schools for the 2019-2020 school year, and that West Virginia has increasingly rising health needs and a commitment to attending to the social, emotional, and mental health needs of our students; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the current student-to-school nurse staffing ratios and student-to-professional counselor staffing ratios in all West Virginia public schools; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2021, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Jeffries and Lindsay offered the following resolution:

**Senate Resolution 69**—Recognizing the West Virginia Kids Cancer Crusaders for their dedication and commitment to fighting childhood cancer.

Whereas, Cancer is the number one cause of death by disease among children, and around 35 percent of children diagnosed with cancer will die within 30 years of diagnosis; and

Whereas, More than 95 percent of childhood cancer survivors will have a significant health-related issue by the time they are 45 years of age. These health-related issues are side-effects of either the cancer, or more commonly, the result of its treatment; and

Whereas, The incidence of childhood cancer is on the increase, averaging 0.6 percent per year since the mid-1970s, resulting in an overall increase of 24 percent over the last 40 years; and

Whereas, The West Virginia Kids Cancer Crusaders are a community of children, families, individuals, organizations, medical professionals, and caregivers with interest in creating awareness, advocating, and providing support and resources for all

those West Virginians affected by young adult, adolescence, and childhood cancer; and

Whereas, Since 2014, the West Virginia Kids Cancer Crusaders have helped over 200 families across the state financially; and

Whereas, The West Virginia Kids Cancer Crusaders bring awareness to their cause by declaring September Childhood Cancer Awareness Month, a time to honor and remember children and families affected by cancer, and help rally support to give kids with cancer better outcomes by supporting ground-breaking research; and

Whereas, The West Virginia Kids Cancer Crusaders advocate for their cause through the legislative process, working on legislation to benefit the childhood cancer community, including passage of Senate Bill 590, which passed the West Virginia Legislature in 2018, and created the Cure Childhood Cancer license plate; and

Whereas, The West Virginia Kids Cancer Crusaders partner with hospitals in the state through support of programs and provide gift cards for families; and

Whereas, Under the leadership and guidance of Kelly Wymer, the West Virginia Kids Cancer Crusaders have demonstrated an unwavering commitment to unite and fight childhood cancer; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the West Virginia Kids Cancer Crusaders for their dedication and commitment to fighting childhood cancer; and, be it

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to the West Virginia Kids Cancer Crusaders for the compassionate work they do; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Kids Cancer Crusaders.

Which, under the rules, lies over one day.

Senators Cline and Roberts offered the following resolution:

**Senate Resolution 70**—Designating March 6, 2020, as McDowell County Day at the Legislature.

Whereas, What later became McDowell County was the location of the Sandy Creek Expedition of 1756, which was the first military alliance between the Cherokee and British that laid the groundwork for British victory in the French and Indian War; and

Whereas, McDowell County became known as the Free State, heralding the most diverse group of ethnicities in the state of West Virginia; and

Whereas, McDowell County was known as the nation's Coal Bin, providing the raw materials for the growth of West Virginia and the United States as a whole; and

Whereas, McDowell County has consistently answered the call of military service, sending countless soldiers to defend our country; and

Whereas, McDowell County is the home of the first female African-American state legislator, Minnie Buckingham Harper; and

Whereas, McDowell County erected the first WW I Memorial in the nation; and

Whereas, McDowell County erected the first African-American WW I Memorial in the nation; and

Whereas, The first municipal parking building was erected and still maintained in McDowell County; and



Whereas, The proud people of McDowell County have rebuilt from devastating flooding; and

Whereas, McDowell County has embraced adventure tourism; and

Whereas, McDowell County has sought to and has successfully revitalized its culture, community, and economic outlook; and

*Resolved by the Senate:*

That the Senate hereby designates March 6, 2020, as McDowell County Day at the Legislature; and, be it

*Further Resolved,* That the Senate extends its sincere gratitude and appreciation to the people of McDowell County for their contributions to the state of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives from McDowell County.

Which, under the rules, lies over one day.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 4:16 p.m., the Senate recessed until 5:30 p.m. today.

The Senate reconvened at 6:23 p.m. today and, at the request of Senator Sypolt, and by unanimous consent, returned to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 4123**, Clarifying that 911 telecommunication workers are included in the definition of those individuals who perform “emergency services” during a disaster.

With amendments from the Committee on the Judiciary pending;

Now on second reading, having been read a first time and referred to the Committee on Finance on March 4, 2020;

And reports the same back with the recommendation that it do pass as amended by the Committee on the Judiciary to which the bill was first referred.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4433**, Relating to deeds of trust.

And has amended same.

And,

**Eng. House Bill 4697**, Removing the restriction that a mini-distillery use raw agricultural products originating on the same premises.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4433 and Eng. H. B.

4697) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4444**, Establishing Medals of Valor and Medals for Bravery for emergency medical services, firefighters, and law-enforcement officers.

With amendments from the Committee on Government Organization pending;

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on March 3, 2020;

And reports the same back with the recommendation that it do pass as amended by the Committee on Government Organization to which the bill was first referred.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 4645**, Establishing the Office of Regulatory and Fiscal Affairs under the Joint Committee on Government and Finance.

With an amendment from the Committee on Government Organization pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2020;

And reports the same back with the recommendation that it do pass as amended by the Committee on Government Organization to which the bill was first referred; and as last amended by the Committee on Finance.

Respectfully submitted,

Craig Blair,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 4648**, The Parenting Fairness Act of 2020.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4648) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

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

requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill 562**, Expunging certain criminal convictions.

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

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

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

**ARTICLE 11. GENERAL PROVISIONS CONCERNING  
CRIMES.**

**§61-11-25. Expungement of criminal records for those found  
not guilty of crimes or against whom charges have been  
dismissed.**

(a) Any person who has been charged with a criminal offense under the laws of this state and who has been found not guilty of the offense, or against whom charges have been dismissed, and not in exchange for a guilty plea to another offense, ~~may file a civil petition in the circuit court in which the charges were filed to expunge~~ shall have all records relating to the arrest, charge or other matters arising out of the arrest or charge expunged: *Provided*, That no record in the Division of Motor Vehicles may be expunged by virtue of any order of expungement entered pursuant to ~~section two b, article five, chapter seventeen C~~ §17C-5-2b of this code: *Provided, however, further*, That any person who has previously been convicted of a felony may ~~not~~ file a petition for expungement of dismissed charges pursuant to this section . The term records as used in this section includes, but is not limited to, arrest records, fingerprints, photographs, index references or other data whether in documentary or electronic form, relating to the arrest, charge or other matters arising out of the arrest or charge. Criminal investigation reports and all records relating to offenses subject to the provisions of ~~article twelve, chapter fifteen of this code~~ §§15-12-1, et seq. of this code because the person was found not guilty

by reason of mental illness, mental retardation or addiction are exempt from the provisions of this section.

(b) The expungement ~~petition~~ shall be ~~filed~~ completed not sooner than ~~sixty~~ ninety days following the order of acquittal or dismissal by the court, and not later than six months. Any court entering an order of acquittal or dismissal shall inform the person who has been found not guilty or against whom charges have been dismissed of his or her rights to ~~file a petition for~~ expungement pursuant to this section.

~~(e) Following the filing of the petition, the court may set a date for a hearing. If the court does so, it shall notify the prosecuting attorney and the arresting agency of the petition and provide an opportunity for a response to the expungement petition.~~

~~(d) (c) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the petition and order the sealing of all records in the custody of the court and expungement of any records in the custody of any other agency or official including law enforcement records. Every agency with records relating to the arrest, charge or other matters arising out of the arrest or charge, that is ordered to expunge records, shall certify to the court within ~~sixty days~~ six months of the entry of the expungement order, that the required expungement has been completed. All orders enforcing the expungement procedure shall also be sealed. Compliance with this section may only be compelled by writ of mandamus.~~

~~(e) (d) Upon expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit or other type of application.~~

~~(f) (e) Inspection of the sealed records in the court's possession may thereafter be permitted by the court only upon a motion by the person who is the subject of the records or upon a petition filed by~~

a prosecuting attorney that inspection and possible use of the records in question are necessary to the investigation or prosecution of a crime in this state or another jurisdiction. If the court finds that the interests of justice will be served by granting the petition, it may be granted.

~~(g)~~ (f) There shall be no filing fees charged or costs assessed for filing an action pursuant to this section.

**§61-11-26. Expungement of certain criminal convictions; procedures; effect.**

(a) *Eligibility for expungement.* —

(1) *Misdemeanors.* —

Subject to the limitations set forth in this section, a person convicted of a misdemeanor offense or offenses may, pursuant to the provisions of this section, petition the circuit court in which the conviction or convictions occurred for expungement of the conviction or convictions and the records associated with the conviction or convictions.

(2) *Nonviolent felonies.* —

Subject to the limitations set forth in this section, a person convicted of a nonviolent felony offense or offenses arising from the same transaction or series of transactions may, pursuant to the provisions of this section, petition the circuit court in which the conviction or convictions occurred for expungement of the conviction or convictions and the records associated with the conviction or convictions.

(b) *Temporal requirements.* —

(1) *Misdemeanor.* — A person is not eligible for expungement pursuant to subdivision (1), subsection (a) of this section until one year after conviction, completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time.

(2) *More than one misdemeanor.* — A person is not eligible for expungement of multiple misdemeanors pursuant to subdivision (1), subsection (a) of this section until two years after the last conviction, completion of any sentence of incarceration, or completion of any period of supervision ordered for the last conviction, whichever is later in time.

(3) *Nonviolent felonies.* — A person is not eligible for expungement of a nonviolent felony pursuant to subdivision (2), subsection (a) of this section until five years after conviction, completion of any sentence of incarceration, or completion of any period of supervision, whichever is later in time.

(c) *Limitations on eligibility for expungement.* — A person is not eligible for expungement pursuant to subsection (a) of this section for convictions of the following offenses:

(1) Any felony offense of violence against the person as defined in subdivision (2), subsection (p) of this section or any misdemeanor offense involving the intentional infliction of physical injury to a minor or law-enforcement officer;

(2) Any felony offense in which the victim of the crime was a minor as defined in subdivision (3), subsection (p) of this section;

(3) Any violation of §61-8B-1 *et seq.* of this code;

(4) Any offense in which the petitioner used or exhibited a deadly weapon or dangerous instrument;

(5) Any violation of §61-2-28 of this code, or any offense which violates §61-2-9(b) or §61-2-9(c) of this code in which the victim was a spouse, a person with whom the person seeking expungement had a child in common, or with whom the person seeking expungement ever cohabited prior to the offense or a violation of §61-2-28(c) of this code;

(6) Any violation of §61-2-29 of this code;

(7) Any offense of driving under the influence of alcohol or a controlled substance;



- (8) Any offense which violates §17B-4-3 of this code;
- (9) Any offense which violates §61-8-12 or §61-8-19 of this code;
- (10) Any violation of §61-2-9a of this code;
- (11) Any violation of §61-8B-8 and §61-8B-9 of this code;
- (12) Any violation of §61-3-11 of this code, involving a structure regularly used as a dwelling;
- (13) Any conviction for which the sentencing judge made a written finding that the offense was sexually motivated;
- (14) Any offense which violates §17E-1-13(g) of this code; and
- (15) Any offense of conspiracy or attempt to commit a felony set forth in subdivisions (1) through (11) and (13), inclusive, of this subsection.

Provided That, expungement of a felony conviction that is otherwise eligible for expungement shall not be denied on the sole basis that the applicant has been convicted of a separate offense of driving under the influence of alcohol or a controlled substance which is not eligible for expungement.

(d) *Content of petition for expungements.* — Each petition to expunge a conviction or convictions pursuant to this section shall be verified under oath and include the following information: *Provided, That a petition for the expungement of multiple misdemeanors shall identify and group such information by circuit court, as applicable, from which expungement of a particular conviction or convictions is being sought:*

- (1) The petitioner's current name and all other legal names or aliases by which the petitioner has been known at any time;
- (2) All of the petitioner's addresses from the date of the offense in connection with which an expungement order is sought to date of the petition;

(3) The petitioner's date of birth and Social Security number;

(4) The petitioner's date of arrest, the court of jurisdiction, and criminal complaint, indictment, summons, or case number;

(5) The statute or statutes and offense or offenses for which the petitioner was charged and of which the petitioner was convicted;

(6) The names of any victim or victims, or a statement that there were no identifiable victims;

(7) Whether there is any current order for restitution, protection, restraining order, or other no contact order prohibiting the petitioner from contacting the victim or whether there has ever been a prior order for restitution, protection, or restraining order prohibiting the petitioner from contacting the victim. If there is a current order, the petitioner shall attach a copy of that order to his or her petition;

(8) The disposition of the matter and sentence imposed, if any;

(9) The grounds on which expungement is sought, including, but not limited to, employment or licensure purposes;

(10) The steps the petitioner has taken since the time of the offense or offenses toward personal rehabilitation, including treatment, work, or other personal history that demonstrates rehabilitation;

(11) Whether petitioner has ever been granted expungement or similar relief regarding a criminal conviction by any court in this state, by the court of any other state, or by any federal court; and

(12) Any supporting documents, sworn statements, affidavits, or other information supporting the petition for expungement.

(e) *Service of petition for expungement.* — The petitioner shall serve a copy of the petition, with any supporting documentation, pursuant to the rules of the trial court upon the following persons or entities:

(1) The Superintendent of the State Police;

(2) The prosecuting attorney of the county or counties of conviction;

~~(3) The chief of police or other executive head of the municipal police department where the offense was committed;~~

~~(4) (3) The chief law-enforcement officer of any other the law-enforcement agency which participated in the arrest of arrested the petitioner;~~

~~(5) (4) The superintendent, or warden, or the Commissioner of Corrections of any institution in which the petitioner was confined or imprisoned pursuant to the conviction; and~~

~~(6) (5) The circuit court, magistrate court, or municipal court which disposed of the petitioner's criminal charge.~~

(f) The prosecuting attorney of the county in which expungement is sought shall serve the petition for expungement, accompanying documentation, and any proposed expungement order by first class mail to any identified victims.

(g) *Notice of opposition.* —

(1) Upon receipt of a petition for expungement, the persons and entities listed in subsection (e) of this section, and any other interested person or agency that desires to oppose the expungement may, within 30 days of receipt of the petition, file a notice of opposition with the court with supporting documentation and sworn statements setting forth the reasons for resisting the petition for expungement.

(2) A copy of any notice of opposition with supporting documentation and sworn statements shall be served upon the petitioner in accordance with trial court rules.

(3) The petitioner may file a reply to a notice of opposition no later than 30 days after service of any notice of opposition to the petition for expungement.

(h) *Burden of proof.* — The burden of proof shall be on the petitioner seeking an order of expungement to prove by clear and convincing evidence:

(1) That the conviction or convictions for which expungement is sought are the only convictions for that specified offense or offenses against the petitioner in this state and that the conviction or convictions are not excluded from expungement by the provisions of this section;

(2) That the requisite time has passed since the conviction or convictions or the completion of any sentence of incarceration or period of supervision as set forth in subsection (b) of this section;

(3) That the petitioner has no criminal charges pending against him or her;

(4) That the expungement is consistent with the public welfare;

(5) That the petitioner has, by his or her behavior since the conviction or convictions, evidenced that he or she has been rehabilitated and is law-abiding; and

(6) Any other facts considered appropriate or necessary by the court to make a determination regarding the petition for expungement.

(i) *Court procedure for petition for expungement.* — Within 60 days of the filing of a petition for expungement the circuit court shall:

(1) Summarily grant the petition;

(2) Return the petition to the petitioner to supply incomplete information or correct obvious errors in order to permit consideration of the petition on its merits;

~~(2)~~ (3) Set the matter for hearing; or

~~(3)~~ (4) Summarily deny the petition if the court determines ~~that~~ the petition discloses on its face is insufficient or, based upon supporting documentation and sworn statements filed in opposition

to the petition, ~~the court determines~~ discloses that the petitioner, as a matter of law, is not entitled to expungement.

(j) *Hearing on petition for expungement.* —

If the court sets the matter for hearing, all interested parties who have filed a notice of opposition shall be notified. At the hearing, the court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with any law-enforcement authority, the institution of confinement, if any, and parole authority or other agency which was in any way involved with the petitioner's arrest, conviction, sentence, and post-conviction supervision, including any record of arrest or conviction in any other state or federal court. The court may hear testimony of witnesses and any other matter the court considers proper and relevant to its determination regarding the petition. The court shall enter an order reflecting its ruling on the petition for expungement with appropriate findings of fact and conclusions of law.

(k) *Sealing of records.* — If the court grants the petition for expungement, it shall order the sealing of all records in the custody of the court and expungement of any records in the custody of any other agency or official, including law-enforcement records. Every agency with records relating to the arrest, charge, or other matters arising out of the arrest or conviction that is ordered to expunge records shall certify to the court within 60 days of the entry of the expungement order that the required expungement has been completed. All orders enforcing the expungement procedure shall also be sealed.

(l) *Disclosure of expunged matters.* —

(1) Subject to the exceptions set forth in this section, upon expungement, the proceedings in the matter shall be considered, as a matter of law, never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating to the record on an application for employment, credit, or other type of

application: *Provided*, That any person applying for a position in which he or she would be engaging in the prevention, detection, investigation, prosecution, or incarceration of persons for violations of the law shall disclose any and all convictions to his or her prospective employer, regardless of whether the conviction or convictions have been expunged pursuant to this section.

(2) A person for whom an order of expungement has been entered pursuant to this section may not be found guilty of perjury or otherwise giving a false statement, under any provision of this code, because of that person's failure to recite or acknowledge the arrest, indictment, information, trial, or conviction, as long as the person is in compliance with subdivision (1) of this subsection.

(3) Notwithstanding any provisions of this code to the contrary, any person required by state or federal law to obtain a criminal history record check on a prospective employee are authorized to have knowledge of any convictions expunged under this section.

(m) *Inspection of sealed records.* — Inspection of the sealed records in the court's possession may thereafter be permitted by the court only upon a motion by the person who is the subject of the records or upon a petition filed by a prosecuting attorney that inspection and possible use of the records in question are necessary to the investigation or prosecution of a crime in this state or another jurisdiction. If the court finds that there is a legitimate reason for access and the interests of justice will be served by granting a petition to inspect the sealed record, it may grant access under the terms and conditions determined by the court.

(n) *Fees for filing petition for expungement and processing orders of expungement.* — The clerk of the circuit court shall charge and collect in advance the same fee for a petition for expungement as is charged for instituting a civil action pursuant to §59-1-11(a)(1) of this code. A person obtaining an order of expungement pursuant to the provisions of this section shall pay a fee of \$100 to the records division of the West Virginia State Police for the cost of processing the order of expungement deposited into a special revenue account within the State Treasurer's office to be known as the West Virginia State Police Criminal History Account.

(o) Notwithstanding any provision of this code to the contrary, a person may only obtain the relief of expungement afforded by the provisions of this section and §61-11-26a of this code once.

(p) For the purposes of this section:

(1) “Court record” means an official record of a court about a proceeding that the clerk of the court or other court personnel maintains. “Court record” includes an index, a docket entry, a petition or other pleading, a memorandum, a transcription of proceedings, an electronic recording, an order, and a judgment.

(2) “Expungement” means the removal from all public records, other than those specifically exempted therefrom by the provisions of this section and §61-11-26a of this code, all evidence that a person has been charged or convicted of a crime.

~~(2)~~ (3) “Felony crime of violence against the person” means those felony offenses set forth in §61-2-1 *et seq.*, §61-3E-1 *et seq.*, §61-8B-1 *et seq.*, and §61-8D-1 *et seq.* of this code.

~~(3)~~ (4) “Felony offenses in which the victim was a minor” means felony violations of §61-3C-14b, §61-8-1 *et seq.*, §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

(4) (5) “Nonviolent felony” means a felony that:

(A) Is not an offense listed in subsection (c) of this section;

(B) Is not an offense involving the intentional infliction of serious bodily injury;

(C) Is an offense the conviction of which is based on facts and circumstances of which the circuit court finds to be consistent with the purposes of this article; and

(D) Is an offense the conviction of which the circuit court finds does not involve violence or potential violence to another person or the public.

~~(5)~~ (6) “Records” do not include the records of the Governor, the Legislature, or the Secretary of State that pertain to a grant of

pardon. Records that pertain to a grant of pardon are not subject to an order of expungement.

~~(6)~~ (7) “Seal” means removing information from public inspection in accordance with this section.

~~(7)~~ (8) “Sealing” means:

(A) For a record kept in a courthouse, removing the record to a separate, secure area to which persons who do not have a legitimate reason for access are denied access;

(B) For electronic information about a proceeding on the website maintained by a magistrate court, circuit court, or the Supreme Court of Appeals, removing the record from the public website; and

(C) For a record maintained by any law-enforcement agency, removing the record to a separate, secure area to which persons who do not have a legitimate reason for access are denied access.

(q) *Statutory construction.* — Nothing in this section may be construed to allow a person obtaining relief pursuant to this section to be eligible for reinstatement of any retirement or employment benefit which he or she lost or forfeited due to the conviction or convictions expunged.

(r) The enactment of this section during the 2019 regular session of the Legislature includes the repeal of the provisions of §61-11B-1 *et seq.* of this code. Any person that had a sentence reduction pursuant to the provisions of §61-11B-1 *et seq.* of this code may petition the court of record to have the criminal offense reduction order converted into an order of expungement. Upon verification by the court that the petitioner qualifies, the court shall enter an order of expungement of the petitioner’s conviction.

**§61-11-26a. Expungement of certain criminal convictions with approved treatment or recovery and job program.**

(a) Notwithstanding any provisions of §61-11-26 of this code to the contrary, any person who has been convicted of a nonviolent



felony offense or multiple misdemeanors and that would be eligible for expungement pursuant to the provisions of §61-11-26 of this code and who: (1) Has a medically documented history of substance abuse and of successful compliance with a substance abuse treatment or recovery and counseling program approved by the Secretary of the Department of Health and Human Resources; or (2) graduates from a West Virginia Department of Education-approved job readiness adult training course, or both, if applicable, may petition the circuit court or circuit courts in which the conviction or convictions occurred for expungement of the conviction or convictions and the records associated therewith as provided in §61-11-26 of this code as follows:

(1) Any person who has been convicted of a single misdemeanor that would be eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section, is eligible for expungement pursuant to §61-11-26(a)(1) of this code upon successful compliance with an approved substance abuse treatment and recovery and counseling program for 90 days or upon completion of an approved job readiness adult training course, or both, if applicable, but after the completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time.

(2) Any person who has been convicted of multiple misdemeanors that would be eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section is not eligible for expungement pursuant to §61-11-26(a)(1) of this code until one year after the last conviction, completion of any sentence of incarceration, or completion of any period of supervision ordered for the last conviction, whichever is later in time.

(3) Any person who has been convicted of a nonviolent felony offense that would be eligible for expungement pursuant to §61-11-26 of this code and satisfies the requirements of this section is not eligible for expungement pursuant to §61-11-26(a)(2) of this code until three years after conviction, completion of any sentence of incarceration, or completion of any period of supervision, whichever is later in time.

(b) In addition to the required content of a petition for expungement as required by §61-11-26(d) of this code, any person petitioning for an expungement pursuant to the provisions of this section shall also include the following, if applicable:

(1) Documentation of compliance with an approved treatment or recovery and counseling program; and

(2) Certificate of graduation from an approved job readiness adult training course.

~~(c) A person may file only one petition for expungement, to the circuit court or circuit courts as applicable, pursuant to the provisions of this section and the provisions of §61-11-26 of this code.~~

~~(d)~~ (c) The fee of \$100 to the records division of the West Virginia State Police for the cost of processing the order of expungement required in §61-11-26(n) of this code is waived for petitions of expungement filed pursuant to the provisions of this section.

On motion of Senator Takubo, the following amendments to the House of Delegates amendment to the bill (Eng. S. B. 562) were reported by the Clerk, considered simultaneously, and adopted:

On pages one through three by striking out all of section twenty-five;

On page five, section twenty-six, subsection (c), subdivision (15), by striking out the proviso and inserting in lieu thereof a new proviso, to read as follows:

*Provided*, That a conviction for driving under the influence of alcohol, controlled substances, or drugs shall not preclude expungement of an unrelated and otherwise expungable felony if the conviction for driving under the influence of alcohol, controlled substances, or drugs is at least five years old at the time the petition for expungement is filed.;

And,

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

**Eng. Senate Bill 562**—A Bill to amend and reenact §61-11-26 and §61-11-26a of the Code of West Virginia, 1931, as amended, all relating generally to expungement of certain criminal convictions; allowing a person seeking expungement of convictions in multiple counties to file the petition in his or her county of residence; clarifying that prosecuting attorneys in any county of conviction wherein expungement is sought be provided notice of petition; eliminating the requirement that the chief law-enforcement officer or head of a municipal law-enforcement agency where the offense for which expungement is sought be given notice where such agency was not the arresting agency; modifying non-expungable offenses to allow expungement of burglaries of buildings which are not dwellings; allowing expungement of an unrelated felony if person has a conviction for driving under the influence if said driving under the influence conviction is at least five years old at the time the petition is filed; clarifying that Commissioner of Corrections be served with a copy of the petition for expungement if the petitioner was confined or imprisoned for the offense for which expungement is sought; clarifying that petitioner's burden of proof as to convictions for which expungement is sought are the only convictions against him or her in the state; defining "expungement"; and directing that upon the granting of an order of expungement all public records other than those under court seal are moved and destroyed.

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

Engrossed Senate Bill 562, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Beach, Boley, and Mann—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 562) passed with its Senate amended title.

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

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

**Eng. Com. Sub. for Senate Bill 583**, Creating program to further development of renewable energy resources.

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

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

On pages seven and eight, section one-o, lines one hundred fifty-three through one hundred sixty-one, by striking out all of subdivision (5) and inserting in lieu thereof a new subdivision, designated subdivision (5), to read as follows:

(5) The renewable electric generating facilities, energy storage resources, or both, constructed, purchased, contracted, owned, installed, and in service pursuant to an application approved by the commission shall be considered used and useful for rate recovery purposes. Any concurrent cost recovery mechanism approved by the Commission shall limit the amount of cost to be recovered from any individual customer of the electric utility to a maximum of \$1,000 per month; provided That this limitation shall not impact the electric utility's ability to recover all costs incurred pursuant to this section from other customers. Customers who have executed

renewable special contracts or are taking power under renewable tariffs pursuant to an approved renewable electric facilities program are not subject to any such limits imposed by the Commission.;

On page nine, section one-o, after line one hundred eighty-seven, by inserting a new subsection, designated subsection (n), to read as follows:

(n) Notwithstanding the provisions of §24-2-11c of this code, any person or entity (1) who is not an electric utility; (2) who intends to purchase or construct and operate an electric generating facility as an exempt wholesale generator under federal law; (3) who will generate electricity solely through solar photovoltaic or other solar methods; and (4) who, if desired, intends to purchase or construct and operate energy storage for such electricity may file an application with the Public Service Commission under this section in such detail and with such publication requirements as the commission may prescribe; and the commission shall hold a hearing, unless waived, within 90 days of publication and issue a final order on a siting certificate or modification thereof within 150 days of the application filing date. No other provision of this section shall apply to these exempt wholesale generators.;

And,

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

**Eng. Com. Sub. for Senate Bill 583**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-1o, relating to creating a program to further the development of renewable energy resources and renewable energy facilities for solar energy by modifying the powers and duties of the Public Service Commission; providing for legislative findings and declarations; providing for definitions; providing for an application process and program for multiyear comprehensive renewable energy facilities for electric utilities, as defined, to plan, design, construct, purchase, own, and operate renewable energy-generating facilities, energy-storage resources,

or both, under specified conditions, requirements, and limitations; providing that solar energy output is to be offered for sale or sold to residential, commercial, or industrial customers under renewable special contracts or renewable tariffs; providing for commission review and approval of said programs; allowing cost recovery for said programs; providing for requirements for said programs; providing for application requirements and contents in lieu of applications for certificates of public convenience and necessity; providing for public notice at the direction of the commission for anticipated rates and rate increases in interested counties; providing for a hearing on applications within 90 days of notice; defining circumstances when a hearing can be waived for lack of opposition; defining a time period of 150 days within which the commission shall issue a final order after the application date; requiring the commission to find the programs as in the public interest; requiring the commission, after notice and hearing, to approve applications and allow cost recovery for just and reasonable expenditures; establishing accounting methods, practices, rates of return, calculations, dates, and procedures relevant for cost recovery; requiring a utility to place in effect commission-approved rates that include cost recovery with certain defined items; defining “concurrent cost recovery”; requiring yearly application filings by the utility with the commission regarding cost recovery; defining when a project is to be considered used and useful; limiting cost recovery from any one customer to a maximum increase of \$1000 per month; providing for siting certificates for exempt wholesale solar generation facilities to be processed in 150 days by the Public Service Commission; providing that no provision shall displace current levels of coal-fired generation capacity; and providing for a sunset date under conditions.

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

Engrossed Committee Substitute for Senate Bill 583, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo,

Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Smith—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 583) passed with its House of Delegates amended title.

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

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

**Eng. Senate Bill 600**, Creating special revenue account designated Military Authority Fund.

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

**Eng. Com. Sub. for Senate Bill 785**, Establishing uniform electioneering prohibition area.

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

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

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

### **ARTICLE 3. VOTING BY ABSENTEES.**

**§3-3-2a. Early voting areas; prohibition against display of campaign material.**

(a) The county commission shall designate the courthouse or annex to the courthouse as the primary location for early in-person voting and, in addition, the commission may designate other locations as provided in subsection (b) of this section.

(b) The county commission may, with the approval of the county clerk or other official charged with the administration of elections, designate community voting locations for early in-person voting, other than the county courthouse or courthouse annex, by a majority of the members of the county commission voting to adopt the same at a public meeting called for that purpose.

(1) The county commission shall publish a notice of its intent to designate a community voting location at least 30 days prior to the designation. Notice shall be by publication as a Class II-0 legal advertisement in compliance with provisions of §59-3-1 *et seq.* of this code. The publication area is the county in which the community voting location or locations are designated;

(2) Community voting locations shall comply with requirements of this article for early in-person voting, criteria prescribed by the Secretary of State, and the following criteria:

(A) The location can be scheduled for use during the early voting period;

(B) The location has the physical facilities necessary to accommodate early voting requirements;

(C) The location has adequate space for voting equipment, poll workers, and voters; and

(D) The location has adequate security, public accessibility, and parking.

(3) The county executive committees of the two major political parties may nominate sites to be used as community voting locations during the early voting period;



(4) Upon the designation of a community voting location, the county clerk shall, not less than 30 days prior to an election, give notice of the ~~dates, times, and place of community voting locations~~ community voting location address and the dates and times when the location will be open for early voting by publication as a Class II-0 legal advertisement in compliance with provisions of §59-3-1 *et seq.* of this code;

(5) Voting shall be conducted at each designated community voting ~~site~~ location for a period of not less than five consecutive days during the early in-person voting period authorized by §3-3-3 of this code, but need not be conducted at each location for the entire period of early in-person voting;

(6) The county commission, with the approval of the county clerk, may authorize community voting locations on a rotating basis, wherein a community voting location may be ~~utilized~~ used for less than the full period of early in-person voting. ~~and~~

(7) If more than one community voting location is designated, each location shall be ~~utilized~~ used for an equal number of voting days and permit voting for the same number of hours per day; and

(8) Once a community voting location is designated it may continue to be used in subsequent elections without complying with the public notice requirements of subdivision (1) of this subsection if the county commission finds, and the county clerk agrees, at least 50 days, but not more than 80 days prior to the election, that the location continues to qualify under this section.

(c) The Secretary of State shall propose legislative and emergency rules in accordance with the provisions of §29A-3-1 *et seq.* of this code as may be necessary to implement the provisions of this section. The rules shall include establishment of criteria to assure neutrality and security in the selection of community voting locations.

(d) Throughout the period of early in-person voting, the official designated to supervise and conduct ~~absentee~~ early in-person voting shall make the following provisions for voting:

(1) The official shall provide a sufficient number of voting booths or devices appropriate to the voting system at which voters may prepare their ballots. The booths or devices are to be in an area separate from, but within clear view of, the public entrance area of the official's office or other area designated by the county commission for ~~absentee~~ early in-person voting and are to be arranged to ensure the voter complete privacy in casting the ballot.

(2) The official shall make the voting area secure from interference with the voter and shall ensure that voted and unvoted ballots are at all times secure from tampering. No person, other than a person lawfully assisting the voter according to the provisions of this chapter, may be permitted to come within five feet of the voting booth while the voter is voting. No person, other than the officials or employees of the official designated to supervise and conduct ~~absentee~~ early in-person voting or members of the board of ballot commissioners assigned to conduct ~~absentee~~ early in-person voting, may enter the area or room set aside for voting.

(3) (A) The official designated to supervise and conduct ~~absentee~~ early in-person voting shall request the county commission designate another area within the county courthouse, any annex of the courthouse or any other designated as early in-person community voting locations within the county, as a portion of the official's office, for the purpose of ~~absentee~~ early in-person voting in the following circumstances:

(A) (i) If the voting area is not accessible to voters with physical disabilities;

(B) (ii) If the voting area is not within clear view of the public entrance of the office of the official designated to supervise and conduct ~~absentee~~ early in-person voting; or

(C) (iii) If there is no suitable area for ~~absentee~~ early in-person voting within the office.

(B) Any designated area is subject to the same requirements as the ~~regular absentee voting area~~ primary location for early in-person voting.

(4) The official designated to supervise and conduct ~~absentee~~ early in-person voting shall have at least two representatives to assist with ~~absentee~~ early in-person voting: *Provided*, That the two representatives may not be registered with the same political party affiliation or be two persons registered with no political party affiliation. The representatives may be full-time employees, temporary employees hired for the period of ~~absentee~~ early in-person voting in person, or volunteers.

(5) No person may do any electioneering nor may any person display or distribute in any manner, or authorize the display or distribution of, any literature, posters, or material of any kind which tends to influence the voting for or against any candidate or any public question on the property of the county courthouse, any annex facilities, or within 100 feet of the outside entrance of any other designated early voting locations within the county during the entire period of regular early in-person ~~absentee~~ voting. The official designated to supervise and conduct ~~absentee~~ early in-person voting is authorized to remove the material and to direct the sheriff of the county to enforce the prohibition.

On motion of Senator Takubo, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 785) was reported by the Clerk and adopted:

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

**Eng. Com. Sub. for Senate Bill 785**—A Bill to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, all relating generally to early voting locations; exempting the county commission from public notice requirements regarding the intent to designate a community voting location under certain circumstances if the location has been previously designated; and prohibiting electioneering activities within 100 feet from the

outside entrance of community voting locations during early voting periods.

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

Engrossed Committee Substitute for Senate Bill 785, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Smith—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 785) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Smith—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 785) takes effect from passage.

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

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

**Eng. Com. Sub. for Senate Bill 802**, Relating to public utilities generally.

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

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

On page two, section twenty, line twenty-four, after the word “certification” by inserting a colon and the following proviso: “*Provided*, That the natural gas provider bills the customer and the customer pays for at least 100,000 million cubic feet during each full calendar year after the utility has been notified, except in the event one or both of the contracting parties experiences a force majeure event or a condition beyond their reasonable control”;

And,

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

**Eng. Com. Sub. for Senate Bill 802**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-20, relating generally to the regulation of public utilities; providing legislative findings; providing that certain large volume end users may receive natural gas service without the permission, consent, control, review, or input of the West Virginia Public Service Commission; requiring the end user pay for the minimum amount of gas required for the exception; providing that the end user shall make certain certifications to the commission; providing that the commission shall receive, file, and

retain all end user certifications; providing that no person, entity, or body shall be a public utility, intrastate pipeline, common carrier, or otherwise subject to the jurisdiction of the commission as a result of supplying such end users; and providing that provisions shall not prevent or impede the commission's safety regulation of pipelines.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 802) was reported by the Clerk and adopted:

On page two, section twenty, subsection (b), subdivision (v), by striking out "100,000" and inserting in lieu thereof "100".

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 802, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Smith—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 802) passed with its House of Delegates amended title.

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

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

**Eng. Com. Sub. for Senate Bill 810**, Implementing federal Affordable Clean Energy rule.

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

**Eng. Senate Bill 842**, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years.

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

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

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

**§18-3-13. Behavior Interventionist Pilot Program.**

(a) The Legislature finds that:

(1) Behavior problems of special education students can be better addressed by personnel who specialize in addressing student behavior issues;

(2) With the advent of the opioid crisis in recent years in West Virginia, behavior problems in the state's elementary and secondary education system have increased significantly;

(3) Behavior problems impact not just the student who is misbehaving, but also other students at the school;

(4) The state should explore various ways to address this issue;

(5) One such method of successfully addressing behavioral problems could be through the use of behavior interventionists; and

(6) A behavior interventionist who is trained to address student behavior issues at a school could free classroom teachers from having to address behavior issues and allow them to focus exclusively on teaching students which could result in academic achievement increases for other students in the classroom.

(b) The state superintendent shall immediately establish a Behavior Interventionist Pilot Program to be implemented in not less than two nor more than ten county school districts for the duration of three years. In selecting the county school districts, the state superintendent shall select districts meeting the following criteria:

(1) The districts shall have among the highest number in the state of students with an individual education program;

(2) The districts designated by the state superintendent for the pilot program shall have schools that have a significant number of students enrolled with behavior issues; and

(3) The districts shall have the resources to hire and train personnel who specialize in addressing students with behavior issues.

(c) The county school districts designated for the pilot programs pursuant to this section may immediately create a new employment position, entitled "behavior interventionist", which is a school-based position that specializes in addressing behavior issues at a school. Once the counties are chosen, the county superintendent shall convene an advisory committee consisting of principals, teachers, classroom aides, and the education organizations to advise the county superintendent and county board on qualifications and hiring. Behavior interventionists shall be designated by the county board as either a professional person or a service person. If the behavior interventionist is designated as a service person, he or she shall be assigned a pay grade F for the purpose of the salary schedule set forth in §18A-4-8a of this code. The county school districts designated for the pilot programs shall establish the qualifications for personnel employed in the behavior interventionist position and shall establish the initial and



continuing training requirements for the personnel employed in the position.

(d) Annually, for the duration of the pilot programs and once after the conclusion of the pilot programs, the county superintendents of the county school districts designated for the pilot programs shall report to the Legislative Oversight Commission on Education Accountability on:

(1) Progress toward and methods of implementation of the pilot programs, including the required qualifications and training for personnel employed in the behavior interventionist position;

(2) Indicators of the success of the pilot programs, which may include reductions in disciplinary actions and increases in student achievement at the schools in which the behavior interventionists are assigned;

(3) Their recommendation on whether the pilot programs should continue beyond the current duration of the pilot programs; and

(4) Their recommendation on whether the pilot programs should be replicated in other school districts that have a high percentage of students with an individual education program, that have schools with significant student behavior problems, or both, and if so, how the pilot programs could best be replicated based on the experience and knowledge gained from the pilot programs established pursuant to this section.;

And,

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

**Eng. Senate Bill 842**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-3-13, all relating to requiring the State Superintendent of Schools to immediately establish a Behavior Interventionist Pilot Program in limited number of county school districts for the duration of three years; making findings; setting forth

criteria to be used in the selection of the county school districts; allowing the two county school districts to immediately create a new behavior interventionist position; requiring the county superintendent to convene a committee consisting of certain school personnel and the education organizations to establish qualifications and hiring; requiring behavior interventionists to be designated by the county board as either a professional person or a service person; requiring certain pay grade in case of service person position; requiring the designated county school districts to establish the qualifications and training requirements; and requiring annual report and final report with certain information to the Legislative Oversight Commission on Education Accountability.

On motion of Senator Rucker, the following amendments to the House of Delegates amendments to the bill (Eng. S. B. 842) were reported by the Clerk and considered simultaneously:

On page two, section thirteen, subsection (c), by striking out “F” and inserting in lieu thereof the words “D, at a minimum,”;

And,

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

**Eng. Senate Bill 842**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-3-13, relating to requiring the State Superintendent of Schools to immediately establish a Behavior Interventionist Pilot Program in limited number of county school districts for the duration of three years; making findings; setting forth criteria to be used in the selection of the county school districts; allowing the county school districts to immediately create a new behavior interventionist position; requiring the county superintendent to convene an advisory committee consisting of certain school personnel and the education organizations to advise on qualifications and hiring; requiring behavior interventionists to be designated by the county board as either a professional person or a service person; setting a minimum pay grade in case of service person position; requiring the designated county school districts to establish the qualifications and training

requirements; and requiring annual report and final report with certain information to the Legislative Oversight Commission on Education Accountability.

Following discussion,

The question being on the adoption of Senator Rucker's amendments to the bill, the same was put and prevailed.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 842, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Smith—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 842) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Smith—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 842) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. House Bill 4039**, Providing limitations on nuisance actions against fire department and emergency medical services.

On motion of Senator Takubo, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Smith, Cline, and Hardesty.

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

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

**Eng. House Bill 4146**, Relating to credit for reinsurance.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended with its Senate amended title, to take effect July 1, 2020, of

**Eng. House Bill 4466**, Certificates of Insurance Act.

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

**Eng. Com. Sub. for House Bill 4522**, Allowing division to accept documents compliant with Real ID Act for proof of identity.

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

**Eng. House Bill 4760**, Modifying video lottery retailer licensing eligibility requirements.

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

**Eng. Com. Sub. for House Bill 4773**, Creating a workgroup to investigate and recommend screening protocols for adverse childhood trauma in this state.

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

**Eng. House Bill 4790**, Relating to Career Technical Education for middle school students.

A message from the Clerk of the House of Delegates announced that that body had agreed to the changed effective date, to take effect from passage, of

**Eng. House Bill 4882**, Authorizing limited sampling and limited sale of wine for off-premises consumption to wineries not licensed in the state.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. House Bill 4887**, Relating to revocation, cancellation, or suspension of business registration certificates.

On motion of Senator Takubo, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Clements, Azinger, and Jeffries.

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

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

**Eng. Com. Sub. for House Bill 4925**, Requiring the Secondary Schools Athletic Commission to recognize preparatory athletic programs.

A message from the Clerk of the House of Delegates announced that that body had agreed to the changed effective date, to take effect from passage, of

**Eng. House Bill 4959**, Relating to clarifying the ability of the Economic Development Authority Board of Directors to enter into any contracts necessary to carry out its duties.

### **Executive Communications**

The Clerk then presented communications from His Excellency, the Governor, advising that on March 5, 2020, he had approved **Enr. Committee Substitute for Senate Bill 209**, **Enr. Committee Substitute for Senate Bill 449**, **Enr. Committee Substitute for Senate Bill 532**, **Enr. Committee Substitute for Senate Bill 544**, **Enr. Committee Substitute for Senate Bill 560**, **Enr. Senate Bill 573**, **Enr. Senate Bill 620**, **Enr. Committee**

**Substitute for Senate Bill 623, Enr. Senate Bill 642, Enr. Committee Substitute for Senate Bill 657, Enr. House Bill 2922, Enr. House Bill 4166, Enr. House Bill 4179, Enr. House Bill 4353, Enr. House Bill 4381, Enr. Committee Substitute for House Bill 4470, Enr. House Bill 4476, Enr. House Bill 4515, and Enr. House Bill 4601.**

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills:

**Senate Concurrent Resolution 9:** Senator Romano;

**Senate Concurrent Resolution 13:** Senator Romano;

**Senate Concurrent Resolution 15:** Senator Romano;

**Senate Concurrent Resolution 28:** Senator Romano;

**Senate Concurrent Resolution 30:** Senator Romano;

**Senate Concurrent Resolution 31:** Senator Romano;

**Senate Concurrent Resolution 33:** Senator Romano;

**Senate Concurrent Resolution 43:** Senator Romano;

**Senate Concurrent Resolution 44:** Senator Romano;

**Senate Concurrent Resolution 47:** Senator Romano;

**Senate Concurrent Resolution 50:** Senator Romano;

**Senate Concurrent Resolution 52:** Senator Romano;

**Senate Concurrent Resolution 53:** Senator Romano;

**Senate Concurrent Resolution 55:** Senator Romano;

**Senate Concurrent Resolution 58:** Senators Cline, Jeffries, Lindsay, Rucker, and Romano;

**Senate Concurrent Resolution 59:** Senators Jeffries and Lindsay;

**Senate Concurrent Resolution 60:** Senators Jeffries, Hardesty, and Romano;

**Senate Resolution 66:** Senators Jeffries, Lindsay, and Romano;

**Senate Resolution 67:** Senators Cline, Jeffries, Lindsay, and Romano;

And,

**Senate Resolution 68:** Senators Jeffries, Lindsay, Rucker, and Romano.

Pending announcement of a meeting of the Committee on Rules,

On motion of Senator Takubo, at 7:03 p.m., the Senate adjourned until tomorrow, Friday, March 6, 2020, at 9:30 a.m.

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## FRIDAY, MARCH 6, 2020

The Senate met at 10:17 a.m.

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

Prayer was offered by Pastor Tom Burnside, Marmet First Baptist Church, Marmet, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Donna J. Boley, a senator from the third district.

Pending the reading of the Journal of Thursday, March 5, 2020,



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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for Senate Bill 136**, Prohibiting certain misleading lawsuit advertising practices.

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

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

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

**ARTICLE 28. PREVENTION OF DECEPTIVE LAWSUIT  
ADVERTISING AND SOLICITATION PRACTICES  
REGARDING THE USE OF MEDICATIONS.**

**§47-28-1. Short title.**

This article may be known and cited as the Prevention of Deceptive Lawsuit Advertising and Solicitation Practices Regarding the Use of Medications Act.

**§47-28-2. Definitions.**

As used in this article:

(1) “Legal advertisement” means a solicitation for legal services regarding the use of medications through television, radio, newspaper or other periodical, outdoor display, or other written, electronic, or recorded communications wherein the advertisement solicits clients or potential clients for legal services.

(2) “Person” means an individual or entity, including, but not limited to: (i) Attorneys; (ii) law firms; or (iii) third parties who solicit potential clients on behalf of attorneys or law firms, which pays for or authorizes a legal advertisement that solicits potential clients for attorneys or law firms under this article.

(3) “Protected health information” has the meaning given such term in 45 C.F.R. 106.103 (2013).

(4) “Solicit” means an offer to provide legal services regarding the use of medications by written, recorded, or electronic communication or by in-person, telephone, or real-time electronic contact.

### **§47-28-3. Deceptive legal advertising practices.**

(a) *Specifically prohibited legal advertising practices.* — A person engages in an unfair or deceptive act or practice if, in a legal advertisement, the person does any of the following:

(1) Fails to contain the statement: “This is a paid advertisement for legal services.”;

(2) Presents a legal advertisement as a “consumer medical alert”, “health alert”, “consumer alert”, “public service health announcement”, or substantially similar phrase suggesting to a reasonable recipient that the advertisement is offering professional, medical, or government agency advice about pharmaceuticals or medical devices rather than legal services;

(3) Displays the logo of a federal or state government agency in a manner that suggests affiliation with the sponsorship of that agency;

(4) Uses the word “recall” when referring to a product that has not been recalled by a government agency or through an agreement between a manufacturer and government agency;

(5) Fails to identify the sponsor of the legal advertisement; or

(6) Fails to indicate the identity of the attorney or law firm that will represent clients, or how potential clients or cases will be referred to attorneys or law firms that will represent clients if the sponsor of the legal advertisement may not represent persons responding to the advertisement.

(b) *Disclosures and warnings for protection of patients.* —

(1) A legal advertisement soliciting clients for legal services in connection with a prescription drug or medical device approved by the U.S. Food and Drug Administration shall include the following warning: “Do not stop taking a prescribed medication without first consulting with your doctor. Discontinuing a prescribed medication without your doctor’s advice can result in injury or death.”.

(2) A legal advertisement soliciting clients for legal services in connection with a prescription drug or medical device approved by the U.S. Food and Drug Administration shall disclose that the subject of the legal advertisement remains approved by the U.S. Food and Drug Administration, unless the product has been recalled or withdrawn.

(c) *Appearance of required statements, disclosures, and warnings.* — Any words or statements required by this section to appear in an advertisement must be presented clearly and conspicuously.

(1) Written disclosures shall be clearly legible and, if televised or displayed electronically, shall be displayed for a sufficient time to enable the viewer to easily see and fully read the disclosure or disclaimer.

(2) Spoken disclosures shall be plainly audible and clearly intelligible.

(d) A person who willfully and knowingly violates this section engages in an unfair and deceptive act or practice in violation of §46A-6-1 et seq. of this code.

**§47-28-4. Wrongful use or disclosure of protected health information for solicitation of legal services regarding the use of medications.**

(a) Use or disclosure of protected health information for legal solicitation. — A person shall not use, cause to be used, obtain, sell, transfer, or disclose to another person without written authorization protected health information for the purpose of soliciting an individual for legal services regarding the use of medications.

(b) Enforcement. —

(1) A violation of this section is a violation of West Virginia's health privacy laws or §46A-6-101 et seq. of this code.

(2) In addition to any other remedy provided by law, a person who willfully and knowingly violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000 or confined in jail not more than one year, or both fined and confined.

(c) Construction. — This section does not apply to the use or disclosure of protected health information to an individual's legal representative, in the course of any judicial or administrative proceeding, or as otherwise permitted or required by law.

(d) Nothing in this section creates or implies liability on behalf of a broadcaster who holds a license for over-the-air terrestrial broadcasting from the federal communications commission, or against a cable operator as defined in 47 U.S.C. §522(5).

**§47-28-5. Authority of judiciary or State Bar to regulate practice of law.**

This article does not limit or otherwise affect the authority of the judiciary or the Lawyer Disciplinary Board to regulate the

practice of law, enforce the West Virginia Rules of Professional Conduct, or discipline persons admitted to the bar.;

And,

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

**Eng. Com. Sub. for Senate Bill 136**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-28-1, §47-28-2, §47-28-3, §47-28-4, and §47-28-5, all relating to prohibiting certain deceptive legal advertising practices; defining terms; setting forth prohibited legal advertising practices; requiring disclosures and warnings pertaining to prescription drugs and medical devices; providing that engaging in prohibited legal advertising practices or failure to provide required disclosures and warnings constitute unfair and deceptive acts under the West Virginia Consumer and Credit Protection Act; prohibiting the use or disclosure of protected health information for solicitation of legal services; providing that the use or disclosure of protected health information constitutes a violation of West Virginia health privacy laws or the West Virginia Consumer and Credit Protection Act; providing criminal penalties for unauthorized use or disclosure of protected health information; and clarifying that the West Virginia Supreme Court of Appeals retains authority to regulate the practice of law.

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

Engrossed Committee Substitute for Senate Bill 136, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 136) passed with its House of Delegates amended title.

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

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

**Eng. Com. Sub. for Senate Bill 144**, Creating misdemeanor penalty for making materially false statement in course of misdemeanor investigation.

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

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

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

#### **ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.**

##### **§61-5-17. Obstructing officer; fleeing from officer; making false statements to officer; interfering with emergency communications; penalties; definitions.**

(a) A person who by threats, menaces, acts, or otherwise forcibly or illegally hinders or obstructs or attempts to hinder or obstruct a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity is guilty of a misdemeanor and, upon

conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

(b) A person who intentionally disarms or attempts to disarm a law-enforcement officer, correctional officer, probation officer, parole officer, courthouse security officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than five years.

(c) A person who, with intent to impede or obstruct a law-enforcement officer, the State Fire Marshal or a full-time deputy or assistant fire marshal in the conduct of an investigation of a misdemeanor or felony offense, knowingly and willfully makes a materially false statement is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$200, or confined in jail for five days, or both fined and confined. The provisions of this section do not apply to statements made by a spouse, parent, stepparent, grandparent, sibling, half-sibling, child, stepchild or grandchild, whether related by blood or marriage, of the person under investigation. Statements made by the person under investigation may not be used as the basis for prosecution under this subsection. For purposes of this subsection, "law-enforcement officer" does not include a watchman, a member of the West Virginia State Police or college security personnel who is not a certified law-enforcement officer. A criminal charge under this subsection relating to the investigation of a misdemeanor offense may not be used to seek or support a secured bond or pre-trial incarceration.

(d) A person who intentionally flees or attempts to flee by any means other than the use of a vehicle from a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, or a full-time deputy or assistant fire marshal acting in his or her official capacity who is attempting to make a lawful arrest of or to lawfully detain the person, and who knows or reasonably believes that the officer is attempting to arrest or lawfully detain him or her, is guilty of a

misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

(e) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 and shall be confined in jail not more than one year.

(f) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who operates the vehicle in a manner showing a reckless indifference to the safety of others, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$2,000 and shall be imprisoned in a state correctional facility not less than one nor more than five years.

(g) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes damage to the real or personal property of a person during or resulting from his or her flight, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 and shall be confined in jail for not less than six months nor more than one year.

(h) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes bodily injury to a person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than three nor more than 10 years.



(i) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who causes death to a person during or resulting from his or her flight, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than five nor more than 15 years. A person imprisoned pursuant to this subsection is not eligible for parole prior to having served a minimum of three years of his or her sentence or the minimum period required by §62-12-13 of this code, whichever is greater.

(j) A person who intentionally flees or attempts to flee in a vehicle from a law-enforcement officer, probation officer, or parole officer acting in his or her official capacity after the officer has given a clear visual or audible signal directing the person to stop, and who is under the influence of alcohol, controlled substances, or drugs, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than three nor more than 10 years.

(k) For purposes of this section, the term “vehicle” includes any motor vehicle, motorcycle, motorboat, all-terrain vehicle, or snowmobile as those terms are defined in §17A-1-1 of this code, whether or not it is being operated on a public highway at the time and whether or not it is licensed by the state.

(l) For purposes of this section, the terms “flee”, “fleeing”, and “flight” do not include a person’s reasonable attempt to travel to a safe place, allowing the pursuing law-enforcement officer to maintain appropriate surveillance, for the purpose of complying with the officer’s direction to stop.

(m) The revisions to subsections (e), (f), (g), and (h) of this section enacted during the 2010 regular legislative session shall be known as the Jerry Alan Jones Act.

(n) (1) No person, with the intent to purposefully deprive another person of emergency services, may interfere with or prevent another person from making an emergency

communication, which a reasonable person would consider necessary under the circumstances, to law-enforcement, fire, or emergency medical services personnel.

(2) For the purpose of this subsection, the term “interfere with or prevent” includes, but is not limited to, seizing, concealing, obstructing access to or disabling or disconnecting a telephone, telephone line, or equipment or other communication device.

(3) For the purpose of this subsection, the term “emergency communication” means communication to transmit warnings or other information pertaining to a crime, fire, accident, power outage, disaster, or risk of injury or damage to a person or property.

(4) A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than one day nor more than one year or shall be fined not less than \$250 nor more than \$2,000, or both fined and confined.

(5) A person who is convicted of a second offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than three months nor more than one year or fined not less than \$500 nor more than \$3,000, or both fined and confined.

(6) A person who is convicted of a third or subsequent offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not less than six months nor more than one year or fined not less than \$500 nor more than \$4,000, or both fined and confined.

(7) In determining the number of prior convictions for purposes of imposing punishment under this subsection, the court shall disregard all such prior convictions occurring more than 10 years prior to the offense in question.

(o) A person is guilty of filing a false complaint against a law-enforcement officer when, knowing the information reported is false or baseless, he or she:

(1) Initiates a false complaint of improper action of a law enforcement officer relating to an incident or other circumstance; or

(2) Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with conduct of law-enforcement officers which did not occur, does not in fact exist; or

(3) Reports to a law enforcement officer or agency the alleged occurrence of any offense or incident which did not in fact occur.

Any person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail not more than six months, or both fined and confined.;

And,

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

**Eng. Com. Sub. for Senate Bill 144**—A Bill to amend and reenact §61-5-17 of the Code of West Virginia, 1931, as amended, relating to precluding the charge of making a materially false statement in the investigation of a misdemeanor offense serving as the basis for a secured bond or pre-trial incarceration; establishing a criminal offense in certain circumstances for initiating a false complaint or report against a law enforcement officer, knowing the information is false; and, providing misdemeanor criminal penalties for a false report.

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

Engrossed Committee Substitute for Senate Bill 144, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Hamilton, Maroney, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker,

Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—25.

The nays were: Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Romano, and Woelfel—8.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 144) passed with its House of Delegates amended title.

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

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

**Eng. Com. Sub. for Senate Bill 240**, Requiring hotels and restaurants secure manhole covers of certain grease traps.

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

**Eng. Senate Bill 289**, Creating Green Alert Plan.

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

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

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

**ARTICLE 3E. CREATION OF A STATEWIDE GREEN ALERT PLAN.**

**§15-3E-1. Short title.**

This article shall be known and may be cited as the Green Alert Plan.

**§15-3E-2. Findings and declarations relative to Green Alert Plan.**

(a) The Legislature finds that:

(1) According to the U.S. Department of Veterans Affairs, 20 veterans commit suicide each day across the country;

(2) While veterans make up less than nine percent of the total U.S. population, tragically, they account for 19 percent of all suicides in America;

(3) By establishing the Green Alert Plan, law enforcement will be provided with additional tools that will help them in responding to an at-risk veteran's disappearance and place an emphasis on the risk of suicide for veterans with a service-related condition;

(4) The Green Alert Plan would also allow for a more rapid dissemination of information on the missing at-risk veteran to the public, who, having been alerted to the situation, now become an extensive network of eyes and ears serving to assist law enforcement in quickly locating and safely recovering a missing at-risk veteran, and potentially saving them serious injury or suicide; and

(5) Given the success of both the Amber and Silver Alert systems, expanding the program to include at-risk veterans is imperative to help those who have served.

(b) The Legislature declares that creating a Green Alert is a way to prevent more tragedies and help ensure our veterans get back home safely.

**§15-3E-3. Establishment of Green Alert Plan.**

(a) The Superintendent of the West Virginia State Police shall establish the Green Alert Plan authorizing the broadcast media,

upon notice from the West Virginia State Police, to broadcast an alert to inform the public of a missing at-risk veteran, subject to the criteria established in §15-3E-4 of this code. The program shall be a voluntary, cooperative effort between state law enforcement and the broadcast media.

(b) As used in this article, “at-risk veteran” means a person who is currently serving in the armed forces on active duty, reserve status, or in the National Guard, or a person who served in the active military, or who was discharged or released under conditions other than dishonorable who is known, based on the information provided by the person making the report, to have a physical or mental health condition that is related to his or her service.

(c) The Superintendent shall notify the broadcast media serving the State of West Virginia of the establishment the Green Alert Plan and invite their voluntary participation.

(d) The Superintendent shall submit a plan to the Joint Committee on Government and Finance no later than December 1, 2020. The plan shall include Green Alert activation protocols, evaluation of first responder training requirements and needs as related to at-risk veterans, coordination and use of established programs, and analysis of any costs. The Superintendent shall also make recommendations for any additional legislation or actions necessary to further facilitate the implementation of the Green Alert Plan.

#### **§15-3E-4. Activation of Green Alert.**

The following criteria shall be met before the West Virginia State Police activate the Green Alert:

(1) An individual who has knowledge that the at-risk veteran is missing has submitted a missing person’s report to the West Virginia State Police or other appropriate law-enforcement agency;

(2) The at-risk veteran is believed to be missing, regardless of circumstance;

(3) Based upon information provided by the individual who has submitted the missing person's report, law enforcement has reason to believe that the at-risk veteran has a physical or mental health condition that is related to his or her service;

(4) The missing at-risk veteran may be in danger of death or serious bodily injury;

(5) The missing at-risk veteran is domiciled or believed to be located in the state of West Virginia;

(6) The missing at-risk veteran is, or is believed to be, at a location that cannot be determined by an individual familiar with the missing at-risk veteran, and the missing at-risk veteran is incapable of returning to his or her residence without assistance; and

(7) There is sufficient information available to indicate that a Green Alert would assist in locating the missing at-risk veteran.

**§15-3E-5. Notice to participating media; broadcast of alert.**

(a) To participate, the media may agree, upon notice from the West Virginia State Police via email or facsimile, to transmit information to the public about a missing at-risk veteran that has occurred within their broadcast service region.

(b) The alerts shall include a description of the missing at-risk veteran, such details of the circumstance surrounding him or her becoming missing, as may be known, and such other information as the West Virginia State Police may deem pertinent and appropriate. The West Virginia State Police shall, in a timely manner, update the broadcast media with new information when appropriate concerning the missing at-risk veteran.

(c) The alerts also shall provide information concerning how those members of the public who have information relating to the missing at-risk veteran may contact the West Virginia State Police or other appropriate law-enforcement agency.

(d) Concurrent with the notice provided to the broadcast media, the West Virginia State Police shall also notify the Department of Transportation, the Division of Highways, and the West Virginia Turnpike Commission of the Green Alert so that the department and the affected authorities may, if possible, through the use of their variable message signs, inform the motoring public that a Green Alert is in progress and may provide information relating to the missing at-risk veteran and how motorists may report any information they have to the West Virginia State Police or other appropriate law-enforcement agency.

(e) The alerts shall terminate upon notice from the West Virginia State Police.

(f) The Superintendent shall develop and undertake a campaign to inform law-enforcement agencies about the Green Alert Plan established under this article.

**§15-3E-6. Aid to missing at-risk veteran; immunity from civil or criminal liability.**

No person or entity who, in good faith, follows and abides by the provisions of this article is liable for any civil or criminal penalty as the result of any act or omission in the furtherance thereof unless it is alleged and proven that the information disclosed was false and disclosed with the knowledge that the information was false.

**§15-3E-7. Guidelines; procedural rules.**

The Superintendent may adopt guidelines and procedural rules to effectuate the purposes of this article.;

And,

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

**Eng. Senate Bill 289**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-3E-1, §15-3E-2, §15-3E-3, §15-3E-4, §15-3E-5,



§15-3E-6 and §15-3E-7 of said code, all relating to the establishment of an alert system for missing at-risk veterans by Superintendent of West Virginia State Police; providing legislative findings and declarations relative to the Green Alert plan; establishment of a Green Alert Plan; defining term; activation of a Green Alert; notice to participating media; broadcasting of a Green Alert; notification to the Department of Transportation, the Division of Highways and the West Virginia Turnpike Commission of the Green Alert; termination of the Green Alert; immunity from criminal or civil liability; and authorizing Superintendent to promulgate guidelines and procedural rules.

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

Engrossed Senate Bill 289, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 289) passed with its House of Delegates amended title.

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

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

**Eng. Com. Sub. for Senate Bill 308**, Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation.

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

**Eng. Com. Sub. for Senate Bill 312**, Relating to provisional licensure of social workers.

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

**Eng. Com. Sub. for Senate Bill 339**, Authorizing DHHR promulgate legislative rules.

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 490**, Relating to criminal offenses against agricultural facilities.

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

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 490**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3B-7, relating to creating the offenses of trespass upon an animal or crop facility and conspiracy to trespass upon an animal or crop facility; defining terms; establishing criminal penalties; creating an enhanced felony offense for second and subsequent violations; authorizing double damages for injuries to animal and crop facilities; and allowing injunctive relief.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 490, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Lindsay—1.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 490) passed with its House of Delegates amended title.

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

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

**Eng. Com. Sub. for Senate Bill 491**, Relating to Seed Certification Program.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, to take effect July 1, 2020, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 578**, Recalculating tax on generating, producing, or selling electricity from solar energy facilities.

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

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

**Eng. Com. Sub. for Senate Bill 578**—A Bill to amend and reenact § 11-13-20 of the Code of West Virginia, 1931, as amended, relating to adjusting the calculation of business and occupation tax on the business of generating, producing, or selling electricity from solar energy facilities; defining terms and establishing the taxable generating capacity for certain generating units utilizing solar photovoltaic methods.

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

Engrossed Committee Substitute for Senate Bill 578, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 578) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo,

Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 578) takes effect July 1, 2020.

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

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

**Eng. Com. Sub. for Senate Bill 614**, Changing method of allocating funding from Safe School Funds.

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

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

On page one, section forty-eight, line twelve, after the word “windows” by striking out the comma and the word “etc.”

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

Engrossed Committee Substitute for Senate Bill 614, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano,

Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 614) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 614) takes effect from passage.

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

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

**Eng. Senate Bill 654**, Allowing certain sheriffs transfer from PERS to Deputy Sheriff Retirement System.

A message from the Clerk of the House of Delegates announced the passage by that body, without amendment, to take effect July 1, 2020, and requested the concurrence of the Senate in the changed effective date, as to

**Eng. Com. Sub. for Senate Bill 662**, Removing restrictions on fiduciary commissioners.

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

On further motion of Senator Takubo, the Senate concurred in the changed effective date of the bill, that being to take effect July 1, 2020, instead of ninety days from passage.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 662) takes effect July 1, 2020.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect July 1, 2020, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 668**, Enacting Uniform Trust Decanting Act.

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

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

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

**ARTICLE 8B. WEST VIRGINIA UNIFORM TRUST  
DECANTING ACT.**

**§44D-8B-1. Short title.**

This article may be cited as the West Virginia Uniform Trust Decanting Act.

**§44D-8B-2. Definitions.**

In addition to the definitions contained in §44D-1-103 of this code which apply to this article:

(1) “Appointive property” means the property or property interest subject to a power of appointment.

(2) “Authorized fiduciary” means:

(A) A trustee or other fiduciary, other than a grantor, that has discretion to distribute or direct a trustee to distribute part or all of the principal of the first trust to one or more current beneficiaries;

(B) A special fiduciary appointed under §44D-8B-9 of this code; or

(C) A special-needs fiduciary under §44D-8B-13 of this code.

(3) “Charitable interest” means an interest in a trust which:

(A) Is held by an identified charitable organization and makes the organization a qualified beneficiary;

(B) Benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or



(C) Is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary.

(4) “Charitable organization” means:

(A) A person, other than an individual, organized and operated exclusively for charitable purposes; or

(B) A government or governmental subdivision, agency, or instrumentality, to the extent it holds funds exclusively for a charitable purpose.

(5) “Charitable purpose” means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose, or another purpose the achievement of which is beneficial to the community.

(6) “Decanting power” or “the decanting power” means the power of an authorized fiduciary under this article to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust.

(7) “Expanded distributive discretion” means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard.

(8) “First trust” means a trust over which an authorized fiduciary may exercise the decanting power.

(9) “First-trust instrument” means the trust instrument for a first trust.

(10) “General power of appointment” means a power of appointment exercisable in favor of a powerholder, the powerholder’s estate, a creditor of the powerholder, or a creditor of the powerholder’s estate.

(11) “Power of appointment” means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of

appointment over the appointive property. The term does not include a power of attorney.

(12) “Powerholder” means a person in which a donor creates a power of appointment.

(13) “Presently exercisable power of appointment” means a power of appointment exercisable by the powerholder at the relevant time. The term:

(A) Includes a power of appointment exercisable only after:

(i) The occurrence of the specified event;

(ii) The satisfaction of the ascertainable standard; or

(iii) The passage of the specified time; and

(B) Does not include a power exercisable only at the powerholder’s death.

(14) “Reasonably definite standard” means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 U.S.C. §674(b)(5)(A) and any applicable regulations.

(15) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(16) “Second trust” means:

(A) A first trust after modification under this article; or

(B) A trust to which a distribution of property from a first trust is or may be made under this article.

(17) “Second-trust instrument” means the trust instrument for a second trust.

(18) “Sign” means with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process.

**§44D-8B-3. Scope.**

(a) Except as otherwise provided in subsections (b) and (c) of this section, this article applies to an express trust that is irrevocable or revocable by the grantor only with the consent of the trustee or a person holding an adverse interest.

(b) This article does not apply to a trust held solely for charitable purposes.

(c) Subject to §44D-8B-15 of this code, a trust instrument may restrict or prohibit exercise of the decanting power.

(d) This article does not limit the power of a trustee, powerholder, or other person to distribute or appoint property in further trust or to modify a trust under the trust instrument, law of this state other than this article, common law, a court order, or a nonjudicial settlement agreement.

(e) This article does not affect the ability of a grantor to provide in a trust instrument for the distribution of the trust property or appointment in further trust of the trust property or for modification of the trust instrument.

**§44D-8B-4. Fiduciary duty.**

(a) In exercising the decanting power, an authorized fiduciary shall act in accordance with its fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

(b) This article does not create or imply a duty to exercise the decanting power or to inform beneficiaries about the applicability of this article.

(c) Except as otherwise provided in a first-trust instrument, for purposes of this article and §44D-8-1 and §44D-8-2(a) of this code,

the terms of the first trust are considered to include the decanting power.

**§44D-8B-5. Application; governing law.**

This article applies to a trust created before, on, or after the effective date of this article which:

(1) Has its principal place of administration in this state, including a trust whose principal place of administration has been changed to this state; or

(2) Provides by its trust instrument that it is governed by the law of this state or is governed by the law of this state for the purpose of:

(A) Administration, including administration of a trust whose governing law for purposes of administration has been changed to the law of this state;

(B) Construction of terms of the trust; or

(C) Determining the meaning or effect of terms of the trust.

**§44D-8B-6. Reasonable reliance.**

A trustee or other person that reasonably relies on the validity of a distribution of part or all of the property of a trust to another trust, or a modification of a trust, under this article, law of this state other than this article, or the law of another jurisdiction is not liable to any person for any action or failure to act as a result of the reliance.

**§44D-8B-7. Notice; exercise of decanting power.**

(a) In this section, a notice period begins on the day notice is given under subsection (c) of this section and ends 59 days after the day notice is given.

(b) Except as otherwise provided in this article, an authorized fiduciary may exercise the decanting power without the consent of any person and without court approval.

(c) Except as otherwise provided in subsection (f) of this section, an authorized fiduciary shall give notice in a record of the intended exercise of the decanting power not later than 60 days before the exercise to:

(1) Each grantor of the first trust, if living or then in existence;

(2) Each qualified beneficiary of the first trust;

(3) Each holder of a presently exercisable power of appointment over any part, or all of, the first trust;

(4) Each person that currently has the right to remove or replace the authorized fiduciary;

(5) Each other fiduciary of the first trust;

(6) Each fiduciary of the second trust; and

(7) The West Virginia Attorney General, if §44D-8B-14(b) of this code applies.

(d) An authorized fiduciary is not required to give notice under subsection (c) of this section to a person that is not known to the fiduciary.

(e) A notice under subsection (c) of this section must:

(1) Specify the manner in which the authorized fiduciary intends to exercise the decanting power;

(2) Specify the proposed effective date for exercise of the power;

(3) Include a copy of the first-trust instrument; and

(4) Include a copy of all second-trust instruments.

(f) The decanting power may be exercised before expiration of the notice period under subsection (a) of this section if all persons entitled to receive notice waive the period in a signed record.

(g) The receipt of notice, waiver of the notice period, or expiration of the notice period does not affect the right of a person to file an application under §44D-8B-9 of this code asserting that:

(1) An attempted exercise of the decanting power is ineffective because it did not comply with this article or was an abuse of discretion or breach of fiduciary duty; or

(2) Section 44D-8B-22 of this code applies to the exercise of the decanting power.

(h) An exercise of the decanting power is not ineffective because of the failure to give notice to one or more persons under subsection (c) of this section if the authorized fiduciary acted with reasonable care to comply with that subsection.

#### **§44D-8B-8. Representation.**

(a) Notice to a person with authority to represent and bind another person under a first-trust instrument or the provisions of this chapter has the same effect as notice given directly to the person represented.

(b) Consent of or waiver by a person with authority to represent and bind another person under a first-trust instrument or the provisions of this chapter is binding on the person represented unless the person represented objects to the representation before the consent or waiver otherwise would become effective.

(c) A person with authority to represent and bind another person under a first-trust instrument or the provisions of this chapter may file an application under §44D-8B-9 of this code on behalf of the person represented.

(d) A grantor may not represent or bind a beneficiary under this article.

#### **§44D-8B-9. Court involvement.**

(a) On application of an authorized fiduciary, a person entitled to notice under §44D-8B-7(c) of this code, a beneficiary, or with

respect to a charitable interest any other person that has standing to enforce the charitable interest, the court may:

(1) Provide instructions to the authorized fiduciary regarding whether a proposed exercise of the decanting power is permitted under this article and consistent with the fiduciary duties of the authorized fiduciary;

(2) Appoint a special fiduciary and authorize the special fiduciary to determine whether the decanting power should be exercised under this article and to exercise the decanting power;

(3) Approve an exercise of the decanting power;

(4) Determine that a proposed or attempted exercise of the decanting power is ineffective because:

(A) After applying §44D-8B-22 of this code, the proposed or attempted exercise does not, or did not, comply with this article; or

(B) The proposed or attempted exercise would be or was an abuse of the fiduciary's discretion or a breach of fiduciary duty;

(5) Determine the extent to which §44D-8B-22 of this code applies to a prior exercise of the decanting power;

(6) Provide instructions to the trustee regarding the application of §44D-8B-22 of this code to a prior exercise of the decanting power; or

(7) Order other relief to carry out the purposes of this article.

(b) On application of an authorized fiduciary, the court may approve:

(1) An increase in the fiduciary's compensation under §44D-8B-16 of this code; or

(2) A modification under §44D-8B-18 of this code of a provision granting a person the right to remove or replace the fiduciary.

**§44D-8B-10. Formalities.**

An exercise of the decanting power must be made in a record signed by an authorized fiduciary. The signed record must, directly or by reference to the notice required by §44D-8B-7 of this code, identify the first trust and the second trust or trusts and state the property of the first trust being distributed to each second trust and the property, if any, that remains in the first trust.

**§44D-8B-11. Decanting power under expanded distributive discretion.**

(a) In this section:

(1) “Noncontingent right” means a right that is not subject to the exercise of discretion or the occurrence of a specified event that is not certain to occur. The term does not include a right held by a beneficiary if any person has discretion to distribute property subject to the right to any person other than the beneficiary or the beneficiary’s estate.

(2) “Presumptive remainder beneficiary” means a qualified beneficiary other than a current beneficiary.

(3) “Successor beneficiary” means a beneficiary that is not a qualified beneficiary on the date the beneficiary’s qualification is determined. The term does not include a person that is a beneficiary only because the person holds a nongeneral power of appointment.

(4) “Vested interest” means:

(A) A right to a mandatory distribution that is a noncontingent right as of the date of the exercise of the decanting power;

(B) A current and noncontingent right, annually or more frequently, to a mandatory distribution of income, a specified dollar amount, or a percentage of value of some or all of the trust property;



(C) A current and noncontingent right, annually or more frequently, to withdraw income, a specified dollar amount, or a percentage of value of some or all of the trust property;

(D) A presently exercisable general power of appointment; or

(E) A right to receive an ascertainable part of the trust property on the trust's termination which is not subject to the exercise of discretion or to the occurrence of a specified event that is not certain to occur.

(b) Subject to subsection (c) of this section and §44D-8B-14 of this code, an authorized fiduciary that has expanded distributive discretion over the principal of a first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(c) Subject to §44D-8B-13 of this code, in an exercise of the decanting power under this section, a second trust may not:

(1) Include as a current beneficiary a person that is not a current beneficiary of the first trust, except as otherwise provided in subsection (d) of this section;

(2) Include as a presumptive remainder beneficiary or successor beneficiary a person that is not a current beneficiary, presumptive remainder beneficiary, or successor beneficiary of the first trust, except as otherwise provided in subsection (d) of this section; or

(3) Reduce or eliminate a vested interest.

(d) Subject to subdivision (3), subsection (c) of this section and §44D-8B-14 of this code, in an exercise of the decanting power under this section, a second trust may be a trust created or administered under the law of any jurisdiction and may:

(1) Retain a power of appointment granted in the first trust;

(2) Omit a power of appointment granted in the first trust, other than a presently exercisable general power of appointment;

(3) Create or modify a power of appointment if the powerholder is a current beneficiary of the first trust and the authorized fiduciary has expanded distributive discretion to distribute principal to the beneficiary; and

(4) Create or modify a power of appointment if the powerholder is a presumptive remainder beneficiary or successor beneficiary of the first trust, but the exercise of the power may take effect only after the powerholder becomes, or would have become if then living, a current beneficiary.

(e) A power of appointment described in subdivisions (1) through (4), inclusive, subsection (d) of this section may be general or nongeneral. The class of permissible appointees in favor of which the power may be exercised may be broader than or different from the beneficiaries of the first trust.

(f) If an authorized fiduciary has expanded distributive discretion over part, but not all of the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has expanded distributive discretion.

**§44D-8B-12. Decanting power under limited distributive discretion.**

(a) In this section, “limited distributive discretion” means a discretionary power of distribution that is limited to an ascertainable standard or a reasonably definite standard.

(b) An authorized fiduciary that has limited distributive discretion over the principal of the first trust for benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(c) Under this section and subject to §44D-8B-14 of this code, a second trust may be created or administered under the law of any jurisdiction. Under this section, the second trusts, in the aggregate, must grant each beneficiary of the first trust beneficial interests which are substantially similar to the beneficial interests of the beneficiary in the first trust.

(d) A power to make a distribution under a second trust for the benefit of a beneficiary who is an individual is substantially similar to a power under the first trust to make a distribution directly to the beneficiary. A distribution is for the benefit of a beneficiary if:

(1) The distribution is applied for the benefit of the beneficiary;

(2) The beneficiary is under a legal disability or the trustee reasonably believes the beneficiary is incapacitated, and the distribution is made as permitted under this chapter; or

(3) The distribution is made as permitted under the terms of the first-trust instrument and the second-trust instrument for the benefit of the beneficiary.

(e) If an authorized fiduciary has limited distributive discretion over part, but not all of, the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has limited distributive discretion.

**§44D-8B-13. Trust for beneficiary with disability.**

(a) In this section:

(1) “Beneficiary with a disability” means a beneficiary of a first trust who the special-needs fiduciary believes may qualify for governmental benefits based on disability, whether or not the beneficiary currently receives those benefits or is an individual who has been adjudicated a protected person.

(2) “Governmental benefits” means financial aid or services from a state, federal, or other public agency.

(3) “Special-needs fiduciary” means, with respect to a trust that has a beneficiary with a disability:

(A) A trustee or other fiduciary, other than a grantor, that has discretion to distribute part or all of the principal of a first trust to one, or more current beneficiaries;

(B) If no trustee or fiduciary has discretion under paragraph (A) of this subdivision, a trustee or other fiduciary, other than a grantor, that has discretion to distribute part, or all of, the income of the first trust to one or more current beneficiaries; or

(C) If no trustee or fiduciary has discretion under paragraphs (A) and (B) of this subdivision, a trustee or other fiduciary, other than a grantor, that is required to distribute part, or all of, the income or principal of the first trust to one or more current beneficiaries.

(4) “Special-needs trust” means a trust the trustee believes would not be considered a resource for purposes of determining whether a beneficiary with a disability is eligible for governmental benefits.

(b) A special-needs fiduciary may exercise the decanting power under §44D-8B-11 of this code over the principal of a first trust as if the fiduciary had authority to distribute principal to a beneficiary with a disability subject to expanded distributive discretion if:

(1) A second trust is a special-needs trust that benefits the beneficiary with a disability; and

(2) The special-needs fiduciary determines that exercise of the decanting power will further the purposes of the first trust.

(c) In an exercise of the decanting power under this section, the following rules apply:

(1) Notwithstanding §44D-8B-11(c)(2) of this code, the interest in the second trust of a beneficiary with a disability may:

(A) Be a pooled trust as defined by Medicaid law for the benefit of the beneficiary with a disability under 42 U.S.C. §1396p(d)(4)(C); or

(B) Contain payback provisions complying with reimbursement requirements of Medicaid law under 42 U.S.C. §1396p(d)(4)(A).

(2) Section 44D-8B-11(c)(3) of this code does not apply to the interests of the beneficiary with a disability.

(3) Except as affected by any change to the interests of the beneficiary with a disability, the second trust, or if there are two or more second trusts, the second trusts in the aggregate, must grant each other beneficiary of the first trust beneficial interests in the second trusts which are substantially similar to the beneficiary's beneficial interests in the first trust.

**§44D-8B-14. Protection of charitable interest.**

(a) In this section:

(1) "Determinable charitable interest" means a charitable interest that is a right to a mandatory distribution currently, periodically, on the occurrence of a specified event, or after the passage of a specified time and which is unconditional or will be held solely for charitable purposes.

(2) "Unconditional" means not subject to the occurrence of a specified event that is not certain to occur, other than a requirement in a trust instrument that a charitable organization be in existence or qualify under a particular provision of the United States Internal Revenue Code of 1986 on the date of the distribution, if the charitable organization meets the requirement on the date of determination.

(b) If a first trust contains a determinable charitable interest which is not held by an identified charitable organization, the Attorney General has the rights of a qualified beneficiary and may represent and bind the charitable interest.

(c) If a first trust contains a charitable interest, the second trust or trusts may not:

(1) Diminish the charitable interest;

(2) Diminish the interest of an identified charitable organization that holds the charitable interest;

(3) Alter any charitable purpose stated in the first-trust instrument; or

(4) Alter any condition or restriction related to the charitable interest.

(d) If there are two or more second trusts, the second trusts shall be treated as one trust for purposes of determining whether the exercise of the decanting power diminishes the charitable interest or diminishes the interest of an identified charitable organization for purposes of subsection (c) of this section.

(e) If a first trust contains a determinable charitable interest which is not held by an identified charitable organization, the second trust or trusts that include a charitable interest pursuant to subsection (c) of this section must be administered under the law of this state unless:

(1) The Attorney General, after receiving notice under section 7 of this article, fails to object in a signed record delivered to the authorized fiduciary within the notice period;

(2) The Attorney General consents in a signed record to the second trust or trusts being administered under the law of another jurisdiction; or

(3) The court approves the exercise of the decanting power.

**§44D-8B-15. Trust limitation on decanting.**

(a) An authorized fiduciary may not exercise the decanting power to the extent the first-trust instrument expressly prohibits exercise of:

(1) The decanting power; or

(2) A power granted by state law to the fiduciary to distribute part, or all of, the principal of the trust to another trust or to modify the trust.

(b) Exercise of the decanting power is subject to any restriction in the first-trust instrument that expressly applies to exercise of:

(1) The decanting power; or

(2) A power granted by state law to a fiduciary to distribute part, or all of, the principal of the trust to another trust or to modify the trust.

(c) A general prohibition of the amendment or revocation of a first trust, a spendthrift clause, or a clause restraining the voluntary or involuntary transfer of a beneficiary's interest does not preclude exercise of the decanting power.

(d) Subject to subsections (a) and (b) of this section, an authorized fiduciary may exercise the decanting power under this article even if the first-trust instrument permits the authorized fiduciary or another person to modify the first-trust instrument or to distribute part, or all of, the principal of the first trust to another trust.

(e) If a first-trust instrument contains an express prohibition described in subsection (a) of this section or an express restriction described in subsection (b) of this section, the provision must be included in the second-trust instrument.

**§44D-8B-16. Change in compensation.**

(a) If a first-trust instrument specifies an authorized fiduciary's compensation, the fiduciary may not exercise the decanting power to increase the fiduciary's compensation above the specified compensation unless:

(1) All qualified beneficiaries of the second trust consent to the increase in a signed record; or

(2) The increase is approved by the court.

(b) If a first-trust instrument does not specify an authorized fiduciary's compensation, the fiduciary may not exercise the decanting power to increase the fiduciary's compensation above the compensation permitted by this chapter unless:

(1) All qualified beneficiaries of the second trust consent to the increase in a signed record; or

(2) The increase is approved by the court.

(c) A change in an authorized fiduciary's compensation which is incidental to other changes made by the exercise of the decanting power is not an increase in the fiduciary's compensation for purposes of subsections (a) and (b) of this section.

**§44D-8B-17. Relief from liability and indemnification.**

(a) Except as otherwise provided in this section, a second-trust instrument may not relieve an authorized fiduciary from liability for breach of trust to a greater extent than the first-trust instrument.

(b) A second-trust instrument may provide for indemnification of an authorized fiduciary of the first trust or another person acting in a fiduciary capacity under the first trust for any liability or claim that would have been payable from the first trust if the decanting power had not been exercised.

(c) A second-trust instrument may not reduce fiduciary liability in the aggregate.

(d) Subject to subsection (c) of this section, a second-trust instrument may divide and reallocate fiduciary powers among fiduciaries, including one or more trustees, distribution advisors, investment advisors, trust protectors, or other persons, and relieve a fiduciary from liability for an act or failure to act of another fiduciary as permitted by law of this state other than this article.

**§44D-8B-18. Removal or replacement of authorized fiduciary.**

An authorized fiduciary may not exercise the decanting power to modify a provision in a first-trust instrument granting another person power to remove or replace the fiduciary unless:

(1) The person holding the power consents to the modification in a signed record and the modification applies only to the person;



(2) The person holding the power and the qualified beneficiaries of the second trust consent to the modification in a signed record and the modification grants a substantially similar power to another person; or

(3) The court approves the modification and the modification grants a substantially similar power to another person.

**§44D-8B-19. Tax-related limitations.**

(a) In this section:

(1) “Grantor trust” means a trust as to which a grantor of a first trust is considered the owner under 26 U.S.C. §§671-677 or 26 U.S.C. §679.

(2) “Internal Revenue Code” means the United States Internal Revenue Code of 1986.

(3) “Nongrantor trust” means a trust that is not a grantor trust.

(4) “Qualified benefits property” means property subject to the minimum distribution requirements of 26 U.S.C. §401(a)(9), and any applicable regulations, or to any similar requirements that refer to 26 U.S.C. §401(a)(9) or the regulations.

(b) An exercise of the decanting power is subject to the following limitations:

(1) If a first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for a marital deduction for purposes of the gift or estate tax under the Internal Revenue Code or a state gift, estate, or inheritance tax, the second-trust instrument must not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified.

(2) If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for a charitable deduction for purposes of the income, gift, or estate tax under the Internal Revenue Code or a state income, gift, estate, or inheritance tax, the second-trust instrument must not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified.

(3) If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for the exclusion from the gift tax described in 26 U.S.C. §2503(b), the second-trust instrument must not include or omit a term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. §2503(b). If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for the exclusion from the gift tax described in 26 U.S.C. §2503(b) by application of 26 U.S.C. §2503(c), the second-trust instrument must not include or omit a term that, if included or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. §2503(c).

(4) If the property of the first trust includes shares of stock in an S corporation, as defined in 26 U.S.C. §1361 and the first trust is, or but for provisions of this article other than this section would be, a permitted shareholder under any provision of 26 U.S.C. §1361, an authorized fiduciary may exercise the power with respect to part or all of the S corporation stock only if any second trust receiving the stock is a permitted shareholder under 26 U.S.C. §1361(c)(2). If the property of the first trust includes shares of stock in an S corporation and the first trust is, or but for provisions of this article other than this section would be, a qualified subchapter-S trust within the meaning of 26 U.S.C. §1361(d), the

second-trust instrument must not include or omit a term that prevents the second trust from qualifying as a qualified subchapter-S trust.

(5) If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for a zero inclusion ratio for purposes of the generation-skipping transfer tax under 26 U.S.C. §2642(c) the second-trust instrument must not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the transfer to the first trust from qualifying for a zero inclusion ratio under 26 U.S.C. §2642(c).

(6) If the first trust is directly or indirectly the beneficiary of qualified benefits property, the second-trust instrument may not include or omit any term that, if included in or omitted from the first-trust instrument, would have increased the minimum distributions required with respect to the qualified benefits property under 26 U.S.C. §401(a)(9) and any applicable regulations, or any similar requirements that refer to 26 U.S.C. §401(a)(9) or the regulations. If an attempted exercise of the decanting power violates the preceding sentence, the trustee is determined to have held the qualified benefits property and any reinvested distributions of the property as a separate share from the date of the exercise of the power and §2201 applies to the separate share.

(7) If the first trust qualifies as a grantor trust because of the application of 26 U.S.C. §672(f)(2)(A), the second trust may not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the first trust from qualifying under 26 U.S.C. §672(f)(2)(A).

(8) In this subdivision, “tax benefit” means a federal or state tax deduction, exemption, exclusion, or other benefit not otherwise listed in this section, except for a benefit arising from being a grantor trust. Subject to subdivision (9) of this subsection, a second-trust instrument may not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented qualification for a tax benefit if:

(A) The first-trust instrument expressly indicates an intent to qualify for the benefit or the first-trust instrument clearly is designed to enable the first trust to qualify for the benefit; and

(B) The transfer of property held by the first trust or the first trust qualified, or but for provisions of this article other than this section, would have qualified for the tax benefit.

(9) Subject to subdivision (4) of this subsection:

(A) Except as otherwise provided in subdivision (7) of this subsection, the second trust may be a nongrantor trust, even if the first trust is a grantor trust; and

(B) Except as otherwise provided in subdivision (10) of this subsection, the second trust may be a grantor trust, even if the first trust is a nongrantor trust.

(10) An authorized fiduciary may not exercise the decanting power if a grantor objects in a signed record delivered to the fiduciary within the notice period and:

(A) The first trust and a second trust are both grantor trusts, in whole or in part, the first trust grants the grantor or another person the power to cause the first trust to cease to be a grantor trust, and the second trust does not grant an equivalent power to the grantor or other person; or

(B) The first trust is a nongrantor trust and a second trust is a grantor trust, in whole or in part, with respect to the grantor, unless:

(i) The grantor has the power at all times to cause the second trust to cease to be a grantor trust; or

(ii) The first-trust instrument contains a provision granting the grantor or another person a power that would cause the first trust to cease to be a grantor trust and the second-trust instrument contains the same provision.

**§44D-8B-20. Duration of second trust.**

(a) Subject to subsection (b) of this section, a second trust may have a duration that is the same as or different from the duration of the first trust.

(b) To the extent that property of a second trust is attributable to property of the first trust, the property of the second trust is subject to any rules governing maximum perpetuity, accumulation, or suspension of the power of alienation which apply to property of the first trust.

**§44D-8B-21. Need to distribute not required.**

An authorized fiduciary may exercise the decanting power whether or not under the first trust's discretionary distribution standard the fiduciary would have made or could have been compelled to make a discretionary distribution of principal at the time of the exercise.

**§44D-8B-22. Saving provision.**

(a) If exercise of the decanting power would be effective under this article except that the second-trust instrument in part does not comply with this article, the exercise of the power is effective and the following rules apply with respect to the principal of the second trust attributable to the exercise of the power:

(1) A provision in the second-trust instrument which is not permitted under this article is void to the extent necessary to comply with this article; and

(2) A provision required by this article to be in the second-trust instrument which is not contained in the instrument is considered to be included in the instrument to the extent necessary to comply with this article.

(b) If a trustee or other fiduciary of a second trust determines that subsection (a) of this section applies to a prior exercise of the decanting power, the fiduciary shall take corrective action consistent with the fiduciary's duties.

**§44D-8B-23. Trust for care of animal.**

(a) In this section:

(1) “Animal trust” means a trust or an interest in a trust created to provide for the care of one or more animals.

(2) “Protector” means a person appointed in an animal trust to enforce the trust on behalf of the animal or, if no person is appointed in the trust, a person appointed by the court for that purpose.

(b) The decanting power may be exercised over an animal trust that has a protector to the extent the trust could be decanted under this article if each animal that benefits from the trust were an individual, if the protector consents in a signed record to the exercise of the power.

(c) A protector for an animal has the rights under this article of a qualified beneficiary.

(d) Notwithstanding any other provision of this article, if a first trust is an animal trust, in an exercise of the decanting power, the second trust must provide that trust property may be applied only to its intended purpose for the period the first trust benefitted the animal.

**§44D-8B-24. Terms of second trust.**

Any reference in this chapter to a trust instrument or terms of the trust includes a second-trust instrument and the terms of the second trust.

**§44D-8B-25. Grantor.**

(a) For purposes of law of this state other than this article and subject to subsection (b) of this section, a grantor of a first trust is considered to be the grantor of the second trust with respect to the portion of the principal of the first trust subject to the exercise of the decanting power.

(b) In determining grantor intent with respect to a second trust, the intent of a grantor of the first trust, a grantor of the second trust, and the authorized fiduciary may be considered.

**§44D-8B-26. Later-discovered property.**

(a) Except as otherwise provided in subsection (c) of this section, if exercise of the decanting power was intended to distribute all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust and property paid to or acquired by the first trust after the exercise of the power is part of the trust estate of the second trust or trusts.

(b) Except as otherwise provided in subsection (c) of this section, if exercise of the decanting power was intended to distribute less than all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power remains part of the trust estate of the first trust.

(c) An authorized fiduciary may provide in an exercise of the decanting power or by the terms of a second trust for disposition of later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power.

**§44D-8B-27. Obligations.**

A debt, liability, or other obligation enforceable against property of a first trust is enforceable to the same extent against the property when held by the second trust after exercise of the decanting power.

**§44D-8B-28. Uniformity of application and construction.**

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**§44D-8B-29. Relation to Electronic Signatures in Global and National Commerce Act.**

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C.

§7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. §7001(c), or authorize electronic delivery of any of the notices described in §103(b) of that act, 15 U.S.C. §7003(b).

**§44D-8B-30. Severability.**

If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

**§44D-8B-31. Effective date.**

This article takes effect on July 1, 2020.

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

Engrossed Committee Substitute for Senate Bill 668, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 668) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty,



Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 668) takes effect July 1, 2020.

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

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

**Eng. Com. Sub. for Senate Bill 678**, Waiving fines and fees for completing Getting Over Addicted Lifestyles Successfully Program.

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

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

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

## **ARTICLE 5. BUREAU OF PRISONS AND JAILS.**

### **§15A-5-10. Completing the GOALS Program satisfies the requirements for the DUI Safety and Treatment Program.**

Notwithstanding any provision of this code to the contrary, any individual committed to the custody of the Commissioner of the

Division of Corrections and Rehabilitation who successfully completes the Getting Over Addictive Lifestyles Successfully Program shall be deemed to have also completed the West Virginia DUI Safety and Treatment Program discussed in §17C-5A-3 of this code for purposes of reinstatement of driving privileges.

The Commissioner of the Division of Corrections and Rehabilitation shall provide each individual that completes the Getting Over Addictive Lifestyles Successfully Program with a certificate of completion. Upon completion of the Getting Over Addictive Lifestyles Successfully Program, the individual shall provide the certificate of completion to the Division of Motor Vehicles. The Division of Motor Vehicles shall accept the certificate as evidence of completion of the DUI Safety and Treatment Program.;

And,

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

**Eng. Com. Sub. for Senate Bill 678**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-5-10, requiring that successful completion of the Getting Over Addicted Lifestyles Successfully Program be deemed as successful completion of the Division of Motor Vehicles' DUI Safety and Treatment Program; requiring the Division of Corrections and Rehabilitation to provide each individual that completes the Getting Over Addicted Lifestyles Successfully Program with a certificate of completion; and requiring the Division of Motor Vehicles to accept the certificate of completion as evidence of completion of the DUI Safety and Treatment Program.

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

Engrossed Committee Substitute for Senate Bill 678, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 678) passed with its House of Delegates amended title.

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

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

**Eng. Com. Sub. for Senate Bill 689**, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act.

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

**Eng. Senate Bill 691**, Limiting programs adopted by State Board of Education.

A message from the Clerk of the House of Delegates announced that that body had receded from its amendments to, and the passage as amended by deletion, of

**Eng. Senate Bill 727**, Relating to disbursement of funds for highway road repair.

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

**Eng. Com. Sub. for Senate Bill 729**, Relating to awards and disability under Deputy Sheriff Retirement Act.

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

**Eng. Com. Sub. for Senate Bill 746**, Providing contracted managed care companies access to uniform maternal screening tool.

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

**Eng. Com. Sub. for Senate Bill 749**, Requiring Fatality and Mortality Review Team share data with CDC.

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

**Eng. Senate Bill 750**, Establishing extended learning opportunities.

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

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

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

## **ARTICLE 2. STATE BOARD OF EDUCATION.**

### **§18-2-7e. Alternative educational opportunities for elective course credit**

(a) The Legislature finds and declares that:

(1) Programs outside of the traditional classroom have educational value;

(2) Many entities, including, but not limited to, nonprofit organizations, afterschool programs, businesses, and trade associations, may have an interest in offering programs outside of the traditional classroom that are attractive to students and contain educational value;

(3) Learning opportunities that are designed to address the interests and aptitudes of the individual student will enable students to discover, develop, and apply their individual talents to realize their full potential;

(4) Policies that allow for educational opportunities outside of the traditional classroom exist in other states;

(5) Providing credit for alternative educational opportunities will enrich the learning environment of students and develop well-rounded individuals ready for a life of learning, productive work, and community involvement.

(b) The State Board of Education shall promulgate a rule requiring county boards of education to develop an alternative educational opportunities policy that provides students involved in educational opportunities outside of the traditional classroom to receive elective course credit.

(c) The county boards of education shall adopt an alternative educational opportunities policy that recognizes learning opportunities outside of the traditional classroom and grants elective course credit. The policy shall:

(1) Provide for an application process for entities to submit proposals for alternative educational programs that will qualify for elective course credit;

(2) Define which entities are eligible to submit applications for alternative educational programs: *Provided*, That entities which are deemed eligible shall be broadly defined and shall include, but not be limited to:

(A) Nonprofit organizations;

(B) Businesses with established locations in the state;

(C) Trade associations;

(D) Parents of students involved in programs that may otherwise qualify as an alternative educational program;

(E) Teachers involved in programs outside of the traditional classroom; and

(F) School personnel involved in programs outside of the traditional classroom;

(3) Provide for the criteria to be used to evaluate the alternative educational program;

(4) Describe any communication and collaboration needed between the local school, county board, or State Board of Education to implement alternative educational opportunities;

(5) Place requirements on the entity, such as background checks for key personnel, and minimum accountability standards; and

(6) Provide a process for student credit transfer.

(d) The county boards of education shall have the authority to approve or deny an application for an alternative educational program: *Provided*, That if the application is denied, the county board shall provide a detailed explanation of the reasons for its denial and suggest ways to improve the application that will assist its more favorable view by the county board.

(e) The county boards of education shall have the authority to audit approved alternative educational programs at any time. If the audit results in findings that an approved program is not meeting the provisions of this section or the policy outlined in subsection (c) of this section, then the county board may disqualify the program immediately.

(f) The Department of Education shall prepare a report of data analysis and an overview of the alternative learning opportunities to the Legislative Oversight Commission on Education Accountability after 3 years of implementation.;

And,

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

**Eng. Senate Bill 750**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-7e, relating to establishing alternative educational opportunities for elective course credit; setting forth legislative findings; requiring the state board to promulgate a rule requiring county boards to develop alternative educational opportunities policies; requiring county boards to adopt alternative educational opportunities polices and setting forth parameters therefore; authorizing county boards to approve or deny alternative educational programs and to audit the same; and requiring the Department of Education to report to the Legislative Oversight Commission on Education Accountability after three years of implementation.

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

Engrossed Senate Bill 750, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 750) passed with its House of Delegates amended title.

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

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

**Eng. Com. Sub. for Senate Bill 760**, Allowing state college or university apply to HEPC for designation as administratively exempt school.

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

**Eng. Senate Bill 767**, Relating to licensure of hospitals.

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

**Eng. Com. Sub. for Senate Bill 770**, Revising requirements for post-doctoral training.

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

**Eng. Com. Sub. Senate Bill 793**, Relating to B&O taxes imposed on certain coal-fired electric generating units.

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

**Eng. Senate Bill 812**, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services.

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



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

On page two, after line fifteen, by inserting the following:

From the above appropriation for In-Home Services and Nutrition for Senior Citizens (fund 5405, appropriation 91700), \$1,500,000 shall be utilized for congregate and home delivered nutrition meal reimbursement rate increases and \$1,500,000 shall be utilized for the nutrition home delivered meal program wait list.

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

Engrossed Senate Bill 812, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 812) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 812) takes effect from passage.

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

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

**Eng. Senate Bill 830**, Eliminating special merit-based employment system for health care professionals.

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

**Eng. Senate Bill 846**, Requiring hospital publish notification prior to facility closure regarding patient medical records.

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

**Eng. Senate Bill 848**, Clarifying persons charged with DUI may not participate in Military Service Members Court.

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

**Eng. Senate Bill 849**, Relating to military service as factor in certain insurance coverage rates.

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

**Eng. Com. Sub. for House Bill 4001**, Creating West Virginia Impact Fund.

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

**Eng. House Bill 4022**, Clarifying the qualifications of the Chancellor of the Higher Education Policy Commission.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended with its Senate amended title, to take effect July 1, 2020, of

**Eng. House Bill 4113**, Relating to motor fuel excise taxes.

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

**Eng. House Bill 4409**, Relating to transferring remaining funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund.

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

**Eng. Com. Sub. for House Bill 4414**, Relating to the selection of language and development milestones for the deaf and hard-of-hearing children.

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

**Eng. Com. Sub. for House Bill 4415**, Relating to missing and endangered children.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, to take effect July 1, 2020, and requested the concurrence

of the Senate in the House of Delegates amendments to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 4438**, Relating to the licensing of advance deposit wagering.

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

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

On page two, section twelve-e, subsection (a), by striking out the words “may be mutually agreed upon and set forth in an agreement between the ADW licensee and each individual racetrack licensed in this state who desires to offer ADW. A fully executed agreement shall be submitted to the Racing Commission. The Racing Commission is prohibited from disclosure of any information in the agreement. The information in the agreement shall remain confidential and shall not form part of any public record and is exempt from disclosure under the provisions of chapter 29B of this code. Such information may be publicly disclosed only for the purposes of an official law enforcement investigation, or when its production is required in a court proceeding. In the absence of such an agreement, if an ADW licensee offers ADW at a racetrack licensed in this state, the source market fee”;

On page five, section twelve-e, by striking out all of subsection (k) and inserting in lieu thereof a new subsection, designated subsection (k), to read as follows:

(k) The Racing Commission shall submit a report by December 31, 2020, and annually thereafter to the Joint Committee on Government and Finance detailing the operation of ADW in this state. The report shall include, but is not limited to, the following:

(1) A complete list of ADW licensees offering ADW services;

(2) The total amount of funds paid to the Racing Commission pursuant to subsection (h) of this section;

(3) The total amount deposited in the preceding 12-month period in the special revenue account set forth in subsection (i) of this section;

(4) The amounts distributed as set forth in subdivision (b) of this section;

(5) Beginning with the report due December 31, 2021, a statistical comparison of ADW services to the preceding year; and

(6) The total amount of wagering by West Virginia residents through ADW Licensees.;

And,

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

**Eng. Com. Sub. for House Bill 4438**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-12e, relating to the licensing of advance deposit wagering; defining terms; providing for source market fees; providing for certain distribution of source market fees derived from wagers of account holders; providing that advance deposit account wagers are authorized; providing exception from certain provisions of code; conferring jurisdiction to the Racing Commission; providing for the assessment and imposition of licensing and annual renewal fees; providing that applicants may bear certain costs; providing for a special revenue account; providing for a fee to be paid by advance deposit wagering licensees and deposited into the special revenue account; prohibiting advance deposit wagering in West Virginia unless conducted through an advance deposit wagering licensee; exempting advance deposit wagering from certain provisions of code and implementing rules; providing for criminal penalties for accepting advance deposit wagers without a license; providing authority for the Racing Commission to seek civil remedies and damages; providing for a regulatory fee; providing that all advance deposit wagers placed by residents within the state are considered to be wagering within West Virginia subject to the laws of this state

and rules of the Racing Commission; providing for an investigation as to whether nonresident account holders of a licensee placed wagers while physically located in West Virginia; providing for an annual report of the Racing Commission; setting forth elements of the report; and authorizing rulemaking and emergency rulemaking.

Senator Takubo moved that the Senate concur in the foregoing House of Delegates amendments to the Senate amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforesaid motion, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4438, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Baldwin, Prezioso, Roberts, and Romano—4.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4438) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Baldwin, Prezioso, Roberts, and Romano—4.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4438) takes effect July 1, 2020.

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

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

**Eng. Com. Sub. for House Bill 4478**, Creating a lifetime ban for commercial drivers involved in human trafficking.

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

**Eng. House Bill 4504**, Relating to renewal application requirements for individuals with permanent disabilities.

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

**Eng. House Bill 4551**, Relating to subsidized adoption.

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

**Eng. Com. Sub. for House Bill 4593**, Authorizing the assignment of poll workers to serve more than one precinct under certain circumstances.

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

**Eng. Com. Sub. for House Bill 4633**, Expanding county commissions' ability to dispose of county or district property.

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

**Eng. House Bill 4655**, Permitting military personnel in areas where on-the-job emergency medicine is part of the training to be granted automatic EMS or EMT certification.

The Senate proceeded to the sixth order of business.

Senators Azinger, Boley, Carmichael (Mr. President), Tarr, Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Woelfel offered the following resolution:

**Senate Resolution 71**—Memorializing the life of Karl Cameron “Butch” Lilly III, newsman, author, former Assistant Clerk and Parliamentarian of the West Virginia Senate (1976-2006), and dedicated public servant.

Whereas, Karl Cameron “Butch” Lilly III was born September 10, 1944, in Beckley, West Virginia, the son of Mary Edith Acord and the Reverend Karl Cameron Lilly II; and

Whereas, Karl Cameron “Butch” Lilly III was the president of his senior class at Glen Rogers High School in Wyoming County and after graduation attended Beckley College; and

Whereas, Karl Cameron “Butch” Lilly III had a love for words, which opened the door as a writer and editor for the Raleigh Register, Welch Daily News, and United Press International; and

Whereas, Karl Cameron “Butch” Lilly III left newswriting in 1976 and joined the staff of the West Virginia Senate as Assistant Clerk, where he oversaw the editing and printing of everything



from stationery to legislation, including the Senate Journal and his most cherished publication, the West Virginia Blue Book; and

Whereas, Karl Cameron “Butch” Lilly III served as Associate Vice President of the American Society of Legislative Clerks and Secretaries in 1999 and 2000, and was recognized nationally as the recipient of the National Conference of State Legislatures’ Legislative Staff Achievement Award in 1999; and

Whereas, Karl Cameron “Butch” Lilly III had a love for sports, which he expressed as a sportswriter and t-ball and softball coach, as well as by leading the effort to have then-Senate Chief Messenger and former professional baseball player, Clint “Hawk” Thomas, recognized for his distinguished career in the Eastern Colored League, which included playing in the first Colored World Series in 1924 and winning the second in 1925; and

Whereas, Karl Cameron “Butch” Lilly III co-authored the book “Reopening Glen Rogers”, which told the story of the community where he grew up; and

Whereas, Karl Cameron “Butch” Lilly III was married to his beloved wife Janet, with whom he shared the joy of having three daughters: Karen, Mary, and Jennifer; and grandchildren Cameron, Megan, Erica, Courtney, Nathan, and Madelyn; and several great-grandchildren; and

Whereas, Sadly, Karl Cameron “Butch” Lilly III passed away on November 27, 2019, ending a distinguished life of public service and leaving behind a spirit that will reside throughout the hills of West Virginia forever; and

Whereas, It is fitting that the Senate pay tribute to the life and legacy of Karl Cameron “Butch” Lilly III for his many contributions to his community, state, and nation; therefore, be it

*Resolved by the Senate:*

That the Senate hereby memorializes the life of Karl Cameron “Butch” Lilly III, newsman, author, former Assistant Clerk and

Parliamentarian of the West Virginia Senate (1976-2006), and dedicated public servant; and, be it

*Further Resolved*, That the Senate extends its most sincere condolences to the family of Karl Cameron “Butch” Lilly III on his passing; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the family of Karl Cameron “Butch” Lilly III.

Which, under the rules, lies over one day.

Senator Stollings offered the following resolution:

**Senate Resolution 72**—Urging Congress to take steps to safeguard pharmaceutical supply chains in a global economy and revitalize pharmaceutical manufacturing in the United States.

Whereas, The United States, through its investment in biomedical research, has become a world leader in drug discovery and development, but is no longer in the forefront of drug manufacturing; and

Whereas, Historically, the production of medicines for the United States population has been domestically based. However, in recent decades, drug manufacturing has gradually moved out of the United States; and

Whereas, This is particularly true for manufacturers of active pharmaceutical ingredients (APIs), the actual drugs that are formulated into tablets, capsules, injections, etc.; and

Whereas, The security of the nation’s drug supply rests on three main factors: Freedom from dependence on foreign sources of APIs, the resilience of our domestic manufacturing base, and the reliability of the facilities that make products for the U.S. market; and

Whereas, The increasing number of API manufacturing sites in China and other countries suggests that the United States' reliance on Chinese and other foreign sources of API is growing; and

Whereas, As of August 2019, only 28 percent of the manufacturing facilities making APIs to supply the U.S. market were located in the United States. By contrast, 72 percent of the API manufacturers supplying the U.S. market were overseas, and 13 percent are in China; and

Whereas, The United States Food and Drug Administration's (FDA) data show that the number of registered facilities making APIs in China more than doubled between 2010 and 2019; and

Whereas, A 2009 report in the New York Times explains that most of the ingredients used for manufacturing critical drugs like antibiotics, allergy medicines, diabetes medications, and high blood pressure medications, are now almost exclusively produced in either China or India; and

Whereas, In July 2018, the FDA announced a voluntary recall of a generic, commonly prescribed blood pressure medication, Valsartan, that may have been contaminated by the carcinogenic toxin N-nitrosodimethylamine. All of the Valsartan flagged for recall by the FDA was manufactured in China; and

Whereas, Eighty percent of active ingredients in America's pharmaceutical and over-the-counter drugs come from China and India, according to Rosemary Gibson and Janardan Prasad Singh, authors of the book *China RX: Exposing the Risks of America's Dependence on China for Medicine*; and

Whereas, Despite the growing number of people that are seriously injured or killed because of tainted drugs produced overseas, little has been done to address this problem; and

Whereas, For instance, in 2008, it was reported that at least 81 people in the United States died from a tainted heparin drug produced in India; and

Whereas, While there are many reasons for this shift, underlying factors that are often cited include the fact that most traditional drug-production processes require a large factory site, often have environmental liabilities, and can utilize a low-cost labor force; and

Whereas, Using traditional pharmaceutical manufacturing technology, a U.S.-based company could never offset the labor and other cost advantages that China enjoys simply by achieving higher productivity; and

Whereas, Indeed, Mylan Pharmaceuticals has recently been purchased by pharmaceutical giant Pfizer; and

Whereas, Pfizer has recently opened new pharmaceutical plants in China and India; and

Whereas, Given the shift to the overseas production of pharmaceuticals it is conceivable that the 3,000 Mylan jobs located in Morgantown, West Virginia, could be lost to manufacturing facilities overseas; and

Whereas, However, the FDA believes that advanced manufacturing technologies could enable U.S.-based pharmaceutical manufacturing to regain its competitiveness with China and other foreign countries, and potentially ensure a stable supply of drugs critical to the health of U.S. patients; and

Whereas, Advanced manufacturing is a collective term for new medical product manufacturing technologies that can improve drug quality, address shortages of medicines, and speed time-to-market; and

Whereas, The pharmaceutical sector relies heavily on foreign sourcing for critical components, materials, and finished products, as identified by the U.S. Department of Commerce's Office of Technology Evaluation; and

Whereas, Advanced manufacturing is the use of innovative technology to improve products and processes. Although widely used in some other industries, such as automotive, aerospace, and

semiconductors, advanced manufacturing is now just beginning to be used by pharmaceutical companies; and

Whereas, Advanced manufacturing offers many advantages over traditional pharmaceutical manufacturing, and, if the United States invests in this technology, it can be used to reduce the nation's dependence on foreign sources of APIs, increase the resilience of our domestic manufacturing base, and reduce quality issues that trigger drug shortages or recalls; and

Whereas, By supporting the growth of advanced manufacturing in the United States, we can reduce our dependence on China and other overseas manufacturers for APIs as well as improve the resilience and responsiveness of our manufacturing base and reduce drug shortages; and

Whereas, The adoption of advanced manufacturing technologies may pose a challenge to the current regulatory framework because most regulations were developed based on traditional batch manufacturing methods under a unified pharmaceutical quality system; and

Whereas, These new ways of making drugs could, with the proper strategies, revitalize pharmaceutical manufacturing in the United States; therefore, be it

*Resolved by the Senate:*

That the Senate hereby urges Congress to take steps to safeguard pharmaceutical supply chains in a global economy and revitalize pharmaceutical manufacturing in the United States; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, and to the members of West Virginia's congressional delegation.

Which, under the rules, lies over one day.

Senator Beach offered the following resolution:

**Senate Resolution 73**—Memorializing the life of Dorothy Vaughan, a mathematician and computer programmer that helped make NASA what it is today.

Whereas, Dorothy Vaughan was born September 20, 1910, in Kansas City, Missouri, and later moved to Morgantown, West Virginia, the daughter of Annie and Leonard Johnson; and

Whereas, Dorothy Vaughan graduated from Beechurst High School in 1925 as her class valedictorian, and she received a full-tuition scholarship from West Virginia Conference of the A.M.E. Sunday School Convention. By the age of 19, she graduated cum laude with a B.A. in mathematics from Wilberforce University in Wilberforce, Ohio; and

Whereas, Dorothy Vaughan taught mathematics at Robert Russa Moton High School in Farmville, Virginia, to help her family; and

Whereas, In 1943, Dorothy Vaughan was hired by Langley Research Center and was assigned to the West Area Computing Unit as a mathematician and programmer specializing in calculations for flight paths, the Scout Project, and FORTRAN computer programming. She started during the height of World War II and ended up staying there for 28 years; and

Whereas, The West Computers made great contributions in many different areas, including the United States' space program created under John F. Kennedy; and

Whereas, In 1949, Dorothy Vaughan became the first black supervisor at the National Advisory Committee for Aeronautics (NACA) and one of the few supervisors that were female. She stayed in that position until 1958 when NACA became NASA and she then joined the NASA Analysis and Computation Division. This program had transitioned to electronic computers and Dorothy Vaughan was well known being an expert at FORTRAN, a computer programming language that was used for scientific and algebraic applications. She realized how important it was going to

be to be able to use FORTRAN and taught herself and the women in her department how to use it before the transition; and

Whereas, Dorothy Vaughan contributed greatly to the Space Race and worked with other well-known computers to compile a handbook for algebraic methods for calculating machines. She fought on behalf of all women in her department, regardless of race, who deserved promotions or raises; and

Whereas, Dorothy Vaughan taught many of the notable West Computing alumni, including Katherine Johnson, Mary Jackson, Eunice Smith, and Kathryn Peddrew and has, and will continue to, inspire generations of engineers and mathematicians; and

Whereas, Dorothy Vaughan's life served as the basis for a nonfiction book, titled, *Hidden Figures: The American Dream and the Untold Story of the Black Women Mathematicians Who Helped Win the Space Race*, which inspired the award-winning motion picture; and

Whereas, On November 18, 2019, Dorothy Vaughan was awarded the Congressional Gold Medal; and

Whereas, On October 16, 2019, a lunar crater was named after Dorothy Vaughan in celebration of her 109th birthday; and

Whereas, Dorothy Vaughan passed away on November 10, 2008, at the age of 98, leaving behind a legacy and a country that will forever be grateful for her contributions; and

Whereas, It is fitting that the West Virginia Senate honor the life of Dorothy Vaughan for her career as a pioneer in space science and computing, and for her dedicated public service; therefore, be it

*Resolved by the Senate:*

That the Senate hereby memorializes the life of Dorothy Vaughan, a mathematician and computer programmer that helped make NASA what it is today; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the family of Dorothy Vaughan.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 62**, Requesting study of proof of vision exam for all children enrolling in WV schools.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

**Senate Concurrent Resolution 63**, Requesting study of current student-to-nurse and student-to-counselor ratios in public schools.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

**Senate Resolution 69**, Recognizing WV Kids Cancer Crusaders.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Jeffries, Baldwin, Lindsay, Clements, Rucker, and Stollings regarding the adoption of Senate Resolution 69 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:05 a.m., the Senate recessed to present Senate Resolution 69.

The Senate reconvened at 11:14 a.m. and resumed business under the seventh order.



**Senate Resolution 70**, Designating March 6, 2020, as McDowell County Day.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Cline, Maynard, Swope, and Roberts regarding the adoption of Senate Resolution 70 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:24 a.m., the Senate recessed to present Senate Resolution 70.

The Senate reconvened at 11:29 a.m.

Senator Takubo announced that in the meeting of the Committee on Rules previously held, the committee, in accordance with Rule 17 of the Rules of the Senate, had removed from the Senate third reading calendar **Eng. Com. Sub. for House Bill 2088**.

Senator Takubo also announced that in the same meeting, the Committee on Rules had returned to the Senate calendar, on third reading, **Eng. House Bill 4161** and **Eng. House Bill 4499**; and on second reading calendar, **Eng. Com. Sub. for House Bill 4069**, **Eng. Com. Sub. for House Bill 4497**, **Eng. Com. Sub. for House Bill 4535**, **Eng. House Bill 4607**, **Eng. Com. Sub. for House Bill 4634**, **Eng. House Bill 4664**, **Eng. Com. Sub. for House Bill 4748**, and **Eng. Com. Sub. for House Bill 4803** under Rule 17 of the Rules of the Senate.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for House Bill 2088**, Relating to admissibility of certain evidence in a civil action for damages.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 2419**, Relating to the authorization to release a defendant or a person arrested upon his or her own recognizance.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 5, 2020, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

**Eng. Com. Sub. for House Bill 3098**, Allowing the same business owner to brew and sell beer to also distill and sell liquor.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3098) passed.

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

**Eng. Com. Sub. for House Bill 3098**—A Bill to amend and reenact §11-16-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-4-2 of said code, all relating to permitting the issuance of multiple licenses for manufacturing alcoholic liquors and nonintoxicating beer; establishing requirements for licenses; and requiring full payment of all fees.

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

**Eng. Com. Sub. for House Bill 4003**, Relating to telehealth insurance requirements.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4003) passed.

The following amendment to the title of the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4003**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new

section, designated §5-16-7b, to amend said code by adding thereto a new section, designated §30-1-25, and to amend said code by adding thereto a new section, designated §33-53-3, all relating to telehealth requirements; providing rulemaking authority; requiring boards to regulate telehealth practice; defining terms; requiring insurance coverage of certain telehealth services; providing an effective date; and providing limitation of applicability.

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

**Eng. Com. Sub. for House Bill 4009**, Relating to the process for involuntary hospitalization.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Baldwin—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4009) passed.

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

**Eng. Com. Sub. for House Bill 4009**—A Bill to amend and reenact §27-1-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §27-5-2a; to amend and reenact §27-5-1, §27-5-2, §27-5-3, §27-5-4, and §27-5-10 of said code; and to amend said code by adding

thereto a new section, designated §27-6A-12, all relating to involuntary hospitalization and competency and criminal responsibility of persons charged with or convicted of a crime; defining terms; updating outdated language in the code; requiring the development of an orientation program for mental hygiene commissioners and magistrates who preside over involuntary hospitalization hearings; establishing criteria and time frames for the involuntary admission to and discharge of individuals from a mental health facility or state hospital; addressing the transportation of persons to a state hospital; relating to competency and criminal responsibility of persons charged with criminal offenses generally; requiring persons be committed to least restrictive setting; permitting an authorized staff physician, after examination, to order the involuntary hospitalization of an individual whom the physician believes is addicted or mentally ill and likely to cause serious harm to himself or herself or other individuals; setting forth a procedure; providing for payment for services; limiting liability; requesting the Supreme Court of Appeals to generate a statement for the attesting physician; providing the attesting physician statement be provided to the patient; requesting the Supreme Court of Appeals to produce information to hospitals regarding contact information for mental hygiene commissioners, county magistrates, and circuit judges; and establishing that if a mental hygiene commissioner, county magistrate, or circuit judge does not respond to the request within 24 hours, a report shall be filed to the Supreme Court of Appeals; requiring release when staff physicians determine after three days that individual does not meet criteria for continued commitment; requiring specific finding that inpatient hospital treatment is required; directing the Secretary of the Department of Health and Human Resources in collaboration with representatives of the judiciary, representatives of the prosecuting attorneys, the criminal defense bar, and advocates for the disability community to develop legislation to update and modify statutory provisions related to competence and criminal responsibility to ensure protection of constitutional rights and public safety; and requiring that proposed legislation be submitted to the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2020.

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

**Eng. Com. Sub. for House Bill 4092**, Relating to foster care.

On third reading, coming up in regular order, with the unreported committee amendments pending, and with the right having been granted on yesterday, Thursday, March 5, 2020, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

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

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

**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

**§49-1-206. Definitions related, but not limited to, child advocacy, care, residential, and treatment programs.**

When used in this chapter, the following terms ~~defined in this section~~ have the following meanings, ~~ascribed to them that relate to, but are not limited to, child advocacy, care, residential, and treatment programs, except in those instances where a different meaning is provided or the context in which the word used clearly indicates that a different meaning is intended~~ unless the context clearly indicates otherwise:

“Child Advocacy Center (CAC)” means a community-based organization that is a member, in good standing, ~~with~~ of the West Virginia Child Abuse Advocacy Network, Inc., as set forth in §49-3-101 of this code.

“Child care” means responsibilities assumed and services performed in relation to a child’s physical, emotional,

psychological, social, and personal needs and the consideration of the child's rights and entitlements, but does not include secure detention or incarceration under the jurisdiction of the Division of Corrections and Rehabilitation pursuant to §49-2-901 *et seq.* of this code. It includes the provision of child care services or residential services.

“Child care center” means a facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, for the care of 13 or more children for child care services in any setting, if the facility is open for more than 30 days per year per child.

“Child care services” means direct care and protection of children during a portion of a 24-hour day outside of the child's own home which provides experiences to children that foster their healthy development and education.

“Child placing agency” means a child welfare agency organized for the purpose of placing children in private family homes for foster care or for adoption. The function of a child placing agency may include the investigation and certification of foster family homes and foster family group homes as provided in this chapter. The function of a child placing agency may also include the supervision of children who are 16 or 17 years ~~old~~ of age and living in unlicensed residences.

“Child welfare agency” means any agency or facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, to receive children for care and maintenance or for placement in residential care facilities, including, without limitation, private homes or any facility that provides care for unmarried mothers and their children. A child welfare agency does not include juvenile detention facilities or juvenile correctional facilities operated by or under contract with the Division of Corrections and Rehabilitation, pursuant to §49-2-901 *et seq.* of this code, nor any other facility

operated by that division for the secure housing or holding of juveniles committed to its custody.

“Community based” means a facility, program, or service located near the child’s home or family and involving community participation in planning, operation, and evaluation and which may include, but is not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, substance abuse, and any other treatment or rehabilitation services.

“Community-based juvenile probation sanctions” means any of a continuum of nonresidential accountability measures, programs, and sanctions in response to a technical violation of probation, as part of a system of community-based juvenile probation sanctions and incentives, that may include, but are not limited to:

(A) Electronic monitoring;

(B) Drug and alcohol screening, testing, or monitoring;

(C) Youth reporting centers;

(D) Reporting and supervision requirements;

(E) Community service; and

(F) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment.

“Community services” means nonresidential prevention or intervention services or programs that are intended to reduce delinquency and future court involvement.

“Evidence-based practices” means policies, procedures, programs, and practices demonstrated by research to reliably produce reductions in the likelihood of reoffending.

“Facility” means a place or residence, including personnel, structures, grounds, and equipment used for the care of a child or



children on a residential or other basis for any number of hours a day in any shelter or structure maintained for that purpose. Facility does not include any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody.

“Family child care facility” means any facility which is used to provide nonresidential child care services for compensation for seven to 12 children, including children who are living in the household, who are under six years of age. A facility may be in a provider’s residence or a separate building.

“Family child care home” means a facility which is used to provide nonresidential child care services for compensation in a provider’s residence. The provider may care for four to six children at one time, including children who are living in the household, who are under six years of age.

“Family resource network” means:

(A) A local community organization charged with service coordination, needs and resource assessment, planning, community mobilization, and evaluation, and which has met the following criteria:

(i) ~~Agreeing~~ Has agreed to a single governing entity;

(ii) ~~Agreeing~~ Has agreed to engage in activities to improve service systems for children and families within the community;

(iii) ~~Addressing~~ Addresses a geographic area of a county or two or more contiguous counties;

(iv) ~~Having~~ Has, as the majority of the members of the governing body, nonproviders, which ~~include~~ includes family representatives and other members who are not employees of publicly funded agencies, ~~as the majority of the members of the governing body, and having with~~ family representatives as the majority of the those members who are nonproviders;

(v) ~~Having~~ Has members of the governing body who are representatives of local service agencies, including, but not limited to, the public health department, the behavioral health center, the local health and human resources agency, and the county school district; on the governing body; and

(vi) ~~Accepting~~ Adheres to principles consistent with the cabinet's mission as part of its philosophy.

(B) A family resource network may not provide direct services, which means to provide programs or services directly to children and families.

“Family support”, for the purposes of §49-2-601 *et seq.* of this code, means goods and services needed by families to care for their family members with developmental disabilities and to enjoy a quality of life comparable to other community members.

“Family support program” means a coordinated system of family support services administered by the Department of Health and Human Resources through contracts with behavioral health agencies throughout the state.

“Fictive kin” means an adult of at least 21 years of age, who is not a relative of the child, as defined herein, but who has an established, substantial relationship with the child, including but not limited to, teachers, coaches, ministers, and parents, or family members of the child’s friends.

“Foster family home” means a private residence which is used for the care on a residential basis of no more than five ~~five~~ six children who are unrelated, by blood, marriage, or adoption, to any adult member of the household.

“Foster parent” means a person with whom the department has placed a child and who has been certified by the department, a child placing agency, or another agent of the department to provide foster care.

“Health care and treatment” means:

(A) Developmental screening;

(B) Mental health screening;

(C) Mental health treatment;

(D) Ordinary and necessary medical and dental examination and treatment;

(E) Preventive care including ordinary immunizations, tuberculin testing, and well-child care; and

(F) Nonemergency diagnosis and treatment. However, nonemergency diagnosis and treatment does not include an abortion.

“Home-based family preservation services” means services dispensed by the Department of Health and Human Resources or by another person, association, or group who has contracted with that division to dispense services when those services are intended to stabilize and maintain the natural or surrogate family in order to prevent the placement of children in substitute care. There are two types of home-based family preservation services and they are as follows:

(A) Intensive, short-term intervention of four to six weeks; and

(B) Home-based, longer-term after care following intensive intervention.

“Informal family child care” means a home that is used to provide nonresidential child care services for compensation for three or fewer children, including children who are living in the household who are under six years of age. Care is given in the provider’s own home to at least one child who is not related to the caregiver.

“Kinship parent” means a person with whom the department has placed a child to provide a kinship placement.

“Kinship placement” means the placement of the child with a relative of the child, as defined herein, or a placement of a child with a fictive kin, as defined herein.

“Needs Assessment” means an evidence-informed assessment which identifies the needs a child or family has, which, if left unaddressed, will likely increase the chance of reoccurring.

“Nonsecure facility” means any public or private residential facility not characterized by construction fixtures designed to physically restrict the movements and activities of individuals held in lawful custody in that facility and which provides its residents access to the surrounding community with supervision.

“Nonviolent misdemeanor offense” means a misdemeanor offense that does not include any of the following:

(A) An act resulting in bodily injury or death;

(B) The use of ~~a weapon~~ firearm or other deadly weapon in the commission of the offense;

(C) A domestic abuse offense involving a significant or likely risk of harm to a family member or household member;

(D) A criminal sexual conduct offense; or

(E) Any offense for driving under the influence of alcohol or drugs.

“Out-of-home placement” means a post-adjudication placement in a foster family home, kinship parent home, group home, nonsecure facility, emergency shelter, hospital, psychiatric residential treatment facility, staff secure facility, hardware secure facility, detention facility, or other residential placement other than placement in the home of a parent, custodian, or guardian.

“Out-of-school time” means a child care service which offers activities to children before and after school, on school holidays, when school is closed due to emergencies, and on school calendar days set aside for teacher activities.

“Placement” means any temporary or permanent placement of a child who is in the custody of the state in any foster home, kinship parent home, group home, or other facility or residence.

“Pre-adjudicatory community supervision” means supervision provided to a youth prior to adjudication, for a period of supervision up to one year for an alleged status or delinquency offense.

“Regional family support council” means the council established by the regional family support agency to carry out the responsibilities specified in §49-2-601 *et seq.* of this code.

“Relative family child care” means a home that provides nonresidential child care services only to children related to the caregiver. The caregiver is a grandparent, great-grandparent, aunt, uncle, great-aunt, great-uncle, or adult sibling of the child or children receiving care. Care is given in the provider’s home.

“Relative of the child” means an adult of at least 21 years of age who is related to the child, by blood or marriage, within at least three degrees.

“Residential services” means child care which includes the provision of nighttime shelter and the personal discipline and supervision of a child by guardians, custodians, or other persons or entities on a continuing or temporary basis. It may include care or treatment, or both, for transitioning adults. Residential services does not include or apply to any juvenile detention facility or juvenile correctional facility operated by the Division of Corrections and Rehabilitation, created pursuant to this chapter, for the secure housing or holding of juveniles committed to its custody.

“Risk and needs assessment” means a validated, standardized actuarial tool which identifies specific risk factors that increase the likelihood of reoffending and the factors that, when properly addressed, can reduce the likelihood of reoffending.

“Scattered-site living arrangement” means a living arrangement where youth, 16 to 26 years of age, live in a setting that allows staff to be available as needed, depending on the

youth's level of autonomy. Sites for such living arrangements shall be in community environments to allow the youth full access to services and resources in order to fully develop independent living skills.

“Secure facility” means any public or private residential facility which includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.

“Staff secure facility” means any public or private residential facility characterized by staff restrictions of the movements and activities of individuals held in lawful custody in such facility, and which limits its residents' access to the surrounding community, but is not characterized by construction fixtures designed to physically restrict the movements and activities of residents.

“Standardized screener” means a brief, validated nondiagnostic inventory or questionnaire designed to identify juveniles in need of further assessment for medical, substance abuse, emotional, psychological, behavioral, or educational issues, or other conditions.

“State family support council” means the council established by the Department of Health and Human Resources pursuant to §49-2-601 *et seq.* of this code to carry out the responsibilities specified in §49-2-101 *et seq.* of this code.

“Supervised group setting” means a setting where youth, 16 to 21 years of age, live with staff onsite or are available 24 hours per day and seven days per week. In this setting, staff provide face to face daily contact with youth.

“Time-limited reunification services” means individual, group, and family counseling, inpatient, residential, or outpatient substance abuse treatment services, mental health services, assistance to address domestic violence, services designed to provide temporary child care, and therapeutic services for families, including crisis nurseries and transportation to or from those services, provided during 15 of the most recent 22 months a child

or juvenile has been in foster or in a kinship placement, as determined by the earlier date of the first judicial finding that the child is subjected to abuse or neglect, or the date which is 60 days after the child or juvenile is removed from home.

“Technical violation” means an act that violates the terms or conditions of probation or a court order that does not constitute a new delinquent offense.

“Truancy diversion specialist” means a school-based probation officer or truancy social worker within a school or schools who, among other responsibilities, identifies truants and the causes of the truant behavior, and assists in developing a plan to reduce the truant behavior prior to court involvement.

## **ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

### **§49-2-102. Minimum staffing complement for child protective services.**

[Repealed.]

### **§49-2-104. Education of the public.**

[Repealed.]

### **§49-2-108. Visits and inspections; records.**

The department or its authorized agent shall visit and inspect every certified foster home as often as is necessary to assure proper care is given to the children. Every certified foster home shall maintain a record of the children received. This record shall include information as ~~prescribed by the department in legislative rule and shall be~~ in a type, form, and manner as prescribed by the department in legislative rule.

### **§49-2-110. Development of standards of child care.**

The department shall develop standards for the care of children. It shall cooperate with, advise, and assist all child welfare agencies, including state institutions, which care for children who have been neglected, have been adjudicated delinquent, or mentally

~~or physically handicapped children~~ have special needs such as physical, mental, or intellectual disabilities, and shall supervise those agencies. The department, in cooperation with child welfare agencies, shall formulate and make available standards of child care and services for children, to which all child welfare agencies must conform.

**§49-2-111. Supervision of child welfare agencies by the department; records and reports.**

(a) In order to improve standards of child care, the department shall cooperate with the governing boards of child welfare agencies, assist the ~~staffs~~ personnel of those agencies through advice on progressive methods and procedures of child care and improvement of the service rendered, and assist in the development of community plans of child care. The department, or its duly authorized agent, may visit any child welfare agency to advise the agency on matters affecting the health of children. ~~and to inspect the sanitation of the buildings used for their care.~~

(b) Each child welfare agency shall keep records of each child under its control and care as the department may prescribe, and shall report to the department, whenever requested, facts as may be required with reference to the children, upon forms furnished by the department. All records regarding children and all facts learned about children and their parents or relatives shall be regarded as confidential and shall be properly safeguarded by the agency and the department.

**§49-2-111a. Performance based contracting for child placing agencies.**

(a) For purposes of this section:

(1) "Child" means:

(A) A person of less than 18 years of age; or

(B) A person ~~age~~ 18 to 21 years of age who is eligible to receive the extended foster care services.



(2) “Child-placing agency” means an agency licensed by the department to place a child in a foster care home.

(3) “Department” means the Department of Health and Human Resources.

(4) “Evidence-based” means a program or practice that is cost-effective and includes at least two randomized or statistically controlled evaluations that have demonstrated improved outcomes for its intended population.

(5) “Performance-based contracting” means structuring all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes and linking payment for services to contractor performance.

(6) “Promising practice” means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(7) “Research-based” means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(b) No later than December 1, 2020, the department shall enter into performance-based contracts with child placing agencies.

(c) In conducting the procurement, the department shall actively consult with other state agencies and other entities with expertise in performance-based contracting with child placing agencies.

(d) The procurement process shall be developed and implemented in a manner that complies with applicable provisions of this code.

(e) The procurement and resulting contracts shall include, but are not limited to, the following:

(1) Adequate capacity to meet the anticipated service needs in the contracted service area of the child placing agency;

(2) The use of evidence-based, research-based, and promising practices, where appropriate, including fidelity and quality assurance provisions;

(3) Child placing agency data reporting, including data on performance and service outcomes, including, but not limited to:

(A) Safety outcomes;

(B) Permanency outcomes;

(C) Well-being outcomes;

(D) Incentives earned; ~~and~~

(E) Placement of older children;

(F) Placement of children with special needs; and

~~(G)~~ (G) Recruitment and retention of foster parents; and

(4) A hold harmless period to determine a baseline for evaluation.

(f) As part of the procurement process under this section, the department shall issue the request for proposals no later than July 1, 2020. The department shall notify the apparently successful bidders no later than September 1, 2020.

(g) Performance-based payment methodologies must be used in child placing agency contracting. Performance measures should relate to successful engagement by a child or parent in services included in their case plan, and resulting improvement in identified problem behaviors and interactions. For the first year of implementation of performance-based contracting, the department may transfer financial risk for the provision of services to the child placing agency only to the limited extent necessary to implement a performance-based payment methodology, such as phased payment for services. However, the department may develop a

shared savings methodology through which the child placing agency will receive a defined share of any savings that result from improved performance. If the department receives a Title IV-E waiver, the shared savings methodology must be consistent with the terms of the waiver. If a shared savings methodology is adopted, the child placing agency shall reinvest the savings in enhanced services to better meet the needs of the families and children they serve.

(h) The department shall actively monitor the child placing agency's compliance with the terms of contracts executed under this section.

(i) The use of performance-based contracts under this section shall be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare-related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

(j) The department shall pay child placing agencies contracted to provide adoption services to foster families a minimum of \$1,000 per child for each adoption finalized.

(k) The rate of payment to foster parents and child placing agencies shall be reviewed by the department, at a minimum of every two years, to determine whether the level of foster care payments facilitates or hinders the efficient placement of foster children with West Virginia families.

(j) (l) The department shall report the performance of the child placing agency to the Legislative Oversight Commission on Health and Human Resources Accountability by December 31, annually.

**§49-2-111c. Priorities for use of funds.**

(a) Subject to appropriations by the Legislature, the department is authorized and directed to:

(1) Enhance and increase efforts to provide services to prevent the removal children from their homes;

(2) Identify relatives and fictive kin of children in need of placement outside of the home;

(3) Train kinship parents to become certified foster parents;

(4) Expand a tiered foster care system that provides higher payments for foster parents providing care to, and child placing agencies providing services to, foster children who have severe emotional, behavioral, or intellectual problems or disabilities, with particular emphasis upon removing children in congregate care and placing them with suitable foster parents. This program shall be operational no later than July 1, 2021; and

(5) Develop a pilot program to increase payment to uncertified kinship parents for the purpose of further helping families who have accepted kinship placements.

(b) During fiscal year 2021, the department shall expend at least \$4,900,000 for the purposes of implementing the priorities and objectives listed in this section.

**§49-2-112. Family homes; approval of incorporation by Secretary of State; approval of articles of incorporation.**

~~(a) Before issuing a charter for the incorporation of any organization having as its purpose the receipt of children for care or for placement in family homes, the Secretary of State shall provide a copy of the petition, together with any other information in his or her possession pertaining to the proposed corporation, to the secretary. and no charter for a corporation may be issued unless the secretary shall first certify to the Secretary of State that it has investigated the need for the services proposed and the merits of the proposed charitable corporation and recommends the issuance thereof; applications for amendments of any existing charter shall be similarly referred and shall be granted only upon similar approval.~~

~~(b) A child welfare agency may not be incorporated in this state unless the articles of incorporation have first been examined and approved by the secretary, or his or her designee. Proposed amendments to articles of incorporation shall be subject to the examination and approval of the secretary, or his or her designee.~~

**§49-2-118. Closing of facilities by the secretary; placement of children.**

When the secretary finds that the operation of a residential care facility constitutes an immediate danger of serious harm to children served by the facility, the secretary shall issue an order of closure terminating operation of the facility. When necessary, the secretary shall place or direct the placement of the children in a residential facility which has been closed into appropriate facilities. A facility closed by the secretary may not operate pending administrative or judicial review without court order.

**§49-2-121. Rule-making.**

(a) The secretary shall promulgate legislative rules in accordance with ~~chapter twenty-nine~~ a §29A-3-1 et seq. of this code regarding the licensure, approval, certification, and registration of child care facilities and the implementation of this article. ~~The rules shall provide at a minimum the requirement that every residential child care facility shall be subject to an annual time study regarding the quantification of staff supervision time at each facility. Every residential child care facility shall participate in the time study at the request of the department~~

(b) The secretary shall review the rules promulgated pursuant to this article at least once every five years, making revisions when necessary or convenient.

(c) The rules shall incorporate, by reference, the requirements of the Integrated Pest Management Program established by legislative rule by the Department of Agriculture under §19-16A-4 of this code.

**§49-2-124. Certificate of need not required; conditions; review.**

~~(a) A certificate of need, as provided in §16-2D-1 *et seq.* of this code, is not required by an entity proposing behavioral health care facilities or behavioral health care services for children who are placed out of their home, or who are at imminent risk of being placed out of their home. if a summary review is performed in accordance with this section.~~

~~(b) A summary review of proposed health care facilities or health care services for children who are placed out of their home, or who are at imminent risk of being placed out of their home, is initiated when the proposal is recommended to the health care cost review authority by the Secretary of the Department of Health and Human Resources and the secretary has made the following findings:~~

~~(1) That the proposed facility or service is consistent with the state health plan;~~

~~(2) That the proposed facility or service is consistent with the department's programmatic and fiscal plan for behavioral health services for children with mental health and addiction disorders;~~

~~(3) That the proposed facility or service contributes to providing services that are child and family driven, with priority given to keeping children in their own homes;~~

~~(4) That the proposed facility or service will contribute to reducing the number of child placements in out-of-state facilities by making placements available in in-state facilities;~~

~~(5) That the proposed facility or service contributes to reducing the number of child placements in in-state or out-of-state facilities by returning children to their families, placing them in foster care programs or making available school based and out patient services; and~~

~~(6) If applicable, that the proposed services will be community based, locally accessible and provided in an~~

~~appropriate setting consistent with the unique needs and potential of each child and his or her family.~~

~~(c) The secretary's findings required by subsection (b) of this section shall be filed with the secretary's recommendation and appropriate documentation. If the secretary's findings are supported by the accompanying documentation, the proposal shall not require a certificate of need.~~

~~(d) Any entity that does not qualify for summary review shall be subject to certificate of need review.~~

~~(e) Notwithstanding any other provision of law to the contrary, the provision of regular or therapeutic foster care services does not constitute a behavioral health care facility or a behavioral health care service that would subject it to the summary review procedure established in this section or to the certificate of need requirements provided in article two-d, chapter sixteen of this code.~~

**~~§49-2-126. Legislative findings and declaration of intent for goals for foster children~~ The Foster Child Bill of Rights.**

~~(a) The Legislature finds and declares that the design and delivery of child welfare services should be directed by the principle that the health and safety of children should be of paramount concern and, therefore, establishes the goals for children in foster care. A child in foster care should have:~~

~~(1) Protection by a family of his or her own, and be provided readily available services and support through care of an adoptive family or by plan, a continuing foster family;~~

~~(2) Nurturing by foster parents who have been selected to meet his or her individual needs, and who are provided services and support, including specialized education, so that the child can grow to reach his or her potential;~~

~~(3) A safe foster home free of violence, abuse, neglect and danger;~~

~~(4) The ability to communicate with the assigned social worker or case worker overseeing the child's case and have calls made to the social worker or case worker returned within a reasonable period of time;~~

~~(5) Permission to remain enrolled in the school the child attended before being placed in foster care, if at all possible;~~

~~(6) Participation in school extracurricular activities, community events, and religious practices;~~

~~(7) Communication with the biological parents. Communication is necessary if the child placed in foster care receives any immunizations and if any additional immunizations are needed, if the child will be transitioning back into a home with his or her biological parents;~~

~~(8) A bank or savings account established in accordance with state laws and federal regulations;~~

~~(9) Identification and other permanent documents, including a birth certificate, social security card and health records by the age of sixteen, to the extent allowed by federal and state law;~~

~~(10) The use of appropriate communication measures to maintain contact with siblings if the child placed in foster care is separated from his or her siblings; and~~

~~(11) Meaningful participation in a transition plan for those phasing out of foster care.~~

~~(b) A person shall not have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. Nothing in this section requires the expenditure of funds to meet the goals established in this section, except funds specifically appropriated for that purpose.~~

~~(c) The West Virginia Department of Health and Human Resources shall propose rules for promulgation in accordance with~~



~~the provisions of article three, chapter twenty nine a of this code to ensure that a child has an effective means of being heard if he or she believes the goals of this section are not being met.~~

~~(d) When a child who was previously placed into foster care, but left the custody or guardianship of the department, is again placed into foster care, the department shall notify the foster parents who most recently cared for the child of the child's availability for foster care placement to determine if the foster parents are desirous of seeking a foster care arrangement for the child. The arrangement may only be made if the foster parents are otherwise qualified or can become qualified to enter into the foster care arrangement with the department and if the arrangement is in the best interests of the child: *Provided*, That the department may petition the court to waive notification to the foster parents. This waiver may be granted, *ex parte*, upon a showing of compelling circumstances~~

(a) Foster children and children in a kinship placement are active and participating members of the child welfare system and have the following rights:

(1) The right to live in a safe and healthy environment, and the least restrictive environment possible;

(2) The right to be free from physical, sexual, or psychological abuse or exploitation;

(3) The right to receive adequate and healthy food, appropriate and seasonally necessary clothing, and an appropriate travel bag;

(4) The right to receive medical, dental, and vision care, mental health services, and substance use treatment services, as needed;

(5) The right to be placed in a kinship placement, when such placement meets the objectives set forth in this article;

(6) The right, when placed with a foster or kinship family, to be matched as closely as possible with a family meeting the child's needs, including, when possible, the ability to remain with siblings;

(7) The right, as appropriate to the child's age and development, to be informed on any medication or chemical substance to be administered to the child;

(8) The right to communicate privately, with caseworkers, guardians ad litem, attorneys, Court Appointed Special Advocates (CASA), the prosecuting attorney, and probation officers;

(9) The right to have and maintain contact with siblings as may be reasonably accommodated, unless prohibited by court order, the case plan, or other extenuating circumstances;

(10) The right to contact the department or the foster care ombudsman, regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats, retaliation, or punishment for making complaints;

(11) The right to maintain contact with all previous caregivers and other important adults in his or her life, if desired, unless prohibited by court order or determined by the parent, according to the reasonable and prudent parent standard, not to be in the best interests of the child;

(12) The right to participate in religious services and religious activities of his or her choice to the extent possible;

(13) The right to attend school, and, consistent with the finances and schedule of the foster or kinship family, to participate in extracurricular, cultural, and personal enrichment activities, as appropriate to the child's age and developmental level;

(14) The right to work and develop job skills in a way that is consistent with the child's age and developmental level;

(15) The right to attend Independent Living Program classes and activities if the child meets the age requirements;

(16) The right to attend court hearings and speak directly to the judge, in the court's discretion;

(17) The right not to be subjected to discrimination or harassment;

(18) The right to have access to information regarding available educational options;

(19) The right to receive a copy of, and receive an explanation of, the rights set forth in this section from the child's guardian ad litem, caseworker, and attorney;

(20) The right to receive care consistent with the reasonable and prudent foster parent standard; and

(21) The right to meet with the child's department case worker no less frequently than every 30 days.

(b) The rights provided in this section do not create an independent cause of action. Violations of these rights may be reported to and investigated by the foster care ombudsman. On or before December 15, 2021 and on or before December 15 of every year thereafter, the foster care ombudsman shall submit a written summary of the number and nature of reports received, and investigations conducted in response to said reports, to the Joint Standing Committee on Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor: Provided, That the summary required by this section may not include any personally identifying information of a person named in a report, or a person submitting a report to, the ombudsman.

**§49-2-127. The Foster and Kinship Parent Bill of Rights.**

(a) Foster parents and kinship parents play an integral, indispensable, and vital role in the state's effort to care for children displaced from their homes, and such parents and persons have the following rights:

(1) The right to be treated professionally and ethically as the primary provider of foster or kinship care in accordance with the terms of the agreement between the foster or kinship parent and the child placing agency and the department;

(2) The right to maintain the parent's or parents' own family values and beliefs, so long as the values and beliefs of the child are not infringed upon;

(3) The right to receive training, as provided in the agreement with the child placing agency and the department at appropriate intervals;

(4) The right to have an emergency contact 24 hours per day, seven days per week, as set forth in the agreement between the foster or kinship parent and the child placing agency and the department;

(5) The right, prior to the placement of a child, to be notified by the department and the child placing agency of any known issues relative to the child that may jeopardize the health and safety of the foster or kinship family or the child, or alter the manner in which foster or kinship care should be administered;

(6) The right to receive from the department and the child placing agency, prior to placement of a child, all known information relating to the child's behavior, family background, health, history, or special needs and to receive updates relevant to the care of the child as information becomes available;

(7) The right to be provided with a written copy of the individual treatment and service plan concerning the child in the foster or kinship parent's home and to discuss such plan with the case manager, and to receive reasonable notice of any changes to that plan, including timely notice of the need to remove a child from the foster or kinship home and the reasons for the removal;

(8) The right to timely and reasonable notice of the department's case planning and decision-making process regarding the child, as provided in §49-4-101 *et seq.* of this code, and the right to participate in such process, in the discretion of the court;

(9) The right to communicate with professionals who work with the child, including, but not limited to, therapists, physicians, and teachers, as permitted by the case plan or the court;

(10) The right to be notified, in advance, by the department or the court, of any hearing or review where the case plan or permanency of the child is an issue, including initial and periodic reviews held by the court and permanency plan hearings: *Provided*, That the right of a foster or kinship parent to attend any hearing is in the discretion of the court;

(11) The right to be provided information regarding the final outcome of an investigation of complaints concerning the operation of a foster or kinship home and to receive an explanation of a corrective action plan or policy violation relating to foster or kinship parents;

(12) The right to be provided with information on how to contact the foster care ombudsman, and to contact the foster care ombudsman's office, regarding alleged violations of rights, to speak to representatives of these offices confidentially, and to be free from threats, retaliation, or punishment for making complaints;

(13) The right to write a letter or submit a report to the court regarding a violation of the rights provided in this section or §49-2-126 of this code, or any concerns over the conduct or performance of the guardian ad litem, a representative of the department, or a representative of the child placing agency, which the court may act upon as it deems in its discretion to be appropriate: *Provided*, That the court may require the clerk to send copies of a letter or report, submitted to the court pursuant to this subdivision, to the parties in the case prior to the court's review or consideration of such communications;

(14) The right to be considered, where appropriate and consistent with the best interests of the child, as a permanent parent or parents for a child who is available for adoption or legal guardianship;

(15) The right to move to intervene in the pending case, without fear of retaliation, once parental rights have been terminated; and

(16) The right to receive, from the department and the child placing agency, a written copy of the rights set forth in this section and a copy of the contract between the department and the child placing agency.

(b) The rights provided in this section do not create an independent cause of action. Violations of these rights may be reported to and investigated by the foster care ombudsman. On or before December 15, 2021 and on or before December 15 of every year thereafter, the foster care ombudsman shall submit a written summary of the number and nature of reports received, and investigations conducted in response to said reports, to the Joint Standing Committee on Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor: *Provided*, That the summary required by this section may not include any personally identifying information of a person named in a report or a person submitting a report to the ombudsman.

**§49-2-127a. Foster and kinship parent duties; foster parent and kinship parent agreements.**

(a) The West Virginia Legislature finds that foster and kinship parents providing care for children who are in the legal custody of the department have duties and contractual rights. The duties and contractual rights shall be set forth in an agreement between the department and the child placing agency and the foster or kinship parent. The duties of the foster or kinship parent shall include, but are not limited to:

(1) The duty not to violate the rights of the child, provided in §49-2-126 of this code;

(2) The duty to provide all children in the parent's or parents' care with appropriate food, clothing, shelter, supervision, medical attention, and educational opportunities using the reasonable and prudent foster parent standard as defined in §49-2-128 of this code;

(3) The duty to complete the training required by the department and the child placing agency and the foster or kinship parent;

(4) The duty to support reunification with the biological family unless it has been determined not to be appropriate by the court;

(5) The duty not to divulge any information concerning the child's case or the child's family to anyone except for the child's caseworker, the child's guardian ad litem, the child's attorney, the child's Court Appointed Special Advocate (CASA) worker, the prosecuting attorney, the probation officer, the multidisciplinary team, the foster care ombudsman, or the child's school or health care provider;

(6) The duty to provide information to the caseworker and the guardian ad litem regarding the child's progress, and to attend multi-disciplinary team meetings, case planning sessions, court hearings, and to advise the court of any issues or concerns, in the court's discretion; and

(7) The duty to teach all children placed in their home age appropriate life skills.

(b) The duties of the department and the child placing agency shall include, but are not limited to:

(1) The duty not to infringe upon the rights of the child, provided in §49-2-126;

(2) The duty not to infringe upon the rights of the kinship or foster parent, provided in in §49-2-127; and

(3) The duty to abide by the provisions of the agreement required by this section.

(c) The terms of the agreement shall include the rights of the foster or kinship parent provided in §49-2-127 of this code. The terms of the agreement shall also include, but not be limited to:

(1) Provisions addressing available what child care will be provided while the foster or kinship parent attends required training;

(2) Provisions informing the foster or kinship parent of applicable laws and guidelines regarding the responsibilities of the foster or kinship parent and provisions requiring that the foster or kinship parent receive regular updates on changes to such laws and guidelines in a timely manner;

(3) Provisions regarding required and available training for the foster or kinship parent;

(4) Provisions addressing payment to the foster or kinship parent;

(5) Provisions naming and addressing the emergency 24-hour contact provided by the child placing agency and the department;

(6) Provisions addressing travel, including out-of-state and overnight travel;

(7) Provisions addressing child care for the child;

(8) Provisions addressing when a placement may be terminated by the foster or kinship parent, the child placing agency, or the department;

(9) Provisions addressing medical care for the child, including how to obtain medical consent for procedures; and

(10) Provisions addressing how complaints against the foster or kinship parent will be handled and adjudicated, including provisions for appeal and review of the adjudication.

(d) The agreement may contain such other terms and provisions, not inconsistent with this article, as may be negotiated by the parties and as may be in the best interests of the child.

(e) The requirements of this section apply to agreements, entered into on or after the effective date of this section. Agreements entered into pursuant to this section shall expire on July 1 of each year and shall be renewed by the parties as necessary.

(f) The duties and requirements provided in this section do not create an independent cause of action, including a cause of action



for breach of contract. Violations of these rights may be reported to and investigated by the foster care ombudsman. On or before December 15, 2021 and on or before December 15 of every year thereafter, the foster care ombudsman shall submit a written summary of the number and nature of reports received, and investigations conducted in response to said reports, to the Joint Standing Committee on Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor: *Provided*, That the summary required by this section may not include any personally identifying information of a person named in a report or a person submitting a report to the ombudsman.

**§49-2-128. Reasonable and prudent foster parent standard.**

(a) As used in this section, the following terms have the following meanings:

“Age-appropriate” means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity. Age-appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for an age or age group.

“Caregiver” means a foster parent, kinship parent, or a designated official in a residential treatment facility.

“Reasonable and prudent foster parent standard” means the standard characterized parental decisions that maintain the child’s health, safety, and best interests, while at the same time encouraging the child’s emotional and developmental growth, that a caregiver shall use when determining whether to allow a child to participate in extracurricular, enrichment, and social activities.

(b) Each child who comes into care under this chapter is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.

(c) Caregivers shall use a reasonable and prudent foster parent standard in determining whether to give permission for a child in out-of-home care to participate in extracurricular, enrichment, and

social activities. When using the reasonable and prudent foster parent standard, the caregiver shall consider:

(1) The child's age, maturity, and developmental level, to maintain the overall health and safety of the child;

(2) The potential risk factors and the appropriateness of the extracurricular, enrichment, and social activity;

(3) The best interest of the child based on information known to the caregiver

(4) The importance of encouraging the child's emotional and developmental growth;

(5) The importance of providing the child with the most family-like living experience possible; and

(6) The behavioral history of the child and the child's ability to safely participate in the proposed activity, as with any other child.

(d) Child placing agencies and residential treatment facilities shall have policies consistent with this section and shall promote and protect the ability of children to participate in age-appropriate extracurricular, enrichment, and social activities.

(e) A foster or kinship parent may use persons to care for or babysit for the child or permit overnight stays outside of the home using the reasonable and prudent foster parent standard.

(f) There is a rebuttable presumption that a caregiver has acted as a reasonable and prudent foster parent.

(g) A caregiver is not liable for harm caused to a child in his or her care who participates in an activity approved by the caregiver, provided that the caregiver has acted as a reasonable and prudent foster parent, unless the foster parent commits an act or omission that is an intentional tort or conduct that is willful, wanton, grossly negligent, reckless, or criminal.

**§49-2-129. Transitional living services, scattered-site living arrangements, and supervised group settings; eligibility criteria.**

(a) The department shall establish minimum standards, by legislative rule, for transitional living services, such as scattered-site living arrangements and supervised group settings, to which all child placing agencies or child welfare agencies who provide this service must conform.

(b) Agencies shall establish eligibility criteria for serving transitioning children and adults and shall require, at a minimum, the following:

(1) That a transitioning child or adult receiving a transitional living placement is between 16 and 26 years of age;

(2) Written permission from the child's parents or guardian for a child less than 18 years of age to enter a scattered-site living arrangement;

(3) A written service agreement with a transitioning adult entering a transitional living arrangement;

(4) A determination by an agency that a transitioning child or adult has shown that he or she is stable, mature, and responsible enough for entry into the determined level of transitional living arrangement;

(5) A life skills assessment by an agency of the transitioning child or adult, prior to placing him or her in a transitional living arrangement, and an annual reassessment; and

(6) A written transition plan, developed with the transitioning child or adult, that provides an educational, training, or employment program or a plan for the child or adult to pursue employment while in transitional living.

(c) The agency and transitioning child or adult shall determine if a roommate is appropriate for the child or adult prior to placement in a transitional living setting. The roommate must be

able to support himself or herself and contribute at least a pro rata share of the living expenses for the setting.

(d) An agency shall document face-to-face contact and hours spent with a transitioning child or adult in a transitional living setting in the service plan that meet the child's or adult's needs and program level.

(e) After a child or adult is in a transitional living placement, an agency shall assess the child's or adult's progress in acquiring basic living skills at a minimum of once every six months.

(f) An agency shall develop and implement policies and procedures to ensure that any child or adult in a transitional living setting receives training and guidance on appropriate health screening and services, including medical and dental screening and services.

(g) An agency shall develop policies and procedures for assisting a transitioning child or adult in searching for an appropriate dwelling that will be used as a scattered-site living setting, that meets the following criteria:

(1) The dwelling is safe and affordable;

(2) The dwelling has a working telephone or other means of communication in an emergency;

(3) The dwelling has appropriate equipment for indoor cooking; and

(4) The dwelling has an appropriate water source for cooking, cleaning, and bathing.

(h) The department shall promulgate legislative rules, including emergency rules if necessary, to implement the provisions of this section.

#### **ARTICLE 4. COURT ACTIONS.**

##### **49-4-601a. Preference of child placement.**

When a child is removed from his or her home, placement preference is to be given to relatives or fictive kin of the child. If a child requires out-of-home care, placement of a child with a relative is the least restrictive alternative living arrangement. The child's caseworker must diligently search for relatives of the child and fictive kin within the first days of a child's removal and must identify and provide notice of the child's need for a placement to relatives and fictive kin who are willing to act as a foster or kinship parent.

(1) After a petition alleging abuse and neglect of a child is filed, the department shall commence a search for every relative and fictive kin of the child.

(2) No later than seven calendar days after the petition for removal has been filed, the department shall file, with the court, a list of all of the relatives and fictive kin of the child known to the department at the time of the filing, whether or not those persons have expressed a willingness to take custody of the child.

(3) Within seven days after the department files the list described in subdivision (2) of this subsection, any party to the case may file, with the court, his or her own list containing names and addresses of relatives and fictive kin of the child.

(4) The department shall investigate and determine whether any of the persons identified in the lists filed pursuant to this section are willing and able to act as foster or kinship parents to the child. The department shall file its determinations with the court within 45 days from the filing of the petition alleging abuse or neglect of a child.

**§49-4-601b. Substantiation by the department of abuse and neglect.**

(a) Notwithstanding any provision of this code to the contrary, when the department substantiates an allegation of abuse or neglect against a person, but there is no judicial finding of abuse or neglect as a result of the allegation, the department shall provide written

notice of the substantiation to the person by certified mail, return receipt requested.

(b) The individual against whom an abuse or neglect allegation has been substantiated, as described in subsection (a) of this section, has the right to contest the substantiation by filing a grievance with the board of review of the department and has the right to appeal the decision of the board of review to the court, in accordance with the provisions of §29A-5-1 et. seq. of this code regarding administrative appeals.

(c) The secretary of the department shall promulgate legislative rules in accordance with §29A-3-1 of this code, within the applicable time limit to be considered by the Legislature during its regular session in the year 2021, which rules shall include, at a minimum:

(1) Provisions for ensuring that an individual against whom the department has substantiated an allegation of abuse and neglect, but against whom there is no judicial finding of abuse or neglect, receives written notice of the allegation in a timely manner. The written notice must, at a minimum, state the following:

(A) The name of the child the person is alleged to have abused or neglected, the place or places where the abuse or neglect allegedly occurred, and the date or dates on which the abuse or neglect is alleged to have occurred;

(B) That the person has a right to file a grievance protesting the substantiation of abuse and neglect with the board of review of the department and clear instructions regarding how to file a grievance with the board of review, including a description of any applicable time limits;

(C) That the person has a right to appeal an adverse decision of the board of review of the department to the courts and notice of any applicable time limits; and

(D) A description of any public or nonpublic registry on which the person's name will be included as a result of a substantiated allegation of abuse and neglect and a statement that the inclusion

of the person's name on the registry may prevent the person from holding jobs from which child abusers are disqualified, or from providing foster or kinship care to a child in the future;

(2) Provisions for ensuring that a person against whom an allegation of abuse and neglect has been substantiated, but against whom there is no judicial finding of abuse or neglect, may file a grievance with the department and provisions guaranteeing that any such person will have a full and fair opportunity to be heard; and

(3) Provisions requiring the department to remove a person's name from an abuse and neglect registry maintained by the department if a substantiation is successfully challenged in the board of review or in a court.

**§49-4-604. Disposition of neglected or abused children; case plans; dispositions; factors to be considered; reunification; orders; alternative dispositions.**

(a) *Child and family case plans.* — Following a determination pursuant to §49-4-602 of this code wherein the court finds a child to be abused or neglected, the department shall file with the court a copy of the child's case plan, including the permanency plan for the child. The term "case plan" means a written document that includes, where applicable, the requirements of the family case plan as provided in §49-4-408 of this code and that also includes, at a minimum, the following:

(1) A description of the type of home or institution in which the child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to assure that the child receives proper care and that services are provided to the parents, child, and foster or kinship parents in order to improve the conditions that made the child unsafe in the care of his or her parent(s), including any reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. §12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services;

(2) A plan to facilitate the return of the child to his or her own home or the concurrent permanent placement of the child; and address the needs of the child while in ~~relative~~ kinship or foster care, including a discussion of the appropriateness of the services that have been provided to the child.

The term “permanency plan” refers to that part of the case plan which is designed to achieve a permanent home for the child in the least restrictive setting available. The plan must document efforts to ensure that the child is returned home within approximate time lines for reunification as set out in the plan. Reasonable efforts to place a child for adoption or with a legal guardian should be made at the same time, or concurrent with, reasonable efforts to prevent removal or to make it possible for a child to return to the care of his or her parent(s) safely. If reunification is not the permanency plan for the child, the plan must state why reunification is not appropriate and detail the alternative, concurrent permanent placement plans for the child to include approximate time lines for when the placement is expected to become a permanent placement. This case plan shall serve as the family case plan for parents of abused or neglected children. Copies of the child’s case plan shall be sent to the child’s attorney and parent, guardian or custodian or their counsel at least five days prior to the dispositional hearing. The court shall forthwith proceed to disposition giving both the petitioner and respondents an opportunity to be heard.

(b) Requirements for a Guardian ad litem. —

A guardian ad litem appointed pursuant to §49-4-601(f)(1) of this code, shall, in the performance of his or her duties, adhere to the requirements of the Rules of Procedure for Child Abuse and Neglect Proceedings and the Rules of Professional Conduct and such other rules as the West Virginia Supreme Court of Appeals may promulgate, and any appendices thereto, and must meet all educational requirements for the guardian ad litem. A guardian ad litem may not be paid for his or her services without meeting the certification and educational requirements of the court. The West Virginia Supreme Court of Appeals is requested to provide guidance to the judges of the circuit courts regarding supervision of said guardians ad litem.



~~(b)~~ (c) *Disposition decisions.* — The court shall give precedence to dispositions in the following sequence:

(1) Dismiss the petition;

(2) Refer the child, the abusing parent, the battered parent or other family members to a community agency for needed assistance and dismiss the petition;

(3) Return the child to his or her own home under supervision of the department;

(4) Order terms of supervision calculated to assist the child and any abusing parent or battered parent or parents or custodian which prescribe the manner of supervision and care of the child and which are within the ability of any parent or parents or custodian to perform;

(5) Upon a finding that the abusing parent or battered parent or parents are presently unwilling or unable to provide adequately for the child's needs, commit the child temporarily to the care, custody, and control of the ~~state~~ department, a licensed private child welfare agency, or a suitable person who may be appointed guardian by the court. The court order shall state:

(A) That continuation in the home is contrary to the best interests of the child and why;

(B) Whether or not the department has made reasonable efforts, with the child's health and safety being the paramount concern, to preserve the family, or some portion thereof, and to prevent or eliminate the need for removing the child from the child's home and to make it possible for the child to safely return home;

(C) Whether the department has made reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. § 12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services;

(D) What efforts were made or that the emergency situation made those efforts unreasonable or impossible; and

(E) The specific circumstances of the situation which made those efforts unreasonable if services were not offered by the department. The court order shall also determine under what circumstances the child's commitment to the department are to continue. Considerations pertinent to the determination include whether the child should:

(i) Be considered for legal guardianship;

(ii) Be considered for permanent placement with a fit and willing relative; or

(iii) Be placed in another planned permanent living arrangement, but only in cases where the child has attained 16 years of age and the department has documented to the circuit court a compelling reason for determining that it would not be in the best interests of the child to follow one of the options set forth in subparagraphs (i) or (ii) of this paragraph. The court may order services to meet the special needs of the child. Whenever the court transfers custody of a youth to the department, an appropriate order of financial support by the parents or guardians shall be entered in accordance with §49-4-801 through §49-4-803 of this code;

(6) Upon a finding that there is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future and, when necessary for the welfare of the child, terminate the parental, custodial and guardianship rights and responsibilities of the abusing parent and commit the child to the permanent sole custody of the nonabusing parent, if there be one, or, if not, to either the permanent guardianship of the department or a licensed child welfare agency. The court may award sole custody of the child to a nonabusing battered parent. If the court shall so find, then in fixing its dispositional order the court shall consider the following factors:

(A) The child's need for continuity of care and caretakers;

(B) The amount of time required for the child to be integrated into a stable and permanent home environment; and

(C) Other factors as the court considers necessary and proper. Notwithstanding any other provision of this article, the court shall give consideration to the wishes of a child 14 years of age or older or otherwise of an age of discretion as determined by the court regarding the permanent termination of parental rights. No adoption of a child shall take place until all proceedings for termination of parental rights under this article and appeals thereof are final. In determining whether or not parental rights should be terminated, the court shall consider the efforts made by the department to provide remedial and reunification services to the parent. The court order shall state:

(i) That continuation in the home is not in the best interest of the child and why;

(ii) Why reunification is not in the best interests of the child;

(iii) Whether or not the department made reasonable efforts, with the child's health and safety being the paramount concern, to preserve the family, or some portion thereof, and to prevent the placement or to eliminate the need for removing the child from the child's home and to make it possible for the child to safely return home, or that the emergency situation made those efforts unreasonable or impossible; and

(iv) Whether or not the department made reasonable efforts to preserve and reunify the family, or some portion thereof, including a description of what efforts were made or that those efforts were unreasonable due to specific circumstances.

(7) For purposes of the court's consideration of the disposition custody of a child pursuant to this subsection, the department is not required to make reasonable efforts to preserve the family if the court determines:

(A) The parent has subjected the child, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent to aggravated

circumstances which include, but are not limited to, abandonment, torture, chronic abuse, and sexual abuse;

(B) The parent has:

(i) Committed murder of the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(ii) Committed voluntary manslaughter of the child's other parent, guardian, or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(iii) Attempted or conspired to commit murder or voluntary manslaughter, or been an accessory before or after the fact to either crime;

(iv) Committed a malicious assault that results in serious bodily injury to the child, the child's other parent, guardian, or custodian, to another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent; ~~or~~

(v) Attempted or conspired to commit malicious assault, as outlined in subparagraph (iv), or been an accessory before or after the fact to the same;

~~(v)~~ (vi) Committed sexual assault or sexual abuse of the child, the child's other parent, guardian, or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent; or

(vii) Attempted or conspired to commit sexual assault or sexual abuse, as outlined in subparagraph (vi), or been an accessory before or after the fact to the same.

(C) The parental rights of the parent to another child have been terminated involuntarily;

(D) A parent has been required by state or federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted by a preservation of the family.

(e) (d) As used in this section, "No reasonable likelihood that conditions of neglect or abuse can be substantially corrected" means that, based upon the evidence before the court, the abusing adult or adults have demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help. Those conditions exist in the following circumstances, which are not exclusive:

(1) The abusing parent or parents have habitually abused or are addicted to alcohol, controlled substances or drugs, to the extent that proper parenting skills have been seriously impaired and the person or persons have not responded to or followed through the recommended and appropriate treatment which could have improved the capacity for adequate parental functioning;

(2) The abusing parent or parents have willfully refused or are presently unwilling to cooperate in the development of a reasonable family case plan designed to lead to the child's return to their care, custody and control;

(3) The abusing parent or parents have not responded to or followed through with a reasonable family case plan or other rehabilitative efforts of social, medical, mental health, or other rehabilitative agencies designed to reduce or prevent the abuse or neglect of the child, as evidenced by the continuation or insubstantial diminution of conditions which threatened the health, welfare, or life of the child;

(4) The abusing parent or parents have abandoned the child;

(5) The abusing parent or parents have repeatedly or seriously injured the child physically or emotionally, or have sexually abused or sexually exploited the child, and the degree of family stress and the potential for further abuse and neglect are so great as to

preclude the use of resources to mitigate or resolve family problems, or assist the abusing parent or parents in fulfilling their responsibilities to the child; and

(6) The battered parent's parenting skills have been seriously impaired and the person has willfully refused or is presently unwilling or unable to cooperate in the development of a reasonable treatment plan, or has not adequately responded to or followed through with the recommended and appropriate treatment plan.

(d) (e) The court may, as an alternative disposition, allow the parents or custodians an improvement period not to exceed six months. During this period the court shall require the parent to rectify the conditions upon which the determination was based. The court may order the child to be placed with the parents, or any person found to be a fit and proper person, for the temporary care of the child during the period. At the end of the period, the court shall hold a hearing to determine whether the conditions have been adequately improved and at the conclusion of the hearing shall make a further dispositional order in accordance with this section.

(e) (f) The court may not terminate the parental ~~right~~ rights of a parent on the sole basis that the parent is participating in a medication-assisted treatment program, as regulated in §16-5Y-1 *et seq.*, for substance use disorder, as long as the parent is successfully fulfilling his or her treatment obligations in the medication-assisted treatment program.

On motions of Senators Baldwin and Palumbo, the following amendment to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4092) was reported by the Clerk:

On page eighteen, section one hundred twenty-six, subsection (a), subdivision (2), after the word "exploitation" by inserting a comma and the words "including being free from unwarranted physical restraint and isolation".

Following discussion,

The question being on the adoption of the amendment offered by Senators Baldwin and Palumbo to the Finance committee amendment to the bill, the same was put and prevailed.

On motion of Senator Trump, the following amendments to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4092) were next reported by the Clerk, considered simultaneously, and adopted:

On page thirteen, section one hundred and eleven-c, subsection (a), subdivision (1), after the word "removal" by inserting the word "of";

On page twenty-four, section one hundred and twenty-seven-a, subsection (c), subdivision (1), by striking out the word "available";

On page thirty, section six hundred and one-b, subsection (c), after "§29A-3-1" by inserting the words "et seq.";

On page thirty, section six hundred and one-b, subsection (c), subdivision (1), by striking out the word "allegation" and inserting in lieu thereof the word "substantiation";

And,

On page thirty-one, section six hundred and one-b, subsection (c), subdivision (1), paragraph (D), by striking out the word "in".

On motion of Senator Baldwin, the following amendment to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4092) was next reported by the Clerk:

On page thirteen, section one hundred eleven-a, after the word "families." by adding the following: "The department shall remit payments to foster parents on the same week each month to facilitate foster parents' ability to budget and appropriately expend payments for the benefit of the children in their custody."

Following discussion,

The question being on the adoption of Senator Baldwin's amendment to the Finance committee amendment to the bill, the same was put and prevailed.

On motions of Senators Azinger, Baldwin, Beach, Blair, Boley, Carmichael (Mr. President), Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Woelfel, the following amendments to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4092) were next reported by the Clerk and considered simultaneously:

On page fourteen, section one hundred eleven-c, subsection (b), by striking out “\$4,900,000” and inserting in lieu thereof “\$16,900,000”;

And,

On page fourteen, section one hundred eleven-c, after subsection (b), by inserting the following:

(c) On or before July 1, 2022 and on or before July 1 of every year thereafter, the secretary of the department shall present a report to the Joint Standing Committee on Government and Finance regarding the expenditures made pursuant to subsection (b) of this section and the department's progress in meeting the priorities and objectives listed in subsection (a) of this section: *Provided*, That the secretary shall provide the information described in this subsection and updates to previous reports at any time, upon request of the Joint Standing Committee on Government and Finance.

Following discussion,

The question being on the adoption of the amendments offered by Senators Azinger, et al., to the Finance committee amendment to the bill, the same was put and prevailed.



The question now being on the adoption of the Finance committee amendment to the bill, as amended, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4092), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4092 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4092) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

At the request of Senator Blair, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub. for House Bill 4092**—A Bill to repeal §49-2-102 and §49-2-104 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-1-206 of said code; to amend

and reenact §49-2-108, §49-2-110, §49-2-111, §49-2-111a, §49-2-112, §49-2-118, §49-2-121, §49-2-124, and §49-2-126 of said code; to amend said code by adding thereto five new sections, designated §49-2-111c, §49-2-127, §49-2-127a §49-2-128, and §49-2-129; to amend said code by adding thereto two new sections, designated §49-4-601a and §49-4-601b; and to amend and reenact §49-4-604, of said code, all relating generally to the child welfare system; defining terms; increasing the number children allowed in a foster family home; removing authorization for the Secretary of the Department of Health and Human Resources to transfer funds between certain accounts; eliminating requirement that the secretary provide public education; requiring certain information to be included in child placing agency data reports; setting a minimum amount that the Department of Health and Human Resources must pay child placing agencies per child adopted; requiring the department to review the rate of payment to foster parents at certain time intervals; authorizing and directing the department to expend funds to achieve certain priorities and objectives related to child placement and other services; requiring the department to expend an amount of appropriated funds in fiscal year 2021 to achieve certain priorities and objectives; requiring the secretary of the department to report annually, and upon request, to the Joint Standing Committee on Government and Finance regarding expenditures and progress toward meeting certain objectives and priorities; specifying when the department shall remit payments to foster families; eliminating summary review requirements for behavioral health care services and facilities for children in out of home placements; establishing the Foster Child Bill of Rights; establishing the Foster and Kinship Parent Bill of Rights; providing that violations of the rights provided to foster children and parents may be reported to and investigated by the foster care ombudsman; setting forth certain duties of foster parents; requiring a number of provisions to be included in the agreement between the foster parent and the child placing agency and the department; providing that neglect of a foster or kinship parent's duties and violations of agreements may be reported to and investigated by the foster care ombudsman; requiring the foster care ombudsman to make certain reports; setting forth the reasonable and prudent foster parent standard; providing that

children in out-of-home care are entitled to participate in certain activities and requiring caregivers to use the reasonable and prudent foster parent standard to make certain decisions regarding the child; limiting liability of a person adhering to the reasonable and prudent foster parent standard; requiring the department to establish minimum standards for transitional living services by legislative rule; establishing eligibility criteria for children and transitioning adults to participate in transitional living services; providing requirements for transitional living arrangements and the agency's duties in relation thereto; establishing preference that children removed from the home be placed with relatives and fictive kin; establishing a process by which the department shall, and others may, assist the court in identifying family members and fictive kin; requiring the department to provide notice to a person against whom an allegation of abuse or neglect, that does not result in a finding by a court, is substantiated; providing that a person against whom an allegation of abuse or neglect has been substantiated has a right to contest the substantiation and the right to appeal a decision of the department to the courts; establishing requirements for legislative rules of the department regarding substantiation of abuse and neglect allegations; requiring guardians ad litem to adhere to certain policies and meet certain requirements; clarifying when the department, in an abuse and neglect case, is not required to make efforts to preserve the family; requiring the department to promulgate legislative rules; requiring the department promulgate emergency rules; making technical corrections; and eliminating obsolete language from the code.

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

**Eng. Com. Sub. for House Bill 4102**, Relating to opioid antagonists.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard,

Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4102) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4102) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 4108**, Relating generally to certificates of need for health care services.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano,

Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4108) passed with its title.

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

**Eng. House Bill 4159**, Relating to the manufacture and sale of hard cider.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. House Bill 4161**, Making it illegal to scleral tattoo a person.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4176**, West Virginia Intelligence/Fusion Center Act.

On third reading, coming up in regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Thursday, March 5, 2020, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill and the pending unreported Government Organization committee amendment was deferred until the conclusion of bills on today's third reading calendar.

At the respective requests of Senators Woelfel and Blair, unanimous consent being granted, Senators Woelfel and Blair addressed the Senate regarding Engrossed Committee Substitute for House Bill 2321 (*Allowing workers' compensation benefits for first responders diagnosed with post-traumatic stress disorder*).

On motion of Senator Takubo, at 12:48 p.m., the Senate recessed until 2 p.m. today.

The Senate reconvened at 2:18 p.m. and resumed business under the eighth order, the next bill coming up in numerical sequence being

**Eng. House Bill 4178**, Requiring calls which are recorded be maintained for a period of five years.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4178) passed.

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

**Eng. House Bill 4178**—A Bill to amend and reenact §24-6-13 of the Code of West Virginia, 1931, as amended, relating to requiring calls which are recorded be maintained for a period of two years.

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

**Eng. House Bill 4354**, Adding nabiximols to the permitted list of distributed and prescribed drugs.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4354) passed.

The following amendment to the title of the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

**Eng. House Bill 4354**—A Bill to amend and reenact §60A-2-201 of the Code of West Virginia, 1931, as amended, relating to drugs; providing for the sale, wholesale, distribution, or prescribing of nabiximols in a product approved by the Food and Drug Administration; and placing nabiximols on the schedules of controlled substance or descheduled as provided by the Food and Drug Administration.

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

**Eng. Com. Sub. for House Bill 4362**, Relating to penalties for neglect, emotional abuse or death caused by a caregiver.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4362 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4362) passed.

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

**Eng. Com. Sub. for House Bill 4362**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8D-5a, relating to creating the offense of verbal abuse of a noncommunicative child; setting forth elements of the offense; establishing criminal penalties; and defining terms.

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



**Eng. Com. Sub. for House Bill 4363**, Establishing the West Virginia Division of Natural Resources Police Officer Retirement System.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4363) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4363) takes effect July 1, 2020.

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

**Eng. House Bill 4375**, Speech-Language Pathologists and Audiologists Compact.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4375) passed.

The following amendment to the title of the bill, from the Committee on Interstate Cooperation, was reported by the Clerk and adopted:

**Eng. House Bill 4375**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §30-32A-1, §30-32A-2, §30-32A-3, §30-32A-4, §30-32A-5, §30-32A-6, §30-32A-7, §30-32A-8, §30-32A-9, §30-32A-10, §30-32A-11, §30-32A-12, §30-32A-13, and §30-32A-14, all relating to joining the Audiology and Speech-Language Pathology Compact Commission; providing for a purpose; providing for definitions; providing for telehealth; requiring criminal background check and setting educational and other requirements for audiologists and speech language pathologists; authorizing member state to charge fee for granting compact privilege; providing for state participation in the compact; establishing the privilege to practice in member states; providing for change in primary state or residence procedures relating to licensing for active duty military personnel and their spouses; providing for procedures relating to duties, meetings, responsibilities, and

adverse actions; establishing the Audiology and Speech-Language Pathology Compact Commission and providing for an executive committee; providing for a data system available for use among the member states; providing for rulemaking authority of the commission; providing for dispute resolution, and enforcement provisions of the commission among the member states; providing for date of implementation among the member states; providing for applicability of the existing rules at the time a new member state joins the commission; providing for withdrawal of any member states and conditions that must be met until withdrawal is effective; providing for a six-month period before withdrawal is effective; providing for construction and severability of the provisions of the compact; and providing for a binding effect of the laws and rules of the compact among the member states.

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

**Eng. Com. Sub. for House Bill 4377**, The Protection of Vulnerable Adults from Financial Exploitation Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4377) passed.

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

**Eng. Com. Sub. for House Bill 4377**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §32-6-601, §32-6-602, §32-6-603, §32-6-604, §32-6-605, §32-6-606, §32-6-607, §32-6-608, §32-6-609, and §32-6-610, all relating to the creation of The Protection of Vulnerable Adults From Financial Exploitation Act; defining terms; establishing the obligations and duties of broker-dealers and investment advisors to notify certain agencies of potential financial exploitation; establishing the rights of broker-dealers and investment advisors to notify certain associated individuals regarding potential financial exploitation; permitting broker-dealers and investment advisors to delay a transaction or disbursement when financial exploitation is suspected; requiring the retention of records; and providing limited immunity from administrative and civil liability.

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

**Eng. Com. Sub. for House Bill 4388**, Limiting the Alcohol Beverage Control Commissioner's authority to restrict advertising.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Clements—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4388) passed.

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

**Eng. Com. Sub. for House Bill 4388**—A Bill to amend and reenact §11-16-2 and §11-16-18 of the Code of West Virginia, 1931, as amended, all relating to amending restrictions on advertising, equipment, and services by licensees; eliminating distributor's prohibition on delivering nonintoxicating beers to retailers on Sundays; detailing circumstances where a distributor may provide draught line services to a licensed retailer; limiting sponsorship of certain athletic events by distributors and brewers where the majority of athletes are minors; and establishing provisions for the cleaning of draught lines, and maintenance of records.

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

**Eng. Com. Sub. for House Bill 4395**, Removing the requirement that a veterinarian access and report to the controlled substance monitoring database.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Clements—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4395) passed.

The following amendment to the title of the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

**Eng. Com. Sub for House Bill 4395**—A Bill amend and reenact §60A-1-101 of the Code of West Virginia, 1931, as amended, relating to the controlled substances monitoring database; removing the requirement that a veterinarian monitor the controlled substance monitoring database; adding the requirement that a pharmacist licensed by the West Virginia Board of Pharmacy monitor the controlled substance database; and updating the code to reflect previous changes.

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

**Eng. Com. Sub. for House Bill 4398**, Relating to required courses of instruction.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4439**, Clarifying the method for calculating the amount of severance tax attributable to the increase in coal production.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano,

Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4439) passed.

At the request of Senator Blair, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub. for House Bill 4439**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-1, §11-13EE-2, §11-13EE-3, §11-13EE-4, §11-13EE-5, §11-13EE-6, §11-13EE-7, §11-13EE-8, §11-13EE-9, §11-13EE-10, §11-13EE-11, §11-13EE-12, §11-13EE-13, §11-13EE-14, §11-13EE-15, and §11-13EE-16, all relating generally to Coal Severance Tax Rebate; findings and purpose; defining terms; providing for rebate of severance tax when capital investment made in new machinery and equipment directly used in severance of coal, or in coal preparation and processing plants; providing rules and procedures for claiming rebate and transfer to successors; imposing recapture tax in certain circumstance; providing rules for interpretation and construction; requiring periodic rebate reports; authorizing rulemaking; and providing for severability and effective date.

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

**Eng. House Bill 4447**, Creating the shared table initiative for senior citizens who suffer from food insecurity.

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

At the request of Senator Maynard, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4176, already placed in that position.

**Eng. Com. Sub. for House Bill 4494**, Tobacco Use Cessation Initiative.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Facemire—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4494) passed.

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

**Eng. Com. Sub. for House Bill 4494**—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated as §16-9G-1 and §16-9G-2, all relating to expanding tobacco use reduction and cessation initiatives; creating a task force to undertake studies and monitor and advise the Division of Tobacco Prevention and recommend policies to the Legislature; authorizing the task force to apply and administer private grants and donations.



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

**Eng. House Bill 4499**, Relating to multicounty trail network authorities.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4499) passed.

The following amendment to the title of the bill, from the Committee on Natural Resources, was reported by the Clerk and adopted:

**Eng. House Bill 4499**—A Bill to amend and reenact §20-17-7, §20-17A-2 and §20-17A-3 of the Code of West Virginia, 1931, as amended, all relating to trails; eliminating permit requirement; continuing Mountaineer Trail Network Authority; expanding counties in Mountaineer Trail Network Authority; and expanding permitted recreational purposes.

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

**Eng. Com. Sub. for House Bill 4509**, Transferring the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4509) passed.

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

**Eng. Com. Sub. for House Bill 4509**—A Bill to amend and reenact §62-12-12 of the Code of West Virginia, 1931, as amended, relating to transferring the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support; removing the residency requirements pertaining to counties; continuing terms of current members; removing the work substitution or qualification to serve on the board; specifying the powers and duties of the chairperson; setting forth the process for selecting a vice chairperson; specifying the powers and duties of the vice chairperson; clarifying how a vacancy occurs on the board; creating the position of substitute board member; establishing qualifications, powers and duties of substitute board members; and clarifying how moneys for the board should be appropriated.

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

**Eng. House Bill 4514**, Permitting the use of leashed dogs to track mortally wounded deer or bear.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Baldwin and Sypolt—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4514) passed.

The following amendment to the title of the bill, from the Committee on Natural Resources, was reported by the Clerk and adopted:

**Eng. House Bill 4514**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §20-2-5j; and to amend and reenact §20-2-16 of said code, all relating to hunting; permitting the use of leashed dogs to track mortally wounded deer or bear; amending protocol for possession of natural resources police officers of dogs known to be unlawfully hunting or chasing deer; and excepting the use of leashed dogs to track mortally wounded deer or bear from statutory prohibition on commercial bear hunts.

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

**Eng. House Bill 4523**, Removing the limitation of number of apprentice hunting and trapping licenses a person may purchase.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4530**, Authorizing daily passenger rental car companies to charge reasonable administrative fees.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4530) passed.

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

**Eng. Com. Sub. for House Bill 4530**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-6D-17, relating to fees that may be charged by daily passenger rental car companies pursuant to the master rental agreement; defining a term; authorizing daily passenger rental car companies to charge administrative fees under a certain amount related to certain costs incurred by the rental customer and paid by the daily passenger car rental company; and requiring that the rental customer affirmatively agree to the administrative fees in the master rental agreement.

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

**Eng. Com. Sub. for House Bill 4543**, Relating to insurance coverage for diabetics.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4543 pass?”

Senators Smith, Azinger, and Hamilton, respectively, requested a ruling from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Smith, Azinger, and Hamilton would be as members of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Azinger—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4543) passed with its title.

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

**Eng. Com. Sub. for House Bill 4558**, Creating a personal income tax credit for volunteer firefighters in West Virginia.

On third reading, coming up in regular order, with the Finance committee amendment to bill pending, and with the right having been granted on yesterday, Thursday, March 5, 2020, for further amendments to be received on third reading, was reported by the Clerk.

The question being on the adoption of the Finance committee amendment to the bill (*shown in the Senate Journal of yesterday, Thursday, March 5, 2020, page 2316*).

At the request of Senator Blair, as chair of the Committee on Finance, and by unanimous consent, the Finance committee amendment to the bill was withdrawn.

On motions of Senators Blair and Palumbo, the following amendment to the bill (Eng. Com. Sub. for H. B. 4558) was reported by the Clerk:

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

## **ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.**

### **§11-10-14a. ~~Expiration of Tax refund check-off programs.~~**

(a) Notwithstanding any other provision of law to the contrary Except as otherwise provided in this section, or in another section of this code enacted after June 30, 1991, all voluntary tax refund check-off programs shall expire and do not apply to any personal income tax returns required to be filed after June 30, 1991: Provided, That if any such program has an earlier expiration date specifically provided by law, such the earlier expiration date shall apply applies.

(b) The Tax Commissioner shall cause each West Virginia personal income tax return form to contain a provision by which a taxpayer, and his or her spouse if a joint return, may donate a portion or all of his or her tax refund to the West Virginia Department of Veterans Assistance for purposes of providing nursing home and health care for aged and disabled veterans in the

West Virginia Veterans Home. The total amount of donations received under this subsection shall be deposited in the State Treasury to the credit of the Department of Veterans Assistance to be used exclusively for purposes of providing nursing home and health care for aged and disabled veterans in the West Virginia Veterans Home.

(c) The Tax Commissioner shall cause each West Virginia personal income tax return form to contain a provision by which a taxpayer, and his or her spouse if a joint return, may donate a portion or all of his or her tax refund to the Donel C. Kinnard Memorial State Veterans Cemetery for purposes of operating and maintaining the cemetery. The total amount of donations received under this subsection shall be deposited in the State Treasury to the credit of the Department of Military Affairs and Public Safety to be used exclusively for purposes of operating and maintaining the Donel C. Kinnard Memorial State Veterans Cemetery.

## **ARTICLE 13FF. THE HIGH-WAGE GROWTH BUSINESS TAX CREDIT ACT.**

### **§11-13FF-1. The High-Wage Growth Business Tax Credit Act.**

This article shall be known and may be cited as the High-Wage Growth Business Tax Credit Act.

### **§11-13FF-2. Definitions.**

As used in this article:

“Benefits” means all remuneration for work performed that is provided to an employee in whole or in part by the employer, other than wages, including the employer’s contributions to insurance programs, health care, medical, dental and vision plans, life insurance, employer contributions to pensions, such as a 401(k), and employer-provided services, such as child care, offered by an employer to the employee. “Benefits” does not include the employer’s share of payroll taxes, Social Security or Medicare contributions, federal or state unemployment insurance contributions or workers’ compensation;

“Consecutive qualifying period” means each of the three qualifying periods successively following the qualifying period in which the new high-wage job was created;

“Division” means the West Virginia State Tax Division;

“Domicile” means the sole place where an individual has a true, fixed, permanent home. It is the place where the individual has a voluntary, fixed habitation of self and family with the intention of making a permanent home;

“Eligible employee” means an individual who is employed in West Virginia by an eligible employer, who is a resident of West Virginia, and 100 percent of the employee’s income from such employment is West Virginia income. “Eligible employee” does not include an individual who:

(1) Bears any of the relationships described in paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than 50 percent of the capital and profits interest in the entity;

(2) If the employer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust or is an individual who bears any of the relationships described in paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust;

(3) Is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of an individual who owns, directly or indirectly, more than 50 percent of the capital and profits interest in the entity or, if the employer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust; or



(4) Is working or has worked as an employee or as an independent contractor for an entity that, directly or indirectly, owns stock in a corporation of the eligible employer or other interest of the eligible employer that represents 50 percent or more of the total voting power of that entity or has a value equal to 50 percent or more of the capital and profits interest in the entity;

“Eligible employer” means a person whether organized for profit or not, or headquarters of such entity registered to do business in West Virginia that is the owner or operator of a project facility, that offers health benefits to all full-time eligible employees and certifies that it pays at least 50 percent of such health benefit premiums.

“Health benefits” means coverage for basic hospital care, physician care, prescriptions, and shall be the same coverage as is provided to employees employed in a bona fide executive, administrative, or professional capacity by the employer who are exempt from the minimum wage and maximum hour requirements of the federal Fair Labor Standards Act and the employer pays at least 50 percent of such insurance premiums.

“New high-wage job” means a new job created in West Virginia by an eligible employer on or after July 1, 2020, that is occupied for at least 48 weeks of a qualifying period by an eligible employee who is paid wages calculated for the qualifying period to be at least two and twenty-five hundredths times the state median salary;

“New job” means a job that is occupied by an employee who was not previously on the employer’s payroll in West Virginia, nor previously on the payroll of such employer’s parent entity, subsidiary, alter ego, or affiliate in West Virginia, or previously on the payroll of any business whose physical plant and employees are substantially the same as those of the employer in West Virginia in the three years prior to the date of hire. “New job” does not mean any job that is a result of job shifts due to the gain or loss of an in-state contract to supply goods and services, nor does it mean an employee who is retained following the acquisition of all or part of an in-state business by an employer;

“Qualifying period” means the period of 12 months beginning on the day an eligible employee begins working in a new high-wage job or the period of 12 months beginning on the anniversary of the day an eligible employee began working in a new high-wage job;

“Resident” means a natural person whose domicile is in West Virginia at the time of hire or within 180 days of the date of hire;

“Threshold job” means a job that is occupied for at least 44 weeks of a calendar year by an eligible employee and that meets the wage requirements for a “new high-wage job”; and

“Wages” means all compensation paid by an eligible employer to an eligible employee through the employer’s payroll system, including those wages that the employee elects to defer or redirect or the employee’s contribution to a 401(k) or cafeteria plan program, but “wages” does not include benefits or the employer’s share of payroll taxes, Social Security or Medicare contributions, federal or state unemployment insurance contributions, or workers’ compensation.

### **§11-13FF-3. High-wage growth business tax credit.**

(a) The Development Office may authorize no more than \$5 million of the tax credits allowed under this article during any fiscal year and the total amount of tax credit that may be awarded or used in any taxable year by any qualified taxpayer in combination with the owners of the qualified taxpayer may not exceed more than 10 percent of the salaries for the new direct jobs. Depending on the nature of the anticipated benefits to the state, the Development Office may establish a tax credit at a level less than the maximum. Nothing in this article entitles a qualified employer to receive a tax credit under this article and the Development Office has full discretion, subject to annual or ad hoc review, in determining whether and the amount to which to award a tax credit.

(b) A taxpayer that is an eligible employer seeking to obtain a tax credit shall make an application to the Development Office prior to the taxable year in which the eligible employer is seeking

the credit. The application shall be on a form prescribed by the Development Office and shall contain such information as may be required by the Development Office to determine if the applicant is qualified. The application shall contain a sworn statement by a duly authorized officer of the employer listing the names of persons or other entities who have received or who will receive any payment or other consideration from the employer for the purpose of representing the employer in applying for or receiving the benefits provided for in this article and shall include a certificate of good standing from the State Tax Department.

(c) The employer shall certify that during the eligible employer's tax year and that at the end of the eligible employer's tax year it will meet or exceed all of the requirements established in § 11-13FF-4 of this code;

(d) After the filing of an application by an eligible employer, the Development Office shall undertake an analysis and determine whether, the extent to which, and the conditions upon which an eligible employer may obtain a tax credit if it fulfills the commitments made in the eligible employer's application. In considering whether to approve the eligible employer's application for a tax credit, the Development Office shall consider the following factors:

(1) The significance of the eligible employer's need for the tax credit;

(2) The amount of projected net fiscal benefit to the state of the project and the period in which the state would realize such net fiscal benefit;

(3) The overall size and quality of the proposed project, including the number of new jobs, proposed wages, growth potential of the qualified company, the potential multiplier effect of the project, and similar factors;

(4) The financial stability and creditworthiness of the eligible employer;

(5) The level of economic distress in the area;

(6) An evaluation of the competitiveness of alternative locations for the location of the eligible employer, as applicable;

(7) Whether other state incentives are available and have been awarded to the eligible employer; and

(8) The amount of local incentives committed.

(e) The Development Office may authorize the continued ability to receive the tax credit as long as the employer retains its eligibility by maintaining the number of new direct jobs in successive years, as provided under this article, not to exceed five years.

(f) A qualified employer that has qualified pursuant to this article is eligible to receive tax credits under this article only in accordance with the provisions under which it initially applied and was approved. If a qualified employer that is receiving tax credits and creates new direct jobs, it may apply for additional tax credits based on the new direct jobs anticipated from the expansion only, pursuant to this article.

**§11-13FF-4. Obtaining tax credit following tax year.**

(a) At the end of the approved employer's tax year, the qualified employer may file an application to use the tax credits previously approved by the Development Office. The application shall contain a sworn statement by a duly authorized officer of the qualified employer concerning with respect to the employer's fiscal year:

(1) That the eligible employer remained a qualified employer under the provisions of this article;

(2) The total number of and the gross payroll of the new direct jobs, with salary information provided by new direct job and that each new direct job was filled for at least 48 weeks during the tax year;

(3) That the employer had or maintained a net overall increase in employment statewide for each new direct job and the number

of such net overall increase of at least 10 new direct jobs, in the case where an employer has contracts covering multiple locations;

(4) That employees holding the new direct jobs:

(A) Were residents in the State of West Virginia;

(B) Were not previously on the employer's payroll;

(C) Were not previously on the payroll of the employer's parent entity, subsidiary, or affiliate, alter ego, or previously on the payroll of the business whose physical plant and employees were substantially the same as those of the employer;

(D) Did not exist as of the date the employer filed the application for the tax credit;

(E) Were not jobs created as a result of job shifts due to the gain or loss of an in-state contract to supply goods and services;

(F) Were not jobs retained following the acquisition of all, or part of, an in-state business by the employer;

(5) That the employer has offered the health benefits to the eligible employees it employs in new direct jobs; and

(6) That the employer:

(A) Did not default on or otherwise not repay any loan or other obligation involving public funds;

(B) Has not declared bankruptcy under which an obligation of the employer to pay or repay public funds or moneys was discharged as part of such bankruptcy;

(C) Is not in default on any filing or payment with or to the state or any of its agencies or political subdivisions in which such assessment or judgment is final, not appealable, and remains outstanding.

(b) The division may request such additional information from the employer as may be necessary to determine whether the

application is correct and whether the qualified employer is eligible for the annual tax credit for that year, or may request that the qualified employer revise its application.

(c) The tax credits authorized in this article shall be authorized after the qualified employer has filed its application for annual tax credit at the end of the qualified employer's tax year with the Development Office pursuant to this section, and the division has determined from the information submitted along with such application that the employer has fulfilled its obligations in original application.

(d) Upon approval of the application for use of the tax credit, the application shall be forwarded to the Department of Revenue. The eligible employer may then use such tax credit in filing its tax return.

(e) A new high-wage job is not eligible for a credit pursuant to this section for the initial qualifying period unless the eligible employer's total number of employees with threshold jobs on the last day of the initial qualifying period at the location at which the job is performed or based is at least one more than the number of threshold jobs on the day prior to the date the new high-wage job was created. A new high-wage job is not eligible for a credit pursuant to this section for a consecutive qualifying period unless the total number of threshold jobs at a location at which the job is performed or based on the last day of that qualifying period is greater than or equal to the number of threshold jobs at that same location on the last day of the initial qualifying period for the new high-wage job.

(f) If a consecutive qualifying period for a new high-wage job does not meet the wage, occupancy and residency requirements, then the qualifying period is ineligible.

(g) Except as provided in subsection (h) of this section, a new high-wage job is not eligible for a credit pursuant to this section if:

(1) The new high-wage job is created due to a business merger or acquisition or other change in business organization;

(2) The eligible employee was terminated from employment in West Virginia by another employer involved in the business merger or acquisition or other change in business organization with the taxpayer; and

(3) The new high-wage job is performed by:

(A) The person who performed the job or its functional equivalent prior to the business merger or acquisition or other change in business organization; or

(B) A person replacing the person who performed the job or its functional equivalent prior to a business merger or acquisition or other change in business organization.

(h) A new high-wage job that was created by another employer and for which an application for the high-wage growth business tax credit was received and is under review by the division prior to the time of the business merger or acquisition or other change in business organization shall remain eligible for the high-wage growth business tax credit for the balance of the consecutive qualifying periods. The new employer that results from a business merger or acquisition or other change in business organization may only claim the high-wage growth business tax credit for the balance of the consecutive qualifying periods for which the new high-wage job is otherwise eligible.

(i) A new high-wage job is not eligible for a credit pursuant to this section if the job is created due to an eligible employer entering into a contract or becoming a subcontractor to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity unless the job is a new high-wage job that was not being performed by an employee of the replaced entity.

(j) A new high-wage job is not eligible for a credit pursuant to this section if the eligible employer has more than one business location in the state from which it conducts business and the requirements of subsection (e) of this section are satisfied solely by moving the job from one business location of the eligible employer

in this state to another business location of the eligible employer in the state.

(k) With respect to each annual application for a high-wage growth business tax credit, the employer shall certify and include:

(1) The responsibilities and amount of wages paid to each eligible employee in a new high-wage job during the qualifying period;

(2) The number of weeks each position was occupied during the qualifying period;

(3) Which qualifying period the application pertains to for each eligible employee;

(4) The total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period;

(5) The total number of threshold jobs performed or based at the eligible employer's location on the day prior to the qualifying period and on the last day of the qualifying period;

(6) For an eligible employer that has more than one business location in the state from which it conducts business, the total number of threshold jobs performed or based at each business location of the eligible employer in the state on the day prior to the qualifying period and on the last day of the qualifying period;

(7) Whether the eligible employer has ceased business operations at any of its business locations in this state; and

(8) Whether the application is precluded by subsection (o) of this section.

(l) Any person who willfully submits a false, incorrect, or fraudulent certification required pursuant this section shall be subject to all applicable penalties under §11-9-1 *et seq.* and §11-10-1 *et seq.* of this code, except that the amount on which the



penalty is based shall be the total amount of credit requested on the application for approval.

(m) Except as provided in subsection (o) of this section, an approved high-wage growth business tax credit shall be claimed against the taxpayer's taxes imposed by §11-23-1 et seq., §11-24-1 et seq., and §11-21-1 et seq. of this code, in that order, as specified in this subsection:

(1) Business franchise tax. — The credit is first applied to reduce the taxes imposed by §11-23-1 et seq. of this code for the taxable year, determined after application of the credits against tax provided in §11-23-17 of this code, but before application of any other allowable credits against tax.

(2) Corporation net income taxes. — After application of subdivision (1) of this subsection, any unused credit is next applied to reduce the taxes imposed by §11-24-1 et seq. of this code for the taxable year, determined before application of allowable credits against tax.

(A) If the eligible taxpayer is a limited liability company, small business corporation, or a partnership, then any unused credit after application of subdivisions (1) and (2) of this subsection is allowed as a credit against the taxes imposed by §11-24-1 et seq. of this code on owners of the eligible taxpayer on the conduit income directly derived from the eligible taxpayer by its owners. Only those portions of the tax imposed by §11-24-1 et seq. of this code that are imposed on income directly derived by the owner from the eligible taxpayer are subject to offset by this credit.

(B) Small business corporations, limited liability companies, partnerships, and other unincorporated organizations shall allocate the credit allowed by this section among their members in the same manner as profits and losses are allocated for the taxable year.

(3) Personal income tax taxes. — After application of subdivisions (1) and (2) of this subsection, any unused credit is next applied to reduce the taxes imposed by §11-21-1 et seq. of this code

for the taxable year determined before application of allowable credits against tax of the eligible taxpayer.

(4) If the eligible taxpayer is a limited liability company, small business corporation, or a partnership, then any unused credit after application of subdivisions (1), (2), and (3) of this subsection is allowed as a credit against the taxes imposed by §11-21-1 *et seq.* of this code on owners of the eligible taxpayer on the conduit income directly derived from the eligible taxpayer by its owners. Only those portions of the tax imposed by §11-21-1 *et seq.* of this code that are imposed on income directly derived by the owner from the eligible taxpayer are subject to offset by this credit.

(5) Small business corporations, limited liability companies, partnerships, and other unincorporated organizations shall allocate the credit allowed by this section among their members in the same manner as profits and losses are allocated for the taxable year.

(6) No credit is allowed under this section against any withholding tax imposed by, or payable under, §11-21-1 *et seq.* of this code.

(7) *Unused credit carry forward.* — Except to the extent excess credit is refunded as provided in subdivision (8) of this subsection, if the credit allowed under this article in any taxable year exceeds the sum of the taxes enumerated in subdivisions (1), (2), and (3) of this subsection for that taxable year, the eligible taxpayer and owners of eligible taxpayers described in subdivisions (4) and (5) of this subsection may apply the excess as a credit against those taxes, in the order and manner stated in this section, for succeeding taxable years until the earlier of the following:

(A) The full amount of the excess credit is used; or

(B) The expiration of the 10th taxable year after the taxable year in which the annual salaries for the new direct job was paid or incurred. Any credit remaining thereafter is forfeited.

(8) If the credit allowed under this section in any taxable year exceeds the sum of taxes enumerated in subdivisions (1), (2), (3), (4), and (5) of this subsection for that taxable year, the eligible

taxpayer and owners of the eligible taxpayers described in subdivisions (4) and (5) of this subsection may claim for that year the excess amount as a refundable credit, not to exceed \$100,000 per taxpayer, including owners and the controlled group, if applicable.

(9) Tax credits provided under this section may not be transferred, sold, or assigned by filing a notarized endorsement thereof with the division that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the division.

(n) If the taxpayer ceases business operations in this state while an application for credit approval is pending or after an application for credit has been approved for any qualifying period for a new high-wage job, the division may not grant an additional high-wage growth business tax credit to that taxpayer except as provided in subsection (m) of this section and shall extinguish any amount of credit approved for that taxpayer that has not already been claimed against the taxpayer's modified combined tax liability.

(o) A taxpayer that has received a high-wage growth business tax credit may not submit a new application for the credit for a minimum of two calendar years from the closing date of the last qualifying period for which the taxpayer received the credit if the taxpayer lost eligibility to claim the credit from a previous application pursuant to subsection (m) of this section.

#### **§11-13FF-5. Rules.**

The division shall propose legislative rules implementing this article in accordance with the provisions of §29A-3-1 et seq. of this code.

### **ARTICLE 13GG. WEST VIRGINIA VOLUNTEER FIREFIGHTER TAX CREDIT ACT.**

#### **§11-13GG-1. Findings and Purpose.**

The Legislature finds that it is an important public policy to encourage participation in volunteer fire fighting and emergency

response by providing tax credits for those who volunteer their time as a vital service to their community.

**§11-13GG-2. Definitions.**

As used in this article:

“Active member” means an individual that performs the function of fire prevention and suppression, or vehicle and machinery extrications, hazardous materials response and mitigation, technical rescue, emergency medical services, and any other duties that a specialized support member may provide when responding to emergency situations;

“Activities” means responses to emergencies, monthly or quarterly meetings, fund raising activities, and fire department management;

“Chief” means the highest-ranking fire line officer in charge of a volunteer fire department;

“Commission” means the West Virginia State Fire Commission;

“Volunteer fire department” means a volunteer fire department in this state, certified and regulated by the commission, and lawfully formed under §8-15-1 *et seq.* of this code;

“Volunteer firefighter” means a West Virginia taxpayer who is an active member of a volunteer fire department.

**§11-13GG-3. Amount of credit; limitation of credit.**

(a) There is allowed to eligible volunteer firefighters in this state a nonrefundable credit against taxes imposed by §11-21-1 *et seq.* of this code in the amount set forth in subsection (b) of this section.

(b) The amount of the credit is \$1,000 during a taxable year or the total amount of tax imposed by §11-21-1 *et seq.* of this code in the year of active membership, whichever is less. If both taxpayers filing a joint tax return are eligible for the credit authorized by this

article, the amount of the credit is \$2,000, or \$1,000 for each eligible taxpayer, during a taxable year or the total amount of tax imposed by §11-21-1 et seq. of this code in the year of active membership, whichever is less.

(c) If the amount of the credit authorized by this article is unused in any tax year, it may not be applied to any other tax year.

**§11-13GG-4. Qualification for credit.**

(a) To be an eligible volunteer firefighter under §11-13GG-3 of this code, he or she shall obtain certification from the chief of the volunteer fire department to demonstrate the following:

(1) The volunteer firefighter has been an active member in good standing of the volunteer fire department for the entire year; or

(2) Has been an active member in good standing of the volunteer fire department and another volunteer fire department of this state for the entire year; and

(3) Has participated as an active member as defined in §11-13GG-3 of this code on-site at at least 30 percent of the volunteer fire department activities during the year; and

(4) Has met or exceeded all certification and training for active member firefighters required under the laws of this state.

(b) The certification from the chief of the volunteer firefighter department shall demonstrate, at a minimum:

(1) The rank or position of the volunteer firefighter;

(2) The years of service for the volunteer firefighter;

(3) The number of emergency situations the volunteer firefighter responded in the year of active membership; and

(4) The number of meetings or training attended by the volunteer firefighter in the year of active membership.

(c) To claim the tax credit, a volunteer firefighter shall submit the certification from the chief of the volunteer fire department to the Tax Commissioner.

**§11-13GG-5. Legislative rules.**

(a) The Tax Commissioner may propose rules for legislative approval in accordance with the provision of §29A-3-1 et seq. of this code as may be necessary to carry out the purposes of this article.

(b) The commission may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code as may be necessary to carry out the purposes of this article.

**§11-13GG-6. Tax credit review report.**

Beginning on the first day of the second taxable year after the passage of this article and every two years thereafter, the commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Delegates a tax credit review and accountability report evaluating the cost effectiveness of the tax credit and donations during the most recent two-year period for which information is available.

**§11-13GG-7. Effective date.**

The credit allowed by this article shall be allowed for qualifying volunteer firefighters after December 31, 2022.

**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 is 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 is to be installed in, affixed to, or incorporated by that person or his or her agent into any real property, building, or structure is 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. "Control" means ownership, directly or indirectly, of stock, equity interests, or membership interests possessing ~~fifty~~ 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 with at least 50 percent common ownership;

(24) Food for the following are 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; and

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

(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 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.

Following discussion,

The question being on the adoption of the amendment offered by Senators Blair and Palumbo to the bill, the same was put and prevailed.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4558), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4558) passed.

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

**Eng. Com. Sub. for House Bill 4558**—A Bill to amend and reenact §11-10-14a of the Code of West Virginia, 1931, as amended; to further amend said code by adding thereto a new article, designated §11-13FF-1, §11-13FF-2, §11-13FF-3, §11-13FF-4 and §11-13FF-5; to further amend said code by adding thereto a new article, designated §11-13-GG-1, §11-13GG-2, §11-13GG-3, §11-13GG-4, §11-13GG-5, §11-13GG-6 and §11-13GG-7; and to amend and reenact §11-15-9 of said code, all relating generally to taxation; creating various deductions, exemptions and credits, relating to allowing certain deductions to be made from individual personal income tax refunds for specified purpose; providing check-off for nursing home and health care for aged and disabled veterans in the West Virginia Veterans Home; providing check-off for purposes of operating and maintaining the Donel C. Kinnard Memorial State Veterans Cemetery; creating an exemption for the State Sales and Use Tax for the rental of equipment among corporations with a minimum of 50 percent common ownership; creating the High-Wage Growth Business Tax Credit Act; defining terms; allowing no more than \$5 million in tax credits from the Development Office; setting out an application process; providing for factors to be considered in granting the application; setting out eligibility requirements; creating a personal income tax credit for volunteer firefighters in West Virginia; providing findings and purpose; providing definitions; providing nonrefundable tax credit for a volunteer firefighter against personal income tax in a taxable year; providing for a tax credit limitation of \$1,000 for a single person; providing for a tax credit limitation of \$2,000 for persons filing tax returns jointly under certain conditions; providing that the tax credit for volunteer firefighters must be used in the taxable year and cannot be carried forward; providing for documentation of eligibility for the tax credit; providing requirements for the documentation evidencing

eligibility for the tax credit; providing that documentation must be sent to the Tax Commissioner; providing for reporting at certain time; providing for rule-making authority; and providing an effective date.

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

**Eng. Com. Sub. for House Bill 4560**, Relating to deliveries by a licensed wine specialty shop.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Roberts—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4560) passed.

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

**Eng. Com. Sub. for House Bill 4560**—A Bill to amend and reenact §60-8-6b of the Code of West Virginia, 1931, as amended, relating to permitting licensed wine specialty shops to sell wine with a gift basket by telephonic, electronic, or web-based wine ordering; and establishing requirements for lawful delivery.

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



**Eng. Com. Sub. for House Bill 4573**, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4573) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4573) takes effect July 1, 2020.

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

**Eng. Com. Sub. for House Bill 4611**, Relating to fireworks.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4611 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4611) passed.

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

**Eng. Com. Sub. for House Bill 4611**—A Bill to amend and reenact §29-3E-5 and §29-3E-8 of the Code of West Virginia, 1931, as amended, all relating generally to fireworks; requiring the State Fire Marshal to establish a procedure that allows a fireworks retailer to combine and pay all applicable fees in a single payment.

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

**Eng. Com. Sub. for House Bill 4619**, Approving plans proposed by electric utilities to install middle-mile broadband fiber.

On third reading, coming up in regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Thursday, March 5, 2020, for further amendments to be received on third reading, was reported by the Clerk.

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

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

## **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

### **ARTICLE 2. POWER AND DUTIES OF PUBLIC SERVICE COMMISSION.**

#### **§24-2-1. Jurisdiction of Commission; waiver of jurisdiction.**

(a) The jurisdiction of the Public Service Commission shall extend to all public utilities in this state and shall include any utility engaged in any of the following public services:

Common carriage of passengers or goods, whether by air, railroad, street railroad, motor or otherwise, by express or otherwise, by land, water or air, whether wholly or partly by land, water or air; transportation of oil, gas or water by pipeline; transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping car or parlor car services; transmission of messages by telephone, telegraph or radio, except an electric utility that has installed middle-mile fiber broadband infrastructure under the provisions of §24-2-1o of this article shall not be considered a public utility engaged in the transmission of messages by telephone, telegraph or radio; generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas or electricity by municipalities or others; sewer systems servicing 25 or more persons or firms other than the owner of the sewer systems: *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative

method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission regardless of the number of customers served by the innovative, alternative method; any public service district created under the provisions of §16-13A-1, *et seq.* of this code, except that the Public Service Commission will have no jurisdiction over the provision of stormwater services by a public service district; toll bridges, wharves, ferries; solid waste facilities; and any other public service: *Provided, however,* That natural gas producers who provide natural gas service to not more than 25 residential customers are exempt from the jurisdiction of the commission with regard to the provisions of such residential service: *Provided further,* That upon request of any of the customers of such natural gas producers, the commission may, upon good cause being shown, exercise such authority as the commission may deem appropriate over the operation, rates and charges of such producer and for such length of time as the commission may consider to be proper.

(b) The jurisdiction of the commission over political subdivisions of this state providing separate or combined water and/or sewer services and having at least 4,500 customers and annual combined gross revenues of \$3 million or more that are political subdivisions of the state is limited to:

(1) General supervision of public utilities, as granted and described in §24-2-5 of this code;

(2) Regulation of measurements, practices, acts or services, as granted and described in §24-2-7 of this code;

(3) Regulation of a system of accounts to be kept by a public utility that is a political subdivision of the state, as granted and described in §24-2-8 of this code;

(4) Submission of information to the commission regarding rates, tolls, charges or practices, as granted and described in §24-2-9 of this code;

(5) Authority to subpoena witnesses, take testimony and administer oaths to any witness in any proceeding before or conducted by the commission, as granted and described in §24-2-10 of this code; and

(6) Investigation and resolution of disputes between a political subdivision of the state providing wholesale water and/or wastewater treatment or other services, whether by contract or through a tariff, and its customer or customers, including, but not limited to, rates, fees and charges, service areas and contested utility combinations: *Provided*, That any request for an investigation related to such a dispute that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission of the political subdivision and the commission shall resolve said dispute within 120 days of filing. The 120-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the rates, fees, and charges or other information as the commission considers necessary is filed: *Provided, however*, That the disputed rates, fees and charges so fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered, or amended by the commission in an order to be followed in the future.

(7) Customers of water and sewer utilities operated by a political subdivision of the state may bring formal or informal complaints regarding the commission's exercise of the powers enumerated in this section and the commission shall resolve these complaints.

(8) In the event that a political subdivision has a deficiency in either its bond revenue or bond reserve accounts, or is otherwise in breach of a bond covenant, any bond holder may petition the Public Service Commission for such redress as will bring the accounts to current status or otherwise resolve the breached covenant, and the commission shall have jurisdiction to fully resolve the alleged deficiency or breach.

(c) The commission may, upon application, waive its jurisdiction and allow a utility operating in an adjoining state to provide service in West Virginia when:

(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;

(2) Said area can be provided with utility service by a utility which operates in a state adjoining West Virginia;

(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility is duly authorized to charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

(d) Any other provisions of this chapter to the contrary notwithstanding:

(1) An owner or operator of an electric generating facility located or to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which such facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall be subject to §24-2-11c(e) through §24-2-11c(j) of this code as if the certificate of public convenience and necessity for such facility were a siting certificate issued under §24-2-11c of this code and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(2) Any person, corporation or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt

wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which facility the owner or operator does not hold a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to §24-2-11c(e) through §24-2-11c(j) of this code and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state, or solely for sale at wholesale in accordance with any applicable federal law that preempts state law, or solely for both such sales at retail and such sales at wholesale, and that had been constructed and had engaged in commercial operation on or before July 1, 2003, shall not be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility, regardless of whether such facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable federal law: *Provided*, That such owner or operator shall be subject to §24-2-1(d)(5) of this code if a material modification of such facility is made or constructed.

(4) Any person, corporation or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate

electric energy solely for sale at retail outside this state, or solely for sale at wholesale in accordance with any applicable federal law that preempts state law, or solely for both such sales at retail and such sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to §24-2-11c(e) through §24-2-11c(j) of this code and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of §24-2-11 of this code and, except for the provisions of §24-2-11c of this code, shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to §24-2-11 of this code to construct an electric generating facility described in this subsection or to make or construct a material modification of such electric generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the application for the certificate of public convenience and necessity



was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order thereon as of that date.

(7) The limitations on the jurisdiction of the commission over, and on the applicability of the provisions of this chapter to, the owner or operator of an electric generating facility as imposed by and described in this subsection shall not be deemed to affect or limit the commission's jurisdiction over contracts or arrangements between the owner or operator of such facility and any affiliated public utility subject to the provisions of this chapter.

(e) The commission shall not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(1) "Internet protocol-enabled service" means any service, capability, functionality or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data or video.

(2) "Voice-over Internet protocol service" means any service that:

(i) Enables real-time two-way voice communications that originate or terminate from the user's location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user's location.

(3) The term "voice-over Internet protocol service" includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission shall not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to §24-2-12 and §24-2-12a of this code if all entities involved in the transaction are under common ownership.

(g) The Legislature finds that the rates, fees, charges and ratemaking of municipal power systems are most fairly and effectively regulated by the local governing body. Therefore, notwithstanding any other provisions of this article, the commission shall not have jurisdiction over the setting or adjustment of rates, fees and charges of municipal power systems. Further, the jurisdiction of the Public Service Commission over municipal power systems is limited to that granted specifically in this code.

**§24-2-10. Middle-Mile Fiber Broadband Infrastructure Expansion Program.**

(a) Legislative findings. The Legislature finds:

(1) That access to broadband services is of critical importance to and a necessary prerequisite for enabling economic development in the state and for improving education, health care, public safety and government services, among other benefits to its citizens;

(2) That broadband expansion into unserved and underserved rural areas of the state continues to be an issue of importance to the Legislature, and progress is hindered by lack of full development of middle-mile broadband fiber infrastructure within the state;

(3) That the issues which have hindered the provision of broadband access to rural areas of the state especially disadvantage the elderly and low-income households;

(4) That it continues to be a primary goal of the Legislature to make every municipality, community, and rural area in this state accessible to Internet communications through the expansion, extension, and general availability of broadband services and technology;

(5) That regulated electric utilities have existing distribution infrastructure in place throughout the state, and that their existing and new infrastructure could be utilized in connection with construction of middle-mile broadband fiber assets;

(6) That it is in the public interest to expedite construction of middle-mile broadband fiber infrastructure to provide the necessary architecture to facilitate additional broadband Internet access to individuals and institutions in unserved and underserved areas of the state; and

(7) That it is appropriate to establish a program to allow electric utilities to construct middle-mile fiber broadband assets within the power supply zone utilizing existing and new electric utility distribution assets in a manner that addresses the needs of the public and is consistent with the operational concerns of the electric utilities that may participate in this program.

(b) *Definitions.* For purposes of this section:

“Commission” means the Public Service Commission of West Virginia.

“Council” means the Broadband Enhancement Council, as defined in §31G-1-1, *et seq.* of this code.

“Electric utility” means any electric utility operating within this state that is regulated by the commission.

“Program” means the Middle-mile fiber Broadband Expansion Program established pursuant to subsection (c) of this section.

“Project” means one or more middle-mile fiber infrastructure expansion projects, including any portion of such projects to be used for the electric utility’s communication needs, proposed by an electric utility and approved by the commission pursuant to subsection (e) of this section as part of the program.

“Served” means any area with broadband service as defined in §31G-1-2 of this code.

“Unserved” means any area without broadband service as defined in §31G-1-2 of this code.

(c) Establishment of program. Commencing July 1, 2020, the Middle-Mile Fiber Broadband Infrastructure Expansion Program is hereby authorized and established.

(d) Authorizing participation. An electric utility having distribution infrastructure in this state may participate in the program pursuant to the provisions of this section.

(e) Powers and duties of Public Service Commission to act on written plans and amendments to written plans. The commission shall have the following powers and duties in connection with the program:

(1) Review, approve, or reject each written plan submitted by an electric utility pursuant to subsection (f) of this section. A written plan shall be approved if the commission determines that the proposed plan is reasonable, prudent, useful, and is not contrary to the public interests, considering the interests of the potential broadband users and the electric utility customers.

(2) Review, approve, or reject amendments to written plans submitted by an electric utility pursuant to subsection (f) of this section. Amendments to a written plan shall be approved if the commission determines that the proposed amendments to a written plan are reasonable, prudent, useful and not contrary to the public interest considering the interests of the potential broadband users and the electric utility customers.

(3) Perform any other duties necessary to effectuate the provisions of this section.

(f) Written plan. Following the council's determination that construction, installation, operation, and repair of a middle-mile broadband infrastructure expansion project by an electric utility is feasible pursuant to §31G-4-5 of this code, the electric utility shall file a written plan and application seeking the commission's approval of the project and its associated cost recovery. The written plan and application is in lieu of a proceeding pursuant to §24-2-11 of this code and shall contain the following:

(1) The route of the middle-mile fiber infrastructure proposed for the project, the number of fiber strands that would be utilized in connection with the proposed project and dedicated to serve as the middle-mile, the location of the electric utility's distribution infrastructure that will be utilized in connection with the proposed project, the capacity or number of fiber strands of the middle-mile that will be available to lease to non-governmental last-mile broadband Internet providers and other third parties upon completion of the proposed project, and the commitment of at least one non-governmental last-mile broadband Internet provider that will lease access to the middle-mile fiber assets constructed as part of the proposed project, and an estimate of potential broadband customers, determined in consultation with the council, that would be served by the middle-mile infrastructure;

(2) The estimated cost of the proposed project, including, but not limited to, engineering costs, construction costs, permitting costs, right of way costs and a reasonable allowance for funds used during construction;

(3) Proposed schedule of construction of the proposed project;

(4) Method of attachment and connection of the middle-mile broadband fiber assets to the electric utility's distribution infrastructure;

(5) Testimony, exhibits or other evidence that demonstrates the project is reasonable, prudent, useful and not contrary to the public interest;

(6) A cost recovery mechanism that allocates all net costs to be recovered under this section on a distribution-level basis; and

(7) Other information the applicant considers relevant or the commission requires.

(g) The electric utility shall publish, in the form the commission directs, which form shall include, but not be limited to, the anticipated monthly and yearly electric rate increase, if any, and actual rates under the proposal, by average percentage and dollar amount for customers within a class of service, as a Class I

legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code, the publication area to be each county in which service is provided by the electric utility, a notice of the filing of the application and that the commission shall hold a hearing on the application within 90 days of the notice; unless no opposition to the plan or the rate change is received by the commission within the time limits established by the commission, in which case the hearing can be waived, and the commission shall issue a final order within 150 days of the application filing date: *Provided:* That upon the request of any interested person or entity, the commission shall allow for the submission of comments on the feasibility of the plan.

(h) Upon notice and hearing, if required by the commission, the commission shall approve the plan and allow expedited recovery of costs related to the expenditures as provided in subsection (f) of this section if the commission finds that the expenditures and the associated rate requirements are just, reasonable, not contrary to the public interest, and will allow for the provision and maintenance of adequate, efficient, safe, reliable and reasonably priced middle-mile fiber broadband service.

(i) The council or the commission may not act to limit the number of last-mile broadband Internet providers eligible to be contracted to utilize the middle-mile fiber infrastructure constructed as part of a project proposed pursuant to this section. No board, commission, agency, or other governmental body may regulate the costs extended to a broadband customer from any last-mile broadband Internet service provider. Nothing in this subsection shall prevent the commission from reviewing, modifying, and approving or denying the cost or means of providing a middle-mile fiber proposed project pursuant to this section.

(j) Upon commission approval, an electric utility will be authorized to implement the plan and to recover related project costs, net of any middle-mile broadband revenues or contributions in aid of construction, as provided in the following:

(1) An allowance for return shall be calculated by applying a rate of return to the planned net incremental increase to rate base

attributable to the project for the coming year, considering the projected amount and timing of expenditures under the project, plus any expenditures in previous years of the project. The rate of return shall be determined by utilizing the rate of return on equity authorized by the commission in the electric utility's most recent rate case proceeding or in the case of a settled rate case, a rate of return on equity as determined by the commission, and the projected cost of the electric utility's debt during the period of the project to determine the weighted cost of capital based upon the electric utility's capital structure.

(2) Income taxes applicable to the return allowed on the project shall be calculated for inclusion in rates at the federal and state statutory rates.

(3) Depreciation and property tax expenses directly attributable to the project shall be estimated for the upcoming year.

(4) Operation and maintenance expense specifically and directly related to operation and maintenance of the middle-mile fiber broadband facilities.

(5) Following commission approval of the project and related cost recovery mechanism, an electric utility shall place into effect a commission approved reconcilable rate surcharge that recovers the revenue requirement of the allowance for return, related income taxes, operation and maintenance expenses, depreciation, property tax expenses associated with the electric utility's estimated project investments for the upcoming year, net of middle-mile revenue or contributions in aid of construction recovery of those costs provided by last mile broadband Internet providers upon completion of the project, if any ("middle-mile cost recovery rates"). In each year subsequent to the order approving the project and middle-mile cost recovery rates, the electric utility shall file a petition with the commission setting forth new proposed middle-mile cost recovery rates that recover the revenue requirement of the project investments previously installed and projected costs of the project based on investments to be made in the subsequent year, plus any under-recovery or minus any over-recovery of actual costs attributable to the project, for the preceding year.

(k) The electric utility may make any accounting accruals necessary to establish a regulatory asset or liability through which actual costs incurred and costs recovered through the rate mechanism are tracked.

(l) Construction, installation, operation, maintenance, and repair of middle-mile fiber expansion projects. Subject to continuing authority of the commission to determine the reasonableness of acts and practices, for all projects contained in a written plan approved by the commission pursuant to subsection (e) of this section, and constructed, installed, operated, maintained, and repaired by an electric utility pursuant to this section, the electric utility shall have control of the scope, scheduling and execution of the project to construct, install, operate, maintain and repair middle-mile fiber assets, including fiber build route selection and build and splice schedules. The electric utility shall be entitled to reestablish electric service and assure safety of its workers prior to restoration of middle-mile fiber broadband service in order to ensure operational safety matters of the shared infrastructure. Additionally, the electric utility shall be entitled to use contractors chosen and approved by the electric utility to construct, install, operate, maintain, and repair middle-mile fiber assets pursuant to this section because of its or electric utility's knowledge of hazards in the power supply zone and the associated controls to reduce the risks involved. Nothing in this section confers any rights to work in the power supply space except by the electric utility and its designated contractors.

(m) Attachment and connection of middle-mile fiber assets. An electric utility participating in the program shall have sole control of the location and method of attachment and connection of middle-mile fiber assets to the electric utility's distribution infrastructure, unless otherwise ordered by the commission.

(n) Management of fiber projects. In order to manage operations, an electric utility participating in the program shall manage and document the entities that lease middle-mile fiber assets for last-mile operations, including, but not limited to, outage notification and management.



(o) Notwithstanding anything in this code or in the articles of incorporation of an electric utility to the contrary, an electric utility may, either directly or indirectly or through an affiliate or subsidiary, pursuant to a written plan approved by the commission:

(1) Own, manage or control any broadband capacity, number of fiber strands, equipment and electronics, including any plant, works, system, lines, facilities or properties, or any part or parts thereof, together with all appurtenances thereto, used or useful in connection with the provisions and extension of such broadband services;

(2) Lease such broadband capacity, number of fiber strands, equipment, or electronics to non-governmental Internet service providers and other third parties, on a nonexclusive basis; and

(3) Provide access points that are outside the electric utility's power supply zone to allow connection between the electric utility's broadband capacity system or fiber strands, and any non-governmental Internet service provider's or other third party's system.

## **CHAPTER 31G. BROADBAND ENHANCEMENT AND EXPANSION POLICIES.**

### **ARTICLE 4. MAKE-READY POLE ACCESS.**

**§31G-4-5. Electric power utilities; feasibility study for providing broadband services; Public Service Commission to assist; proposed legislation to be developed; report.**

(a) For purposes of this section:

(1) "Commission" shall mean the West Virginia Public Service Commission.

(2) "Council" shall mean the Broadband Enhancement Council, as defined in §31G-1-1 of this code.

(3) "Electric utility" shall mean any electric utility operating within this state that is regulated by the commission.

(4) “Project” shall mean a middle-mile broadband infrastructure expansion project proposed by an electric utility.

(b) Each electric utility may investigate the feasibility of constructing and operating a project within the electric utility distribution system and, if it so elects, may submit a feasibility study of a proposed project to the council on or before December 1, 2019. Additional feasibility studies may be submitted to the council after December 1, 2019, without penalty.

(c) The council and the commission shall assist each such electric utility in its preparation of such a feasibility study.

(d) The feasibility study shall include an evaluation of the following:

(1) The scope of the proposed project for which the feasibility study is conducted, which shall include, but not be limited to:

(A) The route of the middle-mile infrastructure proposed for the project, the number of fiber strands that would be utilized in connection with the proposed project and dedicated to serve as the middle-mile, the location of the electric utility’s distribution infrastructure that will be utilized in connection with the proposed project, the capacity of the middle-mile broadband infrastructure that will be available to lease to last-mile broadband Internet providers upon completion of the proposed project;

(B) The estimated cost of the proposed project, including but not limited to engineering costs, construction costs, permitting costs, materials and labor, right-of-way costs, and a reasonable rate of return to the electric utility;

(C) The proposed schedule of construction of the proposed project; and

(D) The method of attachment and connection of the middle-mile broadband fiber assets to the electric utility’s distribution infrastructure;

(2) The regulatory and legal barriers to an electric utility constructing a project and operating middle-mile broadband infrastructure to provide access to unserved areas of the state, as defined in §31G-1-2 of this code, ~~and any underserved areas of the state,~~ and proposed legislation to address such regulatory barriers;

(3) Whether it is in the public interest and the interest of the electric utility to make improvements to the distribution grid in furtherance of providing such middle-mile broadband Internet services in conjunction with its program of electric distribution projects;

(4) Whether it is in the public interest and the interest of the electric utility to operate middle-mile broadband Internet assets to provide access to unserved ~~and underserved~~ areas of the state;

(5) Whether it is in the public interest and the interest of the electric utility to permit a third party to lease such capacity to provide last-mile broadband Internet services to unserved ~~and underserved~~ areas of the state;

(6) Whether construction of middle-mile broadband Internet infrastructure utilizing electric utility distribution systems is feasible with respect to the maturity of the relevant technology, the compatibility of such services with existing electric services, and the financial requirements to undertake such project;

(7) The anticipated level of rate adjustment necessary to allow the electric utility to recover its costs associated with the proposed project, and a reasonable rate of return, on an expedited basis, that will be recovered by the electric utility through a rate adjustment at the commission; and

(8) Such other information that is pertinent to the project.

(e) Upon receipt of a feasibility study, the council shall post the same on the council website for written public comment for a period of seven days and then shall render a determination, by a majority vote of the council, as to the feasibility of the proposed project.

(f) In its consideration of the feasibility of a project, the council shall identify one or more last-mile broadband Internet providers that may lease the middle-mile broadband Internet capacity created by the proposed project pursuant to lease terms and conditions set by the council.

(g) The council shall render such feasibility determination within 60 days from the date the feasibility study is submitted to the council.

(h) Commencing January 1, 2020, and each year thereafter, the council shall give a report of its consideration of feasibility studies submitted pursuant to this section to the Governor, the President of the Senate, the Speaker of the House of Delegates, and the Joint Committee on Government and Finance.

**§31G-4-5a. Electric Cooperative Providing Broadband Services.**

An electric cooperative organized pursuant to state and federal law, including the Rural Electrification Act of 1936, may utilize its distribution system, poles, or rights of way to provide for critical infrastructure, which may include the construction or operation, or both, of a broadband infrastructure project consisting of middle mile or last mile services, or both.

On motion of Senator Maynard, the following amendments to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 4619) were reported by the Clerk, considered simultaneously, and adopted:

On page one through seven, by striking out all of section one;

On page eight, section one-o, subsection (a), subdivision (2), by striking out the words “and underserved”;

On page eight, section one-o, subsection (a), subdivision (6), by striking out the words “and underserved”;

And,

On page eight, section one-o, subsection (b), after the words “regulated by the commission” by changing the period to a colon and inserting the following proviso: “*Provided*, That an electric utility that has installed middle-mile fiber broadband infrastructure pursuant to this section shall not be considered a public utility engaged in the transmission of messages by telephone, telegraph or radio for purposes of §24-2-1(a) of this code.”.

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

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4619), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4619 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4619) passed.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub. for House Bill 4619**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-1o; to amend and reenact §31G-4-5 of said code; and to amend said code by adding thereto a new section, designated §31G-4-5a, all relating to broadband enhancement; excepting certain middle-mile fiber broadband infrastructure from consideration as a public utility; making legislative findings; defining terms; establishing the Middle-Mile Fiber Broadband Infrastructure Expansion Program; authorizing certain electric utilities to participate in said program; setting forth powers and duties of the Public Service Commission in reviewing and considering written plans and amendments thereto submitted pursuant to said program; requiring certain electric utilities to file written plans and application with the Public Service Commission upon a determination by the Broadband Enhancement Council that a proposed project is feasible; establishing that such a written plan and application is in lieu of a proceeding pursuant to § 24-2-11; setting forth the required contents of said written plan and application; requiring that an electric utility publish in certain publication areas the anticipated monthly and yearly electric rate increase, if any, and actual rates under the proposal, as a Class I legal advertisement in compliance with the provisions of § 59-3-1, et seq. of this code; requiring that a public hearing be held within 90 days of the publication of said notice; setting forth instances when no such public hearing is necessary; requiring that the Public Service Commission issue a final order within 150 days of the application filing date; setting forth instances when the Public Service Commission must approve such a written plan; authorizing an electric utility to implement such a plan upon approval by the Public Service Commission; setting forth project costs that an electric utility is entitled to recover as part of the implementation of an approved project; authorizing an electric utility to make certain accounting accruals; providing that electric utilities shall control the scope, scheduling and execution of a project; authorizing an electric utility to reestablish electric service and assure safety of its workers prior to restoration of middle-mile fiber

broadband service; authorizing electric utilities to use contractors chosen by the electric utility to construct, install, operate, maintain and repair middle-mile fiber assets; providing an electric utility with sole control of the location and method of attachment and connection of certain middle-mile fiber infrastructure; requiring electric utilities to manage and document the entities that lease middle-mile fiber assets for last-mile operations; allowing an electric utility to own, manage, or control certain broadband capacity, fiber strands, equipment and electronics; allowing an electric utility to lease certain broadband capacity, fiber strands, equipment and electronics to certain Internet service providers and other third parties; allowing an electric utility to provide access points that are outside the electric utility's power supply zone to allow connection between the electric utility's broadband capacity system or fiber strands and non-governmental Internet service provider's or other third party's system; removing certain references to underserved areas of the state from feasibility studies of proposed broadband projects; and authorizing certain electric cooperatives to utilize their distribution system, poles, or rights of way to provide for critical infrastructure.

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

**Eng. House Bill 4665**, Reducing the amount of rebate going to the Purchasing Improvement Fund.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. House Bill 4715**, Authorizing municipalities to take action to grant certain fire department employees limited power of arrest.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4715) passed.

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

**Eng. House Bill 4715**—A Bill to amend and reenact §8-14-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-15-1 of said code, all relating to authorizing municipalities to grant certain fire department employees limited powers of arrest in relation to their duties; setting the limits of their power to arrest; authorizing designated fire department employees to file complaints with appropriate courts; requiring initial and annual training of designated fire department employees as established by the State Fire Commission and the State Fire Marshal.

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

**Eng. Com. Sub. for House Bill 4717**, Seizure and Forfeiture Reporting Act.

On third reading, coming up in regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Thursday, March 5, 2020, for further amendments to be received on third reading, was reported by the Clerk.



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

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

**ARTICLE 7. WEST VIRGINIA CONTRABAND FORFEITURE ACT.**

**§60A-7-708. Bookkeeping procedures and internal controls.**

(a) Any law-enforcement agency or office in this state, including, but not limited to, an “appropriate person” as identified in §60A-7-703(b), excluding prosecuting attorneys, who seizes or receives forfeited moneys, securities, negotiable instruments, items subject to forfeiture in accordance with §60A-7-703(a) of this code, or other property under the provisions of this article shall account for the same in the following manner:

(1) Maintain any items of property subject to forfeiture in accordance with §60A-7-704(d) of this code, including, but not limited to, moneys, securities, negotiable instruments, or other items and property identified in the same manner as the agency’s appropriated funds. Bank accounts, checkbooks, purchase cards, and other financial instruments or documents must be maintained in the same manner as appropriated funds;

(2) Establish a segregated account or accounting codes to track both revenues and expenditures for each respective program. No other funds may be commingled in these accounts or with these accounting codes;

(3) Process all expenditures and payments in the same manner as appropriated funds, including procurement and payment transactions;

(4) In accordance with the provisions of §60A-7-704(d)(4) of this code, in the case of seized moneys, securities, or other negotiable instruments, place the assets in an interest-bearing depository insured by an agency of the federal government. Deposit all interest earned on equitable sharing funds into the

respective account or accounting code. All interest is subject to the same use restrictions as equitable sharing funds. Losses to funds maintained in investment accounts in accordance with the jurisdiction's policies may not be allocated to or deducted from the equitable sharing account;

(5) Develop, maintain, and follow written policies for accounting, bookkeeping, inventory control, and procurement that comply with the applicable jurisdiction policies. Ensure distribution of relevant policies to all appropriate personnel;

(6) Maintain records of all revenue and expenditures posted to the account or accounting code, to include bank/ledger statements, invoices, receipts, required jurisdiction approvals, or any other documents used or created during the procurement and disposition process;

(7) Report all transactions using cash-based accounting methods;

(8) Dispose of items purchased with shared funds in accordance with the agency's disposal policies. To the extent practicable and, if consistent with the agency's procurement and disposal policies, deposit proceeds from the sale of such property into the agency's sharing account or accounting code. If an item has minimal or no value, an agency may donate the item to a recipient of its choice if permitted under the agency's disposal policies;

(9) Ensure the agency head, or designee, authorizes all expenditures from the sharing accounts; and

(10) Obtain approval for expenditures from the governing body, such as the county commission, town council, or city manager's office, when required under normal established jurisdiction accounting procedures.

(b) Any law-enforcement agency or office in this state, excluding prosecuting attorneys, receiving forfeited moneys, securities, negotiable instruments, real property, personal property, or other property under the provisions of this article shall report the

same to the State Auditor. For each seizure only one report shall be filed by the agency that made the seizure. All agencies receiving forfeited property shall report disposition and expenditures of any proceeds of that property. Reports shall be filed in the following manner:

(1) Name of the law-enforcement agency or office that seized the property, or if seized by a multijurisdictional task force, the name of the lead agency;

(2) The time and date the property was seized;

(3) The type of property seized, whether real or personal;

(4) The actual or estimated value of the property seized;

(5) The property's final disposition, including the amount received if the property was sold, or if the property was put to use on behalf of a law-enforcement agency or office, the identity of the agency or office that took possession and use of the property;

(6) Whether forfeiture was made by settlement agreement;

(7) Whether any procedure for forfeiture was initiated in accordance with the provisions of §60A-7-705 of this code, or other identifying information sufficient to permit acquisition of any available public records related to the forfeiture procedure and disposition of the forfeited property;

(8) The disposition of any action under the provisions of §60A-7-705 of this code;

(9) If an arrest was made;

(10) Whether any charges brought against a defendant in conjunction with a seizure pursuant to this article resulted in deferred action, conviction, plea deal, acquittal, or ongoing criminal case;

(11) When an administrative forfeiture procedure has been initiated pursuant to the provisions of §60A-7-705a of this code,

provide designated information contained in the administrative forfeiture notice;

(12) The total value of seized and forfeited or property held by the agency at the end of the reporting period; and

(13) A copy of the United States Department of Justice's Equitable Sharing Agreement and Certification - Annual Certification Report shall be provided to the State Auditor no later than October 31 each calendar year.

(c) The State Auditor shall establish and maintain a searchable public website that includes the aggregate information submitted by any law-enforcement agency or office required under subsection (b) of this section: *Provided*, That the State Auditor's website must not provide individual case details on its public website.

(d) The State Auditor, before December 31 of each year, shall submit to the Speaker of the House of Delegates, the President of the Senate, the Attorney General, and the Governor a written report summarizing activity in the state for the preceding fiscal year on the type, approximate value, and disposition of the property forfeited and/or seized and the amount of any proceeds received or expended at the state and local levels. The report shall provide a categorized accounting of all proceeds expended. Summary data on seizures, forfeitures and expenditures of forfeiture proceeds shall be disaggregated by agency.

(e) In the course of preparing its annual report, the State Auditor may, in its discretion or for good cause shown, perform a financial audit of records related to inventory of seized property and expenditures of forfeiture proceeds by any law-enforcement agency or office in this state. This audit shall be conducted under the Generally Accepted Government Auditing Standards (GAGAS). A copy of the financial audit report shall be submitted to the State Auditor no later than 90 days after its initiation. The State Auditor shall submit a copy of the financial audit report to the Speaker of the House of Delegates, the President of the Senate, the Attorney General and the Governor.

(f) If, in the course of a calendar year, any law enforcement agency or office that secures seized or forfeited assets valued in excess of 50 percent of the prior year's total seized or forfeited assets, or expends more than 50 percent of the prior year's total expenditures of forfeited assets, shall so advise the State Auditor, who shall perform a financial audit under the generally accepted government auditing standards (GAGAS) of records related to inventory of seized property and expenditures of forfeiture proceeds. A copy of the final audit report shall be submitted to the State Auditor no later than 90 days after the end of the fiscal year and shall be made public.

(g) The State Auditor may recoup its costs under this section by charging a fee.

(h) The State Auditor may include in its aggregate report required by subsection (d) of this section recommendations to improve statutes, rules, and policies related to seizure, forfeiture, and expenditures. The aggregate report shall be made available on the State Auditor's website.

(i) If a law-enforcement agency fails to timely file the report identified in subsection (b) of this section the State Auditor shall immediately notify the law-enforcement agency that the report has not been received.

(j) The State Auditor may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement this section.

(k) The data and reports compiled and prepared under this section are public information under the West Virginia Freedom of Information Act, chapter 29B of this code.

(l) This section is effective for the reporting period starting January 1, 2021.

(m) Nothing provided in this section would prevent a court of competent jurisdiction from sealing records otherwise made available under the provisions of this section.

On motion of Senator Ihlenfeld, the following amendments to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 4717) were reported by the Clerk, considered simultaneously, and adopted:

On page one, section seven hundred eight, subsection (a), after “§60A-7-703(b),” by inserting the words “excluding prosecuting attorneys,”;

And,

On page two, section seven hundred eight, subsection (b), after the word “state” by inserting a comma and the words “excluding prosecuting attorneys,”.

On motion of Senator Weld, the following amendment to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 4717) was next reported by the Clerk and adopted:

On page two, section seven hundred eight, subsection (b), after the word “Auditor” by inserting the words “For each seizure only one report shall be filed by the agency that made the seizure. All agencies receiving forfeited property shall report disposition and expenditures of any proceeds of that property. Reports shall be filed”.

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

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4717), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4717) passed.

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

**Eng. Com. Sub. for House Bill 4717**—A Bill to amend and reenact §60A-7-708 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §60A-7-708, all relating to bookkeeping procedures and internal controls for seized or forfeited property under the West Virginia Contraband Forfeiture Act; providing for record keeping and accounting procedures; providing for a report to the State Auditor from law enforcement agencies excluding prosecuting attorneys; requiring the State Auditor establish a public website for reporting information; providing the State Auditor prepare and disseminate a yearly report; establishing that the State Auditor may perform a financial audit; requiring the State Auditor to conduct an audit when seizure of assets or expenditure of funds from seized assets exceeds a designated amount; permitting the State Auditor to charge a fee; requiring the State Auditor to notify a law enforcement agency for failure to report; providing the State Auditor may promulgate rules; establishing that reported information is subject to the W.Va. Freedom of Information Act; establishing an effective date; and providing that a court may seal records.

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

**Eng. House Bill 4737**, Clarifying student eligibility for state-sponsored financial aid.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4747**, Extending electronic submission of various applications and forms for nonprofit and charitable organizations, professionals and licensees.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. House Bill 4749**, Providing more efficient application processes for private investigators, security guards, and firms.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. House Bill 4777**, Relating to the right of disposition of remains.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. House Bill 4797**, Authorizing municipalities to enact ordinances that allow the municipal court to place a structure, dwelling or building into receivership.

On third reading, coming up in regular order, was read a third time and put upon its passage.



On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4797) passed with its title.

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

**Eng. House Bill 4804**, Relating to comprehensive systems of support for teacher and leader induction and professional growth.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4804) passed.

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

**Eng. House Bill 4804**—A Bill to amend and reenact §18-9A-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-3C-3 of said code, all relating to comprehensive systems of support for teacher and leader induction and professional growth; providing for retention of \$100,000 of school aid funds for comprehensive systems of support, each year for five-year period, for use by department of education to assist county boards in design and implementation of teacher leader framework to accomplish teacher induction and growth aspects of comprehensive system; clarifying intent of comprehensive systems of support includes meaningful assistance for beginning teachers and leaders; authorizing state board guidelines for design and implementation of comprehensive systems to include design and implementation of teacher leader framework; clarifying references to appropriations supporting county-level implementation of comprehensive systems of support; removing prohibition on specific level of compensation guarantee to employee service or employment as mentor; authorizing county board adoption of teacher leader framework to accomplish purposes of section for teacher induction and professional growth and apply appropriations to support county salary supplement if adopted and meeting qualifications specified for teacher duties; requiring department to assist county boards with design and implementation of teacher leader framework; stating goals of framework; authorizing formation of networks of schools or systems or both for design and implementation of frameworks with certain objectives; providing minimum components of teacher leader frameworks adopted by county boards; and requiring Legislative Oversight Commission on Education Accountability to review the progress of the implementation of the comprehensive systems of support for teacher and leader induction and professional growth.

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

**Eng. Com. Sub. for House Bill 4823,** Developing a plan for periodic audits of the expenditure of the fees from the emergency 911 telephone system and wireless enhanced 911.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 4852**, Relating to the penalties for the manufacture, delivery, possession, or possession with intent to manufacture or deliver methamphetamine.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4852) passed.

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

**Eng. Com. Sub. for House Bill 4852**—A Bill to amend the Code of West Virginia, 1931, as amended, by amending and reenacting §60A-4-401 relating to treating methamphetamine as a schedule I or II narcotic under the controlled substances act; increasing the criminal penalty for possession with intent to distribute, or distribution of methamphetamine; increasing the penalty for possession with intent to distribute counterfeit methamphetamine; and making technical changes.

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

**Eng. Com. Sub. for House Bill 4946**, Eliminating the requirement that municipal police civil service commissions certify a list of three individuals for every position vacancy.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4946) passed.

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

**Eng. House Bill 4946**—A Bill to amend and reenact §8-14-15 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement that municipal police civil service commissions certify a list of at least one but no more than three individuals for every position vacancy in a municipal police department not filled by promotion, reinstatement, or reduction.

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

**Eng. House Bill 4958**, Relating to eliminating the ability of a person's driver license to be suspended for failure to pay court fines and costs.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Trump, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motion of Senator Trump, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page four, section two-b, subsection (d), subdivision (2), line seventy-four, after the word “may” by inserting the words “do one or both of the following”;

On page five section two-a, subsection (e), subdivision (2), line ninety-four, after the word “may” by inserting the words “do one or both of the following”;

On page thirteen, section two-a, subsection (e), subdivision (2), line forty-six, after the word “may” by inserting the words “do one or both of the following”;

On page fourteen, section two-a, subsection (f), subdivision (2), line sixty-six, after the word “may” by inserting the words “do one or both of the following”;

On page twenty-two, section seventeen, subsection (d), subdivision (2), line fifty-nine, after the word “may” by inserting the words “do one or both of the following”;

And,

On page twenty-three, section seventeen, subsection (e), subdivision (2), line seventy-nine, after the word “may” by inserting the words “do one or both of the following”.

Having been engrossed, the bill (Eng. H. B. 4958), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 4958 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Tarr—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4958) passed.

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

**Eng. House Bill 4958**—A Bill to amend and reenact §8-10-2a and §8-10-2b of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-3-3a and §17B-3-3c of said code; to amend and reenact §50-3-2a of said code; and to amend and reenact §62-4-17 of said code, all relating to eliminating the ability of a person's driver's license to be suspended for the failure to pay court fines and costs; allowing court clerks to accept electronic payments, credit cards, cash, money orders, or certified checks; requiring magistrate, municipal, and circuit clerks to set up a payment plan if an individual signs an affidavit stating that he or she is unable to pay the court fines and costs imposed; authorizing a court to review the reasonableness of the payment plan; authorizing court to waive, modify, or convert the outstanding costs, fines, forfeitures, or penalties to community service; requiring the Supreme Court of Appeals to develop and distribute forms; authorizing magistrate, municipal, and circuit clerks to assess late fees, to record a judgment lien for unpaid fines and costs in the county clerk's office, and to cosign a debt to collections; authorizing a process for the recording and release of a judgment lien; requiring clerks to issue a notice of delinquency; authorizing the reinstatement of driver's licenses suspended prior to July, 1,

2020; removes Tax Commissioner's authority to withhold income tax returns; establishing fees; and placing limits on collection of fees.

Senator Takubo moved that the bill take effect July 1, 2020.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Tarr—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4958) takes effect July 1, 2020.

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

**Eng. House Bill 4960**, Relating to exempting from licensure as an electrician.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Maynard, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

The end of today's third reading calendar having been reached, the Senate returned to the consideration of

**Eng. Com. Sub. for House Bill 4176**, West Virginia Intelligence/Fusion Center Act.

On third reading, coming up in deferred order, with the unreported Government Organization committee amendment

pending, and with the right having been granted on yesterday, Thursday, March 5, 2020, for further amendments to be received on third reading, was again reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

Action as to Engrossed Committee Substitute for House Bill 4176 having been concluded, the Senate proceeded to the consideration of

**Eng. House Bill 4447**, Creating the shared table initiative for senior citizens who suffer from food insecurity.

Having been read a third time in earlier proceedings today, and now coming up in deferred order, was again reported by the Clerk.

The question being “Shall Engrossed House Bill 4447 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4447) passed with its title.

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

On motion of Senator Takubo, at 3:41 p.m., the Senate recessed until 4 p.m. today.



The Senate reconvened at 4:26 p.m. and proceeded to the ninth order of business.

**Eng. Com. Sub. for House Bill 2478**, Modifying the Fair Trade Practices Act.

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

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

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

#### **ARTICLE 11A. UNFAIR TRADE PRACTICES.**

##### **§47-11A-2. When selling below cost prohibited; penalty.**

Except as otherwise provided ~~herein~~ in this article, it shall be unlawful for any person, partnership, firm, corporation, or other entity engaged in business as a retailer or wholesaler within this state to sell, offer for sale, or advertise for sale any product or item of merchandise at a price less than the cost thereof with the intent to destroy or the effect of destroying competition. Each violation shall constitute a misdemeanor and, upon conviction thereof, any person, partnership, firm, corporation, or other entity violating this section shall be subject to the penalty set forth in §47-11A-11 of this code.

##### **§47-11A-6. How cost determined.**

(a) The term “cost” when applicable to the business of retailer shall mean bona fide cost and shall mean: (i) The invoice cost of ~~the each separate or distinct~~ product or item of merchandise to the retailer to include applicable taxes, or the replacement cost thereof to the retailer within 30 days prior to the date of sale, offer for sale, or advertisement for sale, as the case may be, in the quantity last purchased, whichever is lower, from either of which there shall be deducted all trade discounts, except customary discounts for cash;

and (ii) to either of which there shall be added ~~the following items of expense:~~

~~(1) Freight freight charges not otherwise included in the cost of the article, product, or item of merchandise, but which freight charges shall not be construed as including cartage to retail outlet if done or paid for by the retailer.~~

~~(2) A markup to cover, in part, the cost of doing business, which markup, in the absence of proof of a lesser cost, shall be seven percent of the aggregate of invoice cost or replacement cost (whichever is used), less trade discounts as aforesaid, and plus said freight charges: *Provided*, That such a markup to cover the cost of doing business as provided for in this subdivision shall be exclusive of any federal and state motor fuel taxes.~~

(b) The term "cost" when applicable to the business of a wholesaler shall mean bona fide cost and shall mean: (i) The invoice cost of the merchandise to the wholesaler to include applicable taxes, or the replacement cost of the merchandise to the wholesaler within 30 days prior to the date of sale, offer for sale, or advertisement for sale, as the case may be, in the quantity last purchased, whichever is lower, from either of which there shall be deducted all trade discounts except customary discounts for cash; and (ii) to either of which there shall be added the following items of expense:

(1) Freight charges not otherwise included in the cost of the article, product, or item of merchandise, but which freight charges shall not be construed as including cartage to the retail outlet if done or paid for by the wholesaler;

(2) A markup to cover, in part, the cost of doing business, which markup in the absence of proof of a lesser cost, shall be four percent of the aggregate of invoice cost or replacement cost (whichever is used), less trade discounts as aforesaid, and plus said freight charges: *Provided*, That such a markup to cover the cost of doing business as provided for in this subdivision shall be exclusive of any federal and state motor fuel taxes.

**§47-11A-9. Injunctions; damage suits; and jurisdiction.**

(a) Any person, partnership, firm, corporation, or other entity injured by a violation of ~~the provisions of this article §47-11A-2 or §47-11A-3 of this code~~ may maintain an action to enjoin a continuance of any such violation in the circuit court of the county wherein said violation is alleged to have occurred. If a violation is established in such an action, the court shall enjoin, restrain, or otherwise prohibit such violation. In such action, if damages are alleged and proven, the plaintiff in the action, in addition to injunctive relief, shall recover from the defendant the actual damages sustained and proven to be a result of the violation, and the court may award the plaintiff treble damages, court costs, litigation costs, and attorneys' fees.

(b) In the event no injunctive relief is sought or required, any person, partnership, firm, corporation, or other entity injured by a violation of the provisions of this article may maintain an action for damages alone in the circuit court of the county wherein said violation is alleged to have occurred. If a violation is established in such an action and proven, a plaintiff shall recover from the defendant the actual damages sustained and proven to be a result of the violation, and the court may award the plaintiff treble damages, court costs, litigation costs, and attorneys' fees.

(c) In any action under subsections (a) and (b) of this section it shall be an absolute defense that the sale price of any product or item of merchandise alleged to be in violation of this article is equal to or greater than the sales price of the same product or item being sold by a competitor of the defendant.

(d) A court may dismiss any action under subsections (a) and (b) of this section upon a motion for summary judgment if the court finds pursuant to Rule 56 of the West Virginia Rules of Civil Procedure that the provisions of subsection (c) of this section have been satisfied.

(e) The circuit courts of this state shall have jurisdiction of actions under this section.

The bill (Eng. Com. Sub. for H. B. 2478), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2961**, Permitting the commissioner to require a water supply system be equipped with a backflow prevention assembly.

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

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

**Eng. Com. Sub. for House Bill 2967**, Permitting a county to retain the excise taxes for the privilege of transferring title of real estate.

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

**Eng. Com. Sub. for House Bill 4004**, Creating the West Virginia Sentencing Commission.

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

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

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

**ARTICLE 9. GOVERNOR'S COMMITTEE ON CRIME,  
DELINQUENCY, AND CORRECTION.**

**§15-9-4. ~~Criminal sentencing research~~ Sentencing Commission  
Subcommittee.**

~~The Governor's committee on crime, delinquency and correction shall conduct comprehensive research on the state's criminal sanctioning process for adult offenders. The purpose of~~

~~the research is to promote a fuller understanding of this state's criminal justice system, and shall include the review of issues of sentence length imposed, actual sentence length served, parole eligibility, parole revocation, determinate or indeterminate sentences, availability of alternatives to incarceration for certain offenses, and the respective roles that each of these and other criminal sanction issues may play in the increased demand for prison bed space. The committee shall report to the Governor and the Legislature on or before January 1, 2004, and at its discretion thereafter, the findings of its research and make any recommendations for modifications of criminal sentencing laws or procedures provided that no such recommendations or modifications shall become effective without further action of the Legislature~~

Effective July 1, 2020, the Governor's Committee on Crime, Delinquency, and Correction shall establish a subcommittee to be known as the West Virginia Sentencing Commission. To the extent requested or necessary, the commission shall be staffed and supported by the Division of Administrative Services of the Department of Military Affairs and Public Safety. The commission, by and through the division, may seek and use funding and grants in furtherance of the purposes and mission of the commission.

## ARTICLE 9C. WEST VIRGINIA SENTENCING COMMISSION.

### §15-9C-1. Legislative findings.

The Legislature finds and declares that there is:

(1) A need for fair and uniform sentencing;

(2) A need for research on issues regarding sentencing in order to promote a fuller understanding of the efficient, just, and fair operation of this state's criminal justice system;

(3) A need for establishing priorities with regard to the severity of the criminal offenses; and

(4) A need to use the limited correctional resources in the state in a manner best able to fulfill the goals of criminal punishment, rehabilitation, and protection of the public while preventing disparate treatment of offenders based on racial, ethnic, cultural, economic, or other factors related to the social status of the offender.

**§15-9C-2. Creation of Sentencing Commission; purpose; composition.**

(a) The West Virginia Sentencing Commission is hereby created as a subcommittee of the Governor's Committee on Crime, Delinquency, and Correction.

(b) The purpose of the commission is to promote a fuller understanding of this state's criminal justice sentencing system, and shall include the review and research of issues of sentence length imposed, actual sentence length served, parole eligibility, parole revocation, determinate or indeterminate sentences, availability of alternatives to incarceration for certain offenses, and the respective roles that each of these and other criminal sanction issues may play in the increased demand for prison bed space.

(c) The commission consists of the following members, who serve without compensation:

(1) The Secretary of the Department of Military Affairs and Public Safety, or his or her designee;

(2) Two prosecuting attorneys, or assistant prosecuting attorneys, from two different counties chosen by the President of the West Virginia Prosecuting Attorneys Association;

(3) Two public defenders, or assistant public defenders, or panel attorneys who primarily do court-appointed criminal representation, from two different judicial circuits chosen by the Director of the Public Defender Services;

(4) One representative from the West Virginia Chief of Police Association who shall be chosen by the executive director of that organization;

(5) One representative from the West Virginia Sheriff's Association who shall be chosen by the executive director of that organization;

(6) Two representatives from the West Virginia Judicial Association who are current or senior status circuit court judges and chosen by the executive committee of that organization, who shall serve as ex officio members;

(7) One member of the West Virginia Association on Alcoholism and Drug Abuse Counselors who shall be chosen by the president of the organization;

(8) Two members of the West Virginia Legislature, one chosen by the Speaker of the House and one chosen by the President of the Senate, who shall serve as ex officio members of the commission; and

(9) One professor of law with experience in the practice and teaching of criminal law appointed by the Dean of the West Virginia University College of Law.

(d) Each member serves a two-year term, except for the ex officio members who serve as long as they hold their respective offices.

(e) The chairperson of this commission shall be elected by the other members of the commission. The first meeting shall be chaired by the Director of the Division of Administrative Services of the Department of Military Affairs and Public Safety.

(f) Six members of the commission shall constitute a quorum.

(g) The Director of the Division of Administrative Services serves as executive director of the commission and the division shall provide administrative services to the commission.

### **§15-9C-3. Powers and duties of the commission.**

(a) The Sentencing Commission established pursuant to this article:

(1) May request information, data, and reports from any officer or agency of the state government, as required by the commission and as may be produced consistent with other laws;

(2) Issue invitations requesting the attendance and testimony of witnesses and the production of any evidence that relates directly to a matter with respect to which the commission or any member of the commission is empowered to make a determination under this article;

(3) Shall establish a research and development program within the commission for the purpose of:

(A) Serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on sentencing practices; and

(B) Assisting and serving in a consulting capacity to state courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

(4) Shall collect data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing processes;

(5) Shall publish data concerning the sentencing process;

(6) Shall collect and disseminate information concerning sentences actually imposed;

(7) Shall collect and disseminate information regarding effectiveness of sentences imposed;

(8) Shall make recommendations to the Legislature concerning modification or enactment of sentencing and correctional statutes which the commission finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy;

(9) Shall establish a plan and timetable to collect and disseminate information relating to incapacitation, recidivism, deterrence, and overall effectiveness of sentences imposed;



(10) Shall provide recommendations to the Legislature for the creation of programs and establishment of facilities in the state that provide how the state can best shift its expenditures in a revenue-neutral fashion away from incarceration to treatment programs, facilities, and related services;

(11) Shall conduct a comprehensive review and study of national and local trends and programs that have proven successful in addressing and overcoming addiction and identifying the nature of the causes of addiction and criminal behavior related to drug addiction; and

#### **§15-9C-4. Objectives of the commission.**

In performing its powers and duties, the commission shall pursue the following objectives:

(1) Promoting sentencing that more accurately reflects the time that an offender will actually be incarcerated;

(2) Reducing unwarranted disparity in sentences for offenders who have committed similar offenses and have similar criminal histories;

(3) Preserving meaningful judicial discretion in the imposition of sentences and sufficient flexibility to permit individualized sentences;

(4) Ensuring that sentencing judges in every jurisdiction in the state are able to impose the most appropriate criminal penalties, including correctional options programs for appropriate nonviolent offenders; and

(5) Determining whether the state needs to set out all criminal offenses in terms of priority and in order of severity and harm to society, and to provide alternatives to incarceration for certain offenses.

#### **§15-9C-5. Recommendations to Legislature.**

(a) In addition to the dissemination of information set forth in §15-9C-3 of this code, the commission shall provide, on or before January 1, 2022, an assessment and report to the Legislature as its

findings, analysis, and recommendations, if any, as to the state's sentencing and correctional laws and policies.

(b) As part of the report set forth in subsection (a) of this section, the commission may, or at the request of the President of the Senate and the Speaker of the House of Delegates, shall make recommendations regarding the following issues:

(1) Whether the state should adopt discretionary sentencing guidelines and, if so, what type of discretionary sentencing guidelines should be adopted;

(2) Whether the state should alter the manner in which an inmate obtains credit for good time;

(3) Whether the state needs to take action to ensure that there is a coordinated system of alternatives to incarceration at the state and county levels and, if so, what action should be taken;

(4) Whether the state should establish additional guidelines and procedures to examine or reexamine the reduction of long-term sentences of individuals who are not a danger to public safety; and

(5) Any other matters relating to state and local laws and policies governing sentencing, parole, mandatory supervision, and correctional alternative programs.

**§15-9C-6. Sunset.**

The Sentencing Commission Subcommittee established in this article terminates on June 30, 2023, unless continued by the Legislature.

The bill (Eng. Com. Sub. for H. B. 4004), as amended, was then ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire,

Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4004) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4004) passed.

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

**Eng. Com. Sub. for House Bill 4004**—A Bill to amend and reenact §15-9-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §15-9C-1, §15-9C-2, §15-9C-3, §15-9C-4, §15-9C-5, and §15-9C-9, all relating to creating the West Virginia Sentencing Commission as a subcommittee of the Governor's Committee on Crime, Delinquency and Correction; authorizing the commission to seek and use funding and grants; setting forth legislative findings; setting forth the purpose of the commission; establishing

composition and membership of commission; setting forth the powers and duties of the commission; setting forth objectives for the commission; directing commission provide assessment and recommendations to the Legislature; authorizing the commission to make additional recommendations to the Legislature; and establishing an internal effective date and termination date for the subcommittee

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

**Eng. Com. Sub. for House Bill 4015**, Relating to Broadband Enhancement and Expansion.

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

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

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

**ARTICLE 5. VERTICAL REAL ESTATE MANAGEMENT  
AND AVAILABILITY ACT.**

**§31G-5-1. Short title.**

This article shall be known and cited as the Vertical Real Estate Management and Availability Act.

**§31G-5-2. Definitions.**

For the purposes of this article unless the context otherwise requires:

“Ground facilities” means any shed, buildings, server rooms, or other ancillary structure providing essential services to a tower, including, but not limited to, distributing power, providing communications backhaul, or other service necessary to carry out the purposes of the tower.

“Tower” means a structure which hosts an antenna or other equipment used for the purposes of transmitting cellular or wireless signals for communications purposes, including telephonically, or, for computing purposes, including any antenna and all associated equipment; and

“Vertical Real Estate” means any communication or broadcast tower, or any other structure or similar installation mounted on a rooftop or other prominent place, and any other such facilities associated with that structure, upon which is suitable to mount communications equipment thereon, and the associated ground facilities necessary to accommodate that communications purpose, or other real estate suitable for the installation of a telecommunications vertical asset: *Provided*, That any excess telecommunications facilities owned or controlled by the West Virginia Division of Highways that do not meet this definition of Vertical Real Estate, shall be subject to the provisions of §17-2E-6a of this code: *Provided further*, That nothing in this definition may serve to prohibit terrestrial, middle-mile or last-mile broadband or high speed internet wiring or facilities installation pursuant to §17-2E-1 *et seq.* nor may classification as such facilities serve to prevent utility installation including, but not limited to, water, electric and sewer services.

### **§31G-5-3. Management of vertical real estate.**

(a) Beginning on July 1, 2020, the Department of Administration shall coordinate with the executive to issue a request for proposals to manage state-owned vertical real estate. This request for proposals shall contain at a minimum the following information from each prospective manager:

(1) A standard method for valuation of space on each tower that is reasonable and customary for the reach of and the numbers of the population served by the vertical real estate.

(2) A clause which forbids any vendor to enter into an exclusive arrangement with any person for the right to use the vertical real estate, unless no other entity is interested, and a clause which forbids the sharing of information, backhaul, or any other

resources gleaned from managing the assets competitively with any competitors.

(3) A clause forbidding the vendor from engaging in any preferential treatment to their own operations as a competing provider of wireless broadband access.

(4) A minimum of 50 percent rental reduction for any entity whose utilization of that vertical real estate is providing broadband access which is rate unlimited or unthrottled; subject to current load/demand network management.

(b) There is hereby created in the state treasury a special account to be known as the Technology Infrastructure Reinvestment Fund to be administered by the Office of Technology. All revenue derived from the management of the vertical real estate shall be deposited into the fund pursuant to §31G-5-3 of this code. Expenditures from the fund shall be made by the Office of Technology for the purpose of reinvestment in the vertical real estate or technology infrastructure supporting broadband on state-owned property. Expenditures are not authorized from collections but are to be made in accordance with appropriation by the Legislature pursuant to the provisions of §12-3-1, *et seq.* of this code and upon the fulfillment of the provisions of §11B-2-1, *et seq.* of this code.

(c) The Office of Technology shall remit to the manager the compensation as per the contract and then on June 30 each year shall distribute any funds received in excess of the compensation due the manager as follows:

(1) Fifty percent to the Technology Infrastructure Reinvestment Fund,

(2) Fifty percent will go to the Broadband Expansion Fund established in §31G-1-5 of this code in control of the Broadband Enhancement Council with the specific purpose of:

(A) Funding the ongoing operations of the Broadband Enhancement Council, and

(B) To provide funds to match federal grants.

(d) Counties, municipalities and other political subdivisions, as applicable, may join or participate in an awarded agreement with a successful manager under the same terms and conditions: *Provided*, That distribution of funds attributable to their assets may be expended at the discretion of their governing body.

**§31G-5-4. Exceptions to the management of vertical real estate.**

Any vertical real estate shall be exempted from management if:

(A) The rental of that vertical real estate would potentially affect the operations of any public safety, emergency management or homeland security operations: *Provided*, That if there is a showing that a reasonable, technically feasible, nondiscriminatory design can prevent such adverse effect on any public safety, emergency management or homeland security operations then such management may occur; or

(B) It would have an adverse effect on historic preservation of a property: *Provided*, That if there is a showing that a reasonable, technically feasible, nondiscriminatory, and technologically neutral design or concealment measures can prevent such adverse effect on the property's historic preservations then such management may occur.

At the request of Senator Maynard, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 4015) was advanced to third reading with the Government Organization committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4017**, Establishing country roads accountability and transparency.

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

The following amendments to the bill, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

On page three, section six-b, after line forty-two, by inserting a new subsection, designated subsection (e), to read as follows:

(e) Nothing in this section may be construed to require the commissioner to provide information in a form that is not already available in the Division of Highways' accounting system: Provided, That when funding action or expenditure is not available separately for a road, the commissioner shall provide available information by county.;

And,

By relettering the remaining subsection.

The bill (Eng. Com. Sub. for H. B. 4017), as amended, was then ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—  
34.

The nays were: None.

Absent: None.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4017) was then read a third time and put upon its passage.

Pending discussion,



The question being “Shall Engrossed Committee Substitute for House Bill 4017 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4017) passed with its title.

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

**Eng. Com. Sub. for House Bill 4061**, Health Benefit Plan Network Access and Adequacy Act.

Having been read a second time on yesterday, Thursday, March 5, 2020, and now coming up in regular order, was reported by the Clerk.

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

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

**ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

**§33-15-4u. Incorporation of the Health Benefit Plan Network Access and Adequacy Act.**

The provisions of the Health Benefit Plan Network Access and Adequacy Act codified at §33-53-1 et seq. of this code are made applicable to the provisions of this article.

**§33-15-22. Assignment of certain benefits in dental care insurance coverage.**

(a) Any entity regulated under this article that provides dental care coverage to a covered person shall honor an assignment, made in writing by the person covered under the policy, of payments due under the policy to a dentist or a dental corporation for services provided to the covered person that are covered under the policy. Upon notice of the assignment, the entity shall make payments directly to the provider of the covered services. A dentist or dental corporation with a valid assignment may bill the entity and notify the entity of the assignment. Upon request of the entity, the dentist or dental corporation shall provide a copy of the assignment to the entity.

(b) A covered person may revoke an assignment made pursuant to subsection (a) of this section with or without the consent of the provider. The revocation shall be in writing. The covered person shall provide notice of the revocation to the entity. The entity shall send a copy of the revocation notice to the dentist or dental corporation subject to the assignment. The revocation is effective when both the entity and the provider have received a copy of the revocation notice. The revocation is only effective for any charges incurred after both parties have received the revocation notice.

(c) If, under an assignment authorized in subsection (a) of this section, a dentist or dental corporation collects payment from a covered person and subsequently receives payment from the entity, the dentist or dental corporation shall reimburse the covered person, less any applicable copayments, deductibles, or coinsurance amounts, within 45 days.

(d) Nothing in this section limits an entity's ability to determine the scope of the entity's benefits, services, or any other terms of the entity's policies or to negotiate any contract with a licensed health care provider regarding reimbursement rates or any other lawful provisions.

(e) Any entity providing dental care shall provide conspicuous notice to the covered person that the assignment of benefits is

optional, and that additional payments may be required if the assigned benefits are not sufficient to pay for received services.

## **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

### **§33-16-3ff. Incorporation of the Health Benefit Plan Network Access and Adequacy Act.**

The provisions of the Health Benefit Plan Network Access and Adequacy Act codified at §33-53-1 *et seq.* of this code are made applicable to the provisions of this article.

### **§33-16-18. Assignment of certain benefits in dental care insurance coverage.**

(a) Any entity regulated under this article that provides dental care coverage to a covered person shall honor an assignment, made in writing by the person covered under the policy, of payments due under the policy to a dentist or a dental corporation for services provided to the covered person that are covered under the policy. Upon notice of the assignment, the entity shall make payments directly to the provider of the covered services. A dentist or dental corporation with a valid assignment may bill the entity and notify the entity of the assignment. Upon request of the entity, the dentist or dental corporation shall provide a copy of the assignment to the entity.

(b) A covered person may revoke an assignment made pursuant to subsection (a) of this section with or without the consent of the provider. The revocation shall be in writing. The covered person shall provide notice of the revocation to the entity. The entity shall send a copy of the revocation notice to the dentist or dental corporation subject to the assignment. The revocation is effective when both the entity and the provider have received a copy of the revocation notice. The revocation is only effective for any charges incurred after both parties have received the revocation notice.

(c) If, under an assignment authorized in subsection (a) of this section, a dentist or dental corporation collects payment from a covered person and subsequently receives payment from the entity,

the dentist or dental corporation shall reimburse the covered person, less any applicable copayments, deductibles, or coinsurance amounts, within 45 days.

(d) Nothing in this section limits an entity's ability to determine the scope of the entity's benefits, services, or any other terms of the entity's policies or to negotiate any contract with a licensed health care provider regarding reimbursement rates or any other lawful provisions.

(e) Any entity providing dental care shall provide conspicuous notice to the covered person that the assignment of benefits is optional, and that additional payments may be required if the assigned benefits are not sufficient to pay for received services.

## **ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS, AND HEALTH SERVICE CORPORATIONS.**

### **§33-24-7u. Incorporation of the Health Benefit Plan Network Access and Adequacy Act.**

The provisions of the Health Benefit Plan Network Access and Adequacy Act codified at §33-53-1 *et seq.* of this code is made applicable to the provisions of this article.

### **§33-24-45. Assignment of certain benefits in dental care insurance coverage.**

(a) Any entity regulated under this article that provides dental care coverage to a covered person shall honor an assignment, made in writing by the person covered under the policy, of payments due under the policy to a dentist or a dental corporation for services provided to the covered person that are covered under the policy. Upon notice of the assignment, the entity shall make payments directly to the provider of the covered services. A dentist or dental corporation with a valid assignment may bill the entity and notify the entity of the assignment. Upon request of the entity, the dentist or dental corporation shall provide a copy of the assignment to the entity.

(b) A covered person may revoke an assignment made pursuant to subsection (a) of this section with or without the consent of the provider. The revocation shall be in writing. The covered person shall provide notice of the revocation to the entity. The entity shall send a copy of the revocation notice to the dentist or dental corporation subject to the assignment. The revocation is effective when both the entity and the provider have received a copy of the revocation notice. The revocation is only effective for any charges incurred after both parties have received the revocation notice.

(c) If, under an assignment authorized in subsection (a) of this section, a dentist or dental corporation collects payment from a covered person and subsequently receives payment from the entity, the dentist or dental corporation shall reimburse the covered person, less any applicable copayments, deductibles, or coinsurance amounts, within 45 days.

(d) Nothing in this section limits an entity's ability to determine the scope of the entity's benefits, services, or any other terms of the entity's policies or to negotiate any contract with a licensed health care provider regarding reimbursement rates or any other lawful provisions.

(e) Any entity providing dental care shall provide conspicuous notice to the covered person that the assignment of benefits is optional, and that additional payments may be required if the assigned benefits are not sufficient to pay for received services.

## **ARTICLE 25. HEALTH CARE CORPORATIONS.**

### **§33-25-8r. Incorporation of the Health Benefit Plan Network Access and Adequacy Act.**

The provisions of the Health Benefit Plan Network Access and Adequacy Act codified at §33-53-1 *et seq.* of this code are made applicable to the provisions of this article.

### **§33-25-22. Assignment of certain benefits in dental care insurance coverage.**

(a) Any entity regulated under this article that provides dental care coverage to a covered person shall honor an assignment, made in writing by the person covered under the policy, of payments due under the policy to a dentist or a dental corporation for services provided to the covered person that are covered under the policy. Upon notice of the assignment, the entity shall make payments directly to the provider of the covered services. A dentist or dental corporation with a valid assignment may bill the entity and notify the entity of the assignment. Upon request of the entity, the dentist or dental corporation shall provide a copy of the assignment to the entity.

(b) A covered person may revoke an assignment made pursuant to subsection (a) of this section with or without the consent of the provider. The revocation shall be in writing. The covered person shall provide notice of the revocation to the entity. The entity shall send a copy of the revocation notice to the dentist or dental corporation subject to the assignment. The revocation is effective when both the entity and the provider have received a copy of the revocation notice. The revocation is only effective for any charges incurred after both parties have received the revocation notice.

(c) If, under an assignment authorized in subsection (a) of this section, a dentist or dental corporation collects payment from a covered person and subsequently receives payment from the entity, the dentist or dental corporation shall reimburse the covered person, less any applicable copayments, deductibles, or coinsurance amounts, within 45 days.

(d) Nothing in this section limits an entity's ability to determine the scope of the entity's benefits, services, or any other terms of the entity's policies or to negotiate any contract with a licensed health care provider regarding reimbursement rates or any other lawful provisions.

(e) Any entity providing dental care shall provide conspicuous notice to the covered person that the assignment of benefits is optional, and that additional payments may be required if the assigned benefits are not sufficient to pay for received services.

**ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

**§33-25A-8u. Incorporation of the Health Benefit Plan Access and Adequacy Act.**

The provisions of the Health Benefit Plan Network Access and Adequacy Act codified at §33-53-1 *et seq.* of this code is made applicable to the provisions of this article.

**§33-25A-36. Assignment of certain benefits in dental care insurance coverage.**

(a) Any entity regulated under this article that provides dental care coverage to a covered person shall honor an assignment, made in writing by the person covered under the policy, of payments due under the policy to a dentist or a dental corporation for services provided to the covered person that are covered under the policy. Upon notice of the assignment, the entity shall make payments directly to the provider of the covered services. A dentist or dental corporation with a valid assignment may bill the entity and notify the entity of the assignment. Upon request of the entity, the dentist or dental corporation shall provide a copy of the assignment to the entity.

(b) A covered person may revoke an assignment made pursuant to subsection (a) of this section with or without the consent of the provider. The revocation shall be in writing. The covered person shall provide notice of the revocation to the entity. The entity shall send a copy of the revocation notice to the dentist or dental corporation subject to the assignment. The revocation is effective when both the entity and the provider have received a copy of the revocation notice. The revocation is only effective for any charges incurred after both parties have received the revocation notice.

(c) If, under an assignment authorized in subsection (a) of this section, a dentist or dental corporation collects payment from a covered person and subsequently receives payment from the entity, the dentist or dental corporation shall reimburse the covered

person, less any applicable copayments, deductibles, or coinsurance amounts, within 45 days.

(d) Nothing in this section limits an entity's ability to determine the scope of the entity's benefits, services, or any other terms of the entity's policies or to negotiate any contract with a licensed health care provider regarding reimbursement rates or any other lawful provisions.

(e) Any entity providing dental care shall provide conspicuous notice to the covered person that the assignment of benefits is optional, and that additional payments may be required if the assigned benefits are not sufficient to pay for received services.

(f) The provisions of this section shall not apply to insurers or managed care organizations with respect to their Medicaid or CHIP plans or contracts which are reviewed and approved by the Department of Health and Human Resources Bureau for Medical Services.

### **ARTICLE 53. HEALTH BENEFIT PLAN NETWORK ACCESS AND ADEQUACY ACT.**

#### **§33-53-1. Definitions.**

For purposes of this article:

"Authorized representative" means:

(A) A person to whom a covered person has given express written consent to represent the covered person;

(B) A person authorized by law to provide substituted consent for a covered person; or

(C) The covered person's treating health care professional, only when the covered person is unable to provide consent, or a family member of the covered person.

"Commissioner" means the Insurance Commissioner of this state.



“Covered benefit” or “benefit” means those health care services to which a covered person is entitled under the terms of a health benefit plan.

“Covered person” means a policyholder, subscriber, enrollee, or other individual participating in a health benefit plan.

“Emergency medical condition” means a physical, mental, or behavioral health condition that manifests itself by acute symptoms of sufficient severity, including severe pain that would lead a prudent layperson, possessing an average knowledge of medicine and health, to reasonably expect, in the absence of immediate medical attention, to result in:

(A) Placing the individual’s physical, mental, or behavioral health, or, with respect to a pregnant woman, the woman’s or her fetus’s health in serious jeopardy;

(B) Serious impairment to a bodily function;

(C) Serious impairment of any bodily organ or part; or

(D) With respect to a pregnant woman who is having contractions:

(i) Inadequate time to affect a safe transfer to another hospital before delivery; or

(ii) When transfer to another hospital may pose a threat to the health or safety of the woman or fetus.

“Emergency services” means, with respect to an emergency condition:

(A) A medical or mental health screening examination that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate the emergency medical condition; and

(B) Any further medical or mental health examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital to stabilize the patient.

“Essential community provider” or “ECP” means a provider that:

(A) Serves predominantly low-income, medically underserved individuals, including a health care provider defined in Section 340B(a)(4) of the Public Health Service Act (PHSA); or

(B) Is described in Section 1927(c)(1)(D)(i)(IV) of the Social Security Act, as set forth by Section 221 of Pub.L.111-8.

“Facility” means an institution providing health care services or a health care setting, including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, urgent care centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic health settings.

“Health benefit plan” means a policy, contract, certificate, or agreement entered into, offered, or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

“Health care professional” means a physician or other health care practitioner licensed, accredited, or certified to perform specified (physical, mental, or behavioral) health care services consistent with their scope of practice under state law.

“Health care provider” or “provider” means a health care professional, a pharmacy, or a facility.

“Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a physical, mental, or behavioral health condition, illness, injury, or disease, including mental health and substance use disorders.

“Health carrier” or “carrier” means an entity subject to the insurance laws and rules of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract, or enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurer issuing an accident and sickness insurance policy pursuant

to §33-15-1 et seq. of this code, an insurer issuing an accident and sickness group policy pursuant to §33-16-1 et seq. of this code, a hospital medical and dental corporation licensed pursuant to §33-24-1 et seq. of this code, a health care corporation licensed pursuant to §33-25-1 et seq. of this code, or a health maintenance organization licensed pursuant to §33-25A-1 et seq. of this code. For purposes of this article, the term “health carrier” or “carrier” does not include insurers or managed care organizations with respect to their Medicaid or Children’s Health Insurance Program (CHIP) plans or contracts which are reviewed and approved by the Department of Health and Human Resources Bureau for Medical Services.

“Intermediary” means a person authorized to negotiate and execute provider contracts with health carriers on behalf of health care providers or on behalf of a network.

“Limited scope dental plan” means a plan that provides coverage, substantially all of which is for treatment of the mouth, including any organ or structure within the mouth, which is provided under a separate policy, certificate, or contract of insurance or is otherwise not an integral part of a group benefit plan.

“Limited scope vision plan” means a plan that provides coverage, substantially all of which is for treatment of the eye, that is provided under a separate policy, certificate, or contract of insurance or is otherwise not an integral part of a group benefit plan.

“Network” means the group or groups of participating providers providing services under a network plan.

“Network plan” means a health benefit plan that either requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed, owned, under contract with, or employed by the health carrier.

“Participating provider” means a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health carrier.

“Person” means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

“Primary care” means health care services for a range of common physical, mental, or behavioral health conditions provided by a physician or nonphysician primary care professional.

“Primary care professional” means a participating health care professional designated by the health carrier to supervise, coordinate, or provide initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

“Specialist” means a physician or non-physician health care professional who:

(A) Focuses on a specific area of physical, mental, or behavioral health or a group of patients; and

(B) Has successfully completed required training and is recognized by the state in which he or she practices to provide specialty care.

“Specialist” includes a subspecialist who has additional training and recognition above and beyond his or her specialty training.

“Specialty care” means advanced medically necessary care and treatment of specific physical, mental, or behavioral health conditions, or those health conditions which may manifest in particular ages or subpopulations, that are provided by a specialist,

preferably in coordination with a primary care professional or other health care professional.

“Telemedicine” or “Telehealth” means health care services provided through telecommunications technology by a health care professional who is at a location other than where the covered person is located.

“Tiered network” means a network that identifies and groups some or all types of providers and facilities into specific groups to which different provider reimbursement, covered person cost-sharing, or provider access requirements, or any combination thereof, apply for the same services.

“To stabilize” means with respect to an emergency medical condition to provide such medical treatment of the condition as may be necessary to assure, within a reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual to or from a facility, or, with respect to an emergency birth with no complications resulting in a continued emergency to deliver the child and the placenta.

“Transfer” means the movement, including the discharge, of an individual outside a hospital’s facilities at the direction of any person employed by, or affiliated or associated, directly or indirectly, with the hospital, but does not include the movement of an individual who:

(A) Has been declared dead; or

(B) Leaves the facility without the permission of any such person.

### **§33-53-2. Applicability and scope.**

(a) Except as provided in subsection (b) of this section, this article applies to all health carriers that offer network plans.

(b) The following provisions of this article do not apply to health carriers that offer network plans that consist solely of limited scope dental plans or limited scope vision plans:

(1) §33-53-3(a)(2) of this code;

(2) §33-53-3(f)(7)(E), §33-53-3(f)(8)(B) and §33-53-3(f)(11) of this code;

(3) §33-53-4(b)(2) and (3) of this code; and

(4) §33-53-4(c)(1)(A) and (B), §33-53-4(c)(2), §33-53-4(c)(3), §33-53-4(d)(1)(B) and §33-53-4(d)(1)(C) of this code.

### **§33-53-3. Network adequacy.**

(a)(1) A health carrier providing a network plan shall maintain a network that is sufficient in numbers and appropriate types of providers, including those that serve predominantly low-income, medically underserved individuals, to assure that all covered services to covered persons, including children and adults, will be accessible without unreasonable travel or delay.

(2) Covered persons have access to emergency services 24 hours per day, seven days per week.

(b) The commissioner shall determine sufficiency in accordance with the requirements of this section, and may establish sufficiency by reference to any reasonable criteria, which may include, but are not limited to:

(1) Provider-covered person ratios by specialty;

(2) Primary care professional-covered person ratios;

(3) Geographic accessibility of providers;

(4) Geographic variation and population dispersion;

(5) Waiting times for an appointment with participating providers;

(6) Hours of operation;

(7) The ability of the network to meet the needs of covered persons, which may include low-income persons, children and adults with serious, chronic, or complex health conditions or physical or mental disabilities, or persons with limited English proficiency;

(8) Other health care service delivery system options, such as telemedicine or telehealth, mobile clinics, centers of excellence, and other ways of delivering care; and

(9) The volume of technological and specialty care services available to serve the needs of covered persons requiring technologically advanced or specialty care services.

(c)(1) A health carrier shall have a process to assure that a covered person obtains a covered benefit at an in-network level of benefits, including an in-network level of cost-sharing, from a nonparticipating provider, or make other arrangements acceptable to the commissioner when:

(A) The health carrier has a sufficient network, but does not have a type of participating provider available to provide the covered benefit to the covered person, or it does not have a participating provider available to provide the covered benefit to the covered person without unreasonable travel or delay; or

(B) The health carrier has an insufficient number or type of participating providers available to provide the covered benefit to the covered person without unreasonable travel or delay.

(2) The health carrier shall specify and inform covered persons of the process a covered person may use to request access to obtain a covered benefit from a non-participating provider as provided in subdivision (1) of this subsection when:

(A) The covered person is diagnosed with a condition or disease that requires specialized health care services or medical services; and

(B) The health carrier:

(i) Does not have a participating provider of the required specialty with the professional training and expertise to treat or provide health care services for the condition or disease; or

(ii) Cannot provide reasonable access to a participating provider with the required specialty with the professional training and expertise to treat or provide health care services for the condition or disease without unreasonable travel or delay.

(3) The health carrier shall treat the health care services the covered person receives from a nonparticipating provider pursuant to subdivision (2) of this subsection as if the services were provided by a participating provider, including counting the covered person's cost-sharing for such services toward the maximum out-of-pocket limit applicable to services obtained from participating providers under the health benefit plan.

(4) The process described under subdivisions (1) and (2) of this subsection shall ensure that requests to obtain a covered benefit from a nonparticipating provider are addressed in a timely fashion appropriate to the covered person's condition.

(5) The health carrier shall have a system in place that documents all requests to obtain a covered benefit from a nonparticipating provider under this subsection and shall provide this information to the commissioner upon request.

(6) The process established in this subsection is not intended to be used by health carriers as a substitute for establishing and maintaining a sufficient provider network in accordance with the provisions of this article nor is it intended to be used by covered persons to circumvent the use of covered benefits available through a health carrier's network delivery system options.

(7) Nothing in this section prevents a covered person from exercising the rights and remedies available under applicable state or federal law relating to internal and external claims grievance and appeals processes.



(d)(1) A health carrier shall establish and maintain adequate arrangements to ensure covered persons have reasonable access to participating providers located near their home or business address. In determining whether the health carrier has complied with this provision, the commissioner shall give due consideration to the relative availability of health care providers with the requisite expertise and training in the service area under consideration.

(2) A health carrier shall monitor, on an ongoing basis, the ability, clinical capacity, and legal authority of its participating providers to furnish all contracted covered benefits to covered persons.

(e)(1) Beginning January 1, 2021, a health carrier shall file with the commissioner for review prior to or at the time it files a newly offered network, in a manner and form defined by rule of the commissioner, an access plan meeting the requirements of this article.

(2)(A) The health carrier may request the commissioner to deem sections of the access plan as proprietary information that may not be made public. The health carrier shall make the access plans, absent proprietary information, available online, at its business premises, and to any person upon request.

(B) For the purposes of this subsection, information is proprietary if revealing the information would cause the health carrier's competitors to obtain valuable business information.

(3) The health carrier shall prepare an access plan prior to offering a new network plan and shall notify the commissioner of any material change to any existing network plan within 15 business days after the change occurs. The carrier shall include in the notice to the commissioner a reasonable timeframe within which it will submit to the commissioner for approval or file with the commissioner, as appropriate, an update to an existing access plan.

(f) The access plan shall describe or contain at least the following:

(1) The health carrier's network, including how the use of telemedicine or telehealth or other technology may be used to meet network access standards, if applicable;

(2) The health carrier's procedures for making and authorizing referrals within and outside its network, if applicable;

(3) The health carrier's process for monitoring and assuring on an ongoing basis the sufficiency of the network to meet the health care needs of populations that enroll in network plans;

(4) The factors used by the health carrier to build its provider network, including a description of the network and the criteria used to select providers;

(5) The health carrier's efforts to address the needs of covered persons, including, but not limited to, children and adults, including those with limited English proficiency or illiteracy, diverse cultural or ethnic backgrounds, physical or mental disabilities, and serious, chronic, or complex medical conditions. This includes the carrier's efforts, when appropriate, to include various types of ECPs in its network;

(6) The health carrier's methods for assessing the health care needs of covered persons and their satisfaction with services;

(7) The health carrier's method of informing covered persons of the plan's covered services and features, including, but not limited to:

(A) The plan's grievance and appeals procedures;

(B) Its process for choosing and changing providers;

(C) Its process for updating its provider directories for each of its network plans;

(D) A statement of health care services offered, including those services offered through the preventive care benefit, if applicable; and

(E) Its procedures for covering and approving emergency, urgent, and specialty care, if applicable;

(8) The health carrier's system for ensuring the coordination and continuity of care:

(A) For covered persons referred to specialty physicians; and

(B) For covered persons using ancillary services, including social services and other community resources, and for ensuring appropriate discharge planning;

(9) The health carrier's process for enabling covered persons to change primary care professionals, if applicable;

(10) The health carrier's proposed plan for providing continuity of care in the event of contract termination between the health carrier and any of its participating providers, or in the event of the health carrier's insolvency or other inability to continue operations. The description shall explain how covered persons will be notified of the contract termination, or the health carrier's insolvency or other cessation of operations, and transitioned to other providers in a timely manner;

(11) The health carrier's process for monitoring access to physician specialist services in emergency room care, anesthesiology, radiology, hospitalist care, and pathology/laboratory services at their participating hospitals; and

(12) Any other information required by the commissioner to determine compliance with the provisions of this article.

#### **§33-53-4. Provider directories.**

(a)(1)(A) A health carrier shall post electronically a current and accurate provider directory for each of its network plans with the information and search functions, as described in subsection (b) of this section.

(B) In making the directory available electronically, the carrier shall ensure that the general public is able to view all of the current

providers for a plan through a clearly identifiable link or tab and without creating or accessing an account or entering a policy or contract number.

(2)(A) The health carrier shall update each network plan provider directory at least monthly.

(B) The health carrier shall periodically audit at least a reasonable sample size of its provider directories for accuracy, and retain documentation of such an audit to be made available to the commissioner upon request.

(3) A health carrier shall provide a print copy, or a print copy of the requested directory information of a current provider directory with the information described in subsection (b) of this section upon request of a covered person or a prospective covered person.

(4) For each network plan, a health carrier shall include in plain language, in both the electronic and print directory, the following general information:

(A) In plain language, a description of the criteria the carrier has used to build its provider network;

(B) If applicable, in plain language, a description of the criteria the carrier has used to tier providers;

(C) If applicable, in plain language, how the carrier designates the different provider tiers or levels in the network and identifies for each specific provider, hospital, or other type of facility in the network which tier each is placed, for example, by name, symbols, or grouping, in order for a covered person or a prospective covered person to be able to identify the provider tier; and

(D) If applicable, note that authorization or referral may be required to access some providers.

(5)(A) A health carrier shall make it clear for both its electronic and print directories what provider directory applies to which

network plan, such as including the specific name of the network plan as marketed and issued in this state.

(B) The health carrier shall include in both its electronic and print directories a customer service email address and telephone number or electronic link that covered persons or the general public may use to notify the health carrier of inaccurate provider directory information.

(6) For the pieces of information required pursuant to subsections (b), (c), and (d) of this section in a provider directory pertaining to a health care professional, a hospital, or a facility other than a hospital, the health carrier shall make available through the directory the source of the information and any limitations, if applicable.

(7) A provider directory, whether in electronic or print format, shall accommodate the communication needs of individuals with disabilities, and include a link to or information regarding available assistance for persons with limited English proficiency.

(b) The health carrier shall make available through an electronic provider directory, for each network plan, the information under this subsection in a searchable format:

(1) For health care professionals:

(A) Name;

(B) Gender;

(C) Participating office location(s);

(D) Specialty, if applicable;

(E) Medical group affiliations, if applicable;

(F) Facility affiliations, if applicable;

(G) Participating facility affiliations, if applicable;

(H) Languages spoken other than English, if applicable; and

(1) Whether accepting new patients.

(2) For hospitals:

(A) Hospital name;

(B) Hospital type (i. e., acute, rehabilitation, children's, cancer);

(C) Participating hospital location;

(D) Hospital accreditation status; and

(3) For facilities, other than hospitals, by type:

(A) Facility name;

(B) Facility type;

(C) Types of services performed; and

(D) Participating facility location(s).

(c) For the electronic provider directories, for each network plan, a health carrier shall make available the following information in addition to all of the information available under subsection (b) of this section:

(1) For health care professionals:

(A) Contact information;

(B) Board certification(s); and

(C) Languages spoken other than English by clinical staff, if applicable.

(2) For hospitals: Telephone number; and

(3) For facilities other than hospitals: Telephone number.

(d)(1) The health carrier shall make available in print, upon request, the following provider directory information for the applicable network plan:

(A) For health care professionals:

(i) Name;

(ii) Contact information;

(iii) Participating office location(s);

(iv) Specialty, if applicable;

(v) Languages spoken other than English, if applicable; and

(vi) Whether accepting new patients.

(B) For hospitals:

(i) Hospital name;

(ii) Hospital type, (i. e., acute, rehabilitation, children's, cancer); and

(iii) Participating hospital location and telephone number; and

(C) For facilities, other than hospitals, by type:

(i) Facility name;

(ii) Facility type;

(iii) Types of services performed; and

(iv) Participating facility location(s) and telephone number.

(2) The health carrier shall include a disclosure in the directory that the information in subdivision (1) of this subsection, included in the directory, is accurate as of the date of printing, and that covered persons or prospective covered persons should consult the carrier's electronic provider directory on its website to obtain current provider directory information.

**§33-53-5. Intermediaries.**

A contract between a health carrier and an intermediary shall satisfy all the requirements contained in this section.

(a) A health carrier's statutory responsibility to monitor the offering of covered benefits to covered persons may not be delegated or assigned to the intermediary.

(b) A health carrier has the right to approve or disapprove participation status of a subcontracted provider in its own or a contracted network for the purpose of delivering covered benefits to the carrier's covered persons.

(c) A health carrier shall maintain copies of all intermediary health care subcontracts at its principal place of business in the state, or ensure that it has access to all intermediary subcontracts, including the right to make copies to facilitate regulatory review, upon 20 days prior written notice from the health carrier.

(d) If applicable, an intermediary shall transmit utilization documentation and claims-paid documentation to the health carrier. The carrier shall monitor the timeliness and appropriateness of payments made to providers and health care services received by covered persons.

(e) If applicable, an intermediary shall maintain the books, records, financial information, and documentation of services provided to covered persons at its principal place of business in the state and preserve them for two years in a manner that facilitates regulatory review.

(f) An intermediary shall allow the commissioner access to the intermediary's books, records, financial information, and any documentation of services provided to covered persons, as necessary to determine compliance with this article.

(g) A health carrier has the right, in the event of the intermediary's insolvency, to require the assignment to the health carrier of the provisions of a provider's contract addressing the provider's obligation to furnish covered services. If a health carrier



requires assignment, the health carrier remains obligated to pay the provider for furnishing covered services under the same terms and conditions as the intermediary prior to the insolvency.

(h) Notwithstanding any other provision of this section, to the extent the health carrier delegates its responsibilities to the intermediary, the carrier shall retain full responsibility for the intermediary's compliance with the requirements of this article.

### **§33-53-6. Filing requirements and state administration.**

(a) At the time a health carrier files its access plan, the health carrier shall file for approval with the commissioner sample contract forms proposed for use with its participating providers and intermediaries.

(b) A health carrier shall submit material changes to a contract that would affect a provision required under this article or implementing regulations to the commissioner for approval at least 30 days prior to use.

(c) The health carrier shall maintain provider and intermediary contracts at its principal place of business in the state, or the health carrier shall have access to all contracts and provide copies to facilitate regulatory review upon 20 days prior written notice from the commissioner.

### **§33-53-7. Contracting.**

(a) The execution of a contract by a health carrier does not relieve the health carrier of its liability to any person with whom it has contracted for the provision of services, nor of its responsibility for compliance with the law or applicable regulations.

(b) All contracts shall be in writing and subject to review.

(c) All contracts shall comply with applicable requirements of the law and applicable regulations.

### **§33-53-8. Enforcement.**

(a) If the commissioner determines that a health carrier has not contracted with a sufficient number of participating providers to

assure that covered persons have accessible health care services in a geographic area, or that a health carrier's network access plan does not assure reasonable access to covered benefits, or that a health carrier has entered into a contract that does not comply with this article, or that a health carrier has not complied with a provision of this article, the commissioner shall require a modification to the access plan or institute a corrective action plan, as appropriate, that shall be followed by the health carrier, or may use any of the commissioner's other enforcement powers to obtain the health carrier's compliance with this article.

(b) The commissioner will not act to arbitrate, mediate, or settle disputes regarding a decision not to include a provider in a network plan or in a provider network or regarding any other dispute between a health carrier, its intermediaries, or one or more providers arising under or by reason of a provider contract or its termination.

#### **§33-53-9. Rulemaking.**

The commissioner shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article.

#### **§33-53-10. Penalties.**

A violation of this article shall be penalized in accordance with §33-4-11 of this code.

The bill (Eng. Com. Sub. for H. B. 4061), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4069**, West Virginia Student Religious Liberties Act.

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

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

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

**ARTICLE 33. STUDENT RELIGIOUS LIBERTIES.**

**§18-33-1. West Virginia Student Religious Liberties Act.**

This article shall be known and may be cited as the “West Virginia Student Religious Liberties Act.”

**§18-33-2. Student expression.**

A public school district shall not discriminate against students or parents on the basis of a religious viewpoint or religious expression. A school district shall treat a student’s voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student’s voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

**§18-33-3. Religious expression in class assignments.**

As more fully set forth in §18-33-5(b) of this code, students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination and may not be penalized or rewarded on account of the religious content of their work: *Provided*, That a student may express disagreement and offer opposing views regarding any issue based on religious beliefs, but may not be excused from answering a test question or other assignment correctly because the answer to that question that was provided in course content is counter to the religious beliefs of the student.

**§18-33-4. Freedom to organize and advertise religious groups and activities.**

As more fully set forth in §18-33-5(c) and §18-33-5(d) of this code, students in public schools may pray or engage in religious activities or religious expression before, during, and after the

school day in the same manner and to the same extent that students may engage in nonreligious activities or expression.

**§18-33-5. Student expression of religious viewpoints; religious expression in class assignments; freedom to organize and advertise religious groups and activities; displaying religious messages or symbols.**

(a) *Student expression of religious viewpoints.* — The school district shall treat a student’s voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student’s voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

(b) *Religious expression in class assignments.* — Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of the students’ submissions. Homework and classroom work shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Students may not be penalized or rewarded on account of religious content. If a teacher’s assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged on the basis of academic standards, including literary quality, and not penalized or rewarded on account of its religious content.

(c) *Freedom to organize and advertise religious groups and activities.* — Students may organize prayer groups, religious clubs, “see you at the pole” gatherings, and other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups must be given the same access to school facilities for assembling as is given to other noncurricular groups, without discrimination based on the religious content of the group’s expression. If student groups that meet for nonreligious

activities are permitted to advertise or announce the groups' meetings, for example, by advertising in a student newspaper, putting up posters, making announcements on a student activities bulletin board or public address system, religious groups must also be permitted to advertise or announce group meetings.

(d) *Displaying religious messages or symbols.* — Students in public schools may wear clothing, accessories, and jewelry that display religious messages or religious symbols in the same manner and to the same extent that other types of clothing, accessories, and jewelry that display messages or symbols are permitted.

#### **§18-33-6. Certain acts restricted.**

This act may not be construed to authorize this state or any of its political subdivisions to do either of the following:

(1) Require any person to participate in prayer or in any other religious activity.

(2) Violate the constitutional rights of any person.

#### **§18-33-7. Certain authority may not be limited.**

This act shall not be construed to limit the authority of any public school to do any of the following:

(1) Maintain order and discipline on the campus of the public school in a content and viewpoint neutral manner.

(2) Protect the safety of students, employees, and visitors of the public school.

(3) Adopt and enforce policies and procedures regarding student speech at school, provided that the policies and procedures do not violate the rights of students as guaranteed by the United States and West Virginia constitutions and laws.

#### **§18-33-8. First school year affected.**

This act shall be in force beginning with the 2020-2021 school year.

The bill (Eng. Com. Sub. for H. B. 4069), as amended, was then ordered to third reading.

At the request of Senator Smith, unanimous consent being granted, Senator Smith addressed the Senate regarding a meeting of the committee of conference as to Engrossed House Bill 4039 (*Providing limitations on nuisance actions against fire department and emergency medical services*).

**Eng. Com. Sub. for House Bill 4123**, Clarifying that 911 telecommunication workers are included in the definition of those individuals who perform “emergency services” during a disaster.

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

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

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

## **CHAPTER 15. PUBLIC SAFETY.**

### **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**

#### **§15-5-2. Definitions.**

As used in this article:

(a) ~~“Emergency services” means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond and recover, to prevent, detect, deter and mitigate, to minimize and repair injury and damage resulting from disasters or other event caused by flooding, terrorism, enemy attack, sabotage or other natural or other man-made causes. These functions include, without limitation, firefighting services, police services, medical and health services, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas,~~

~~emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to the health, safety and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat thereof;~~

~~(b) “Local organization for emergency services” means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function;~~

~~(c) “Mobile support unit” means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;~~

~~(d) “Political subdivision” means any county or municipal corporation in this state;~~

~~(e) “Board” means the West Virginia Disaster Recovery Board created by this article;~~

~~(f) “Code” means the Code of West Virginia, 1931, as amended;~~

~~(g) “Community facilities” means a specific work or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;~~

~~(h) “Disaster” means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or terrorist or man-made cause, including weapons of mass destruction, fire, flood, earthquake,~~

~~wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;~~

~~(i) “Disaster recovery activities” means activities undertaken prior to, during or following a disaster to provide, or to participate in the provision of, emergency services, temporary housing, residential housing, essential business activities and community facilities;~~

~~(j) “Essential business activities” means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or service deemed by the authority to be necessary for recovery from a disaster;~~

~~(k) “Person” means any individual, corporation, voluntary organization or entity, partnership, firm or other association, organization or entity organized or existing under the laws of this or any other state or country;~~

~~(l) “Recovery fund” means the West Virginia Disaster Recovery Trust Fund created by this article;~~

~~(m) “Residential housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and such other nonhousing facilities as may be incidental or appurtenant thereto;~~

~~(n) “Temporary housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster and such other nonhousing facilities as may be incidental or appurtenant thereto; and~~



~~(e) “Secretary” means the Secretary of the West Virginia Department of Military Affairs and Public Safety.~~

“Board” means the West Virginia Disaster Recovery Board created by this article;

“Code” means the Code of West Virginia, 1931, as amended;

“Community facilities” means a specific work, or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

“Disaster” means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or terrorist or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;

“Disaster recovery activities” means activities undertaken prior to, during or following a disaster to provide, or to participate in the provision of, emergency services, temporary housing, residential housing, essential business activities, and community facilities;

“Emergency services” means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond, and recover, to prevent, detect, deter, and mitigate, to minimize and repair injury and damage resulting from disasters or other event caused by flooding, terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions include, without limitation, firefighting services, police services, medical and health services, communications, emergency telecommunications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary

restoration of public utility services and other functions related to the health, safety, and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat;

“Essential business activities” means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or service determined by the authority to be necessary for recovery from a disaster;

“Local organization for emergency services” means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function;

“Mobile support unit” means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;

“Person” means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

“Political subdivision” means any county or municipal corporation in this state;

“Recovery fund” means the West Virginia Disaster Recovery Trust Fund created by this article;

“Residential housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for

temporary housing and emergency housing, and any other nonhousing facilities that are incidental or appurtenant thereto;

“Secretary” means the Secretary of the West Virginia Department of Military Affairs and Public Safety; and

“Temporary housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster and such other nonhousing facilities that are incidental or appurtenant thereto.

## **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

### **ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.**

#### **§24-6-2. Definitions.**

As used in this article, unless the context clearly requires a different meaning:

(1) “Commercial mobile radio service provider” or “CMRS provider” means cellular licensees, broadband personal communications services (PCS) licensees and specialized mobile radio (SMR) providers, as those terms are defined by the Federal Communications Commission, which offer on a post-paid or prepaid basis or via a combination of those two methods, real-time, two-way switched voice service that is interconnected with the public switched network and includes resellers of any commercial mobile radio service.

(2) “County answering point” means a facility to which enhanced emergency telephone system calls for a county are initially routed for response and where county personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider or transferring the call to the appropriate provider.

(3) “Emergency services organization” means the organization established under article five, chapter fifteen of this code.

(4) “Emergency service provider” means any emergency services organization or public safety unit.

“Emergency telecommunicator” means a professional telecommunicator meeting the training requirements set forth in §24-6-5 and is a first responder tasked with the gathering of information related to medical emergencies, the provision of assistance and instructions by voice, prior to the arrival of emergency medical services (EMS), and the dispatching and support of EMS resources responding to an emergency call.

(5) “Emergency telephone system” means a telephone system which through normal telephone service facilities automatically connects a person dialing the primary emergency telephone number to an established public agency answering point, but does not include an enhanced emergency telephone system.

(6) “Enhanced emergency telephone system” means a telephone system which automatically connects the person dialing the primary emergency number to the county answering point and in which the telephone network system automatically provides to personnel receiving the call, immediately on answering the call, information on the location and the telephone number from which the call is being made and, upon direction from the personnel receiving the call, routes or dispatches the call by telephone, radio or any other appropriate means of communication to emergency service providers that serve the location from which the call is made.

(7) “Prepaid wireless calling service” means prepaid wireless calling service as defined in section two, article fifteen, chapter eleven of this code.

(8) “Public agency” means the state and any municipality, county, public district or public authority which provides or has authority to provide firefighting, police, ambulance, medical, rescue or other emergency services.

~~(9)~~ “Public safety unit” means a functional division of a public agency which provides firefighting, police, medical, rescue or other emergency services.

~~(10)~~ “Telephone company” means any public utility and any CMRS provider which is engaged in the provision of telephone service whether primarily by means of wire or wireless facilities.

~~(11)~~ “Comprehensive plan” means a plan pertaining to the installing, modifying or replacing of telephone switching equipment; a telephone utility’s response in a timely manner to requests for emergency telephone service by a public agency; a telephone utility’s responsibility to report to the Public Service Commission; charges and tariffs for the services and facilities provided by a telephone utility; and access to an emergency telephone system by emergency service organizations.

~~(12)~~ “Technical and operational standards” means those standards of telephone equipment and processes necessary for the implementation of the comprehensive plan as defined in subdivision (11) of this subsection.

#### **§24-6-5. Enhanced emergency telephone system requirements.**

(a) An enhanced emergency telephone system, at a minimum, shall provide that:

(1) All the territory in the county, including every municipal corporation in the county, which is served by telephone company central office equipment that will permit such a system to be established shall be included in the system: *Provided*, That if a portion of the county or a portion of a municipal corporation within the county is already being served by an enhanced emergency telephone system, that portion of the county or municipality may be excluded from the county enhanced emergency telephone system;

(2) Every emergency service provider that provides emergency service within the territory of a county participate in the system;

(3) Each county answering point be operated constantly by an emergency telecommunicator;

(4) Each emergency service provider participating in the system maintain a telephone number in addition to the one provided in the system; and

(5) If the county answering point personnel reasonably determine that a call is not an emergency, the personnel provide the caller with the number of the appropriate emergency service provider.

(b) To the extent possible, enhanced emergency telephone systems shall be centralized.

(c) In developing an enhanced emergency telephone system, a county commission or the West Virginia State Police shall seek the advice of both the telephone companies providing local exchange service within the county and the local emergency providers.

(d) As a condition of employment, a person employed as the director of an emergency dispatch center who dispatches emergency calls or supervises the dispatching of emergency call takers is subject to an investigation of his or her character and background. This investigation shall include, at a minimum, a criminal background check conducted by the State Police at its expense. A felony conviction shall preclude a person from holding any of these positions.

(e) As a condition of continued employment, persons employed to dispatch emergency calls in county emergency dispatch centers shall successfully complete:

(1) A 40-hour nationally recognized training course for dispatchers within one year of the date of their employment;

(2) A nationally recognized training course in emergency cardiovascular care for telephonic cardiopulmonary resuscitation selected by the medical director of an emergency medical dispatch center. This training course shall incorporate protocols for out-of-hospital cardiac arrest and compression-only cardiopulmonary

resuscitation and continuing education, as appropriate. The training requirements of this subdivision are effective not later than July 1, 2020. Persons employed subsequent to July 1, 2019, shall complete the training within one year of the date of employment; and

(3) An additional nationally recognized emergency medical dispatch course or an emergency medical dispatch course approved by the Office of Emergency Medical Services ~~not later than July 1, 2013, or if employed subsequent to July 1, 2013,~~ within one year of the date of employment.

(f) ~~On or before July 1, 2013, the~~ The director of each county emergency dispatch center shall develop policies and procedures to establish a protocol for dispatching emergency medical calls implementing a nationally recognized emergency medical dispatch program, or an emergency medical dispatch program approved by the Office of Emergency Medical Services. ~~Provided, That If~~ If a county emergency dispatch center ~~which utilizes~~ uses a one-button transfer system, it may continue to use this system if the county emergency dispatch center establishes policies and procedures ~~which require~~ requiring the agency to whom the call is transferred to remain on the call until a first responder arrives.

(g) Each county or municipality shall appoint for each answering point an enhanced emergency telephone system advisory board consisting of at least six members to monitor the operation of the system. The board shall be appointed by the county or municipality and shall include at least one member from affected:

- (1) Fire service providers;
  - (2) Law-enforcement providers;
  - (3) Emergency medical providers;
  - (4) Emergency services providers participating in the system;
- and
- (5) Counties or municipalities.

(6) The director of the county or municipal enhanced telephone system shall serve as an ex officio member of the advisory board.

~~(h) The initial advisory board shall serve staggered terms of one, two, and three years. The initial terms of these appointees shall commence on July 1, 1994. All future appointments to the advisory board shall be for terms of three years, except that an appointment to fill a vacancy shall be for the unexpired term. All members shall serve without compensation. The board shall adopt such any policies, rules, and regulations as are necessary for its own guidance. The board shall meet monthly or quarterly. The board may make recommendations to the county or municipality concerning the operation of the system.~~

~~(i) Nothing herein contained may be construed to prohibit or discourage in any way the~~ The establishment of multijurisdictional or regional systems, or multijurisdictional or regional agreements for the establishment of enhanced emergency telephone systems, and any system established pursuant to this article may include the territory of more than one public agency, or may include only a portion of the territory of a public agency.

(j) All public safety answering points that answer calls for emergency medical conditions shall, in the appropriate circumstances, provide telephonic assistance in administering cardiopulmonary resuscitation directly or transfer calls to a call center to provide assistance in administering telephonic cardiopulmonary resuscitation.

(k) The director of the county or municipal enhanced telephone system shall have the authority to enter into mobile-phone contracts with service providers for the purpose of obtaining a mobile-phone emergency line for the county or municipality. The director must solicit bids for mobile-phone contracts from mobile-phone service providers in this state. The director may award the contract to the lowest responsible bidder, or designate in writing, why any other bidder other than the lowest responsible bidder was awarded a contract. The director may obtain as many lines as reasonably needed for emergencies where landlines are unavailable



to serve the county or municipality. The director and phone service provider should collaborate to obtain the following:

(1) The emergency mobile-phone number may be the county prefix and end in 0911, as feasible for the phone service provider;

(2) The emergency mobile-phone service provider should permit roll-over service to allow multiple callers to dial into the amount of lines purchased; and

(3) The emergency mobile-phone service provider should provide the lowest possible cost.

Nothing in this subsection shall be construed to prohibit or discourage in any way the establishment of multijurisdictional or regional systems, or multijurisdictional or regional agreements for the establishment of emergency mobile-telephone systems. This section shall be effective July 1, 2020.

(l) Emergency mobile-phone contracts entered into pursuant to subsection (j) of this section may be paid from funds received by the Public Service Commission relating to 911 fees remitted to the county or by other county funds. A report of the funds expended for subsection (j) of this section shall be presented to the interim Joint Committee on Government Organization no later than November 30, 2020, to ensure the fiscal responsibility and efficacy of this section.

The bill (Eng. Com. Sub. for H. B. 4123), as amended, was then ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr,

Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4123) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4123) passed.

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

**Eng. Com. Sub. for House Bill 4123**—A Bill to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-6-2 and §24-6-5 of said code, all relating to emergency telecommunication; defining terms; requiring each county answering point be operated constantly by an emergency telecommunicator; permitting directors of county emergency phone systems to obtain mobile phone emergency lines and enter into service provider contracts; establishing payment of emergency mobile phone contracts; and requiring a report.

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

**Eng. Com. Sub. for House Bill 4155**, Relating generally to the regulation of plumbers.

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

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

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

## **ARTICLE 14. SUPERVISION OF PLUMBING WORK.**

### **§21-14-2. Definitions.**

As used in this article:

(a) “License” means a valid and current license issued by the Commissioner of Labor in accordance with the provisions of this article.

(b) “Journeyman plumber” means a person qualified by at least ~~eight thousand~~ 5,000 hours of plumbing or related experience and who is competent to instruct and supervise the work of a plumber in training; Provided, That the commissioner credit relevant verified military service, training, or education toward the licensing requirements.

(c) “Residential plumber” means a person with at least 2,000 hours of plumbing work experience who performs plumbing work at single and dual family residential structures, or works under the supervision of a master plumber or a journeyman plumber; Provided, That the commissioner credit relevant verified military service, training, or education toward the licensing requirements.

(~~e~~) (d) “Master plumber” means a person with at least ~~twelve thousand~~ 5,000 hours of plumbing work experience and who is competent to design plumbing systems, and to instruct and supervise the plumbing work of journeyman plumbers, and plumbers in training; Provided, That the commissioner credit

relevant verified military service, training, or education toward the licensing requirements.

~~(d)~~ (e) “Plumber in training” means a person with interest in and an aptitude for performing plumbing work but who alone is not capable of performing plumbing work, and who has fewer than ~~eight thousand hours of plumbing experience~~ 2,000 hours of plumbing experience on single and dual family residential structures and 5,000 hours of plumbing experience in all settings: Provided, That the commissioner credit relevant verified military service, training, or education toward the licensing requirements.

(e) (f) “Plumbing” means the practice, materials, and fixtures utilized within a building in the installation, extension, and alteration of all piping, fixtures, water treatment devices, plumbing appliances, and appurtenances, in connection with sanitary drainage or storm drainage facilities; the plumbing venting systems; medical gas systems; fuel oil and gas piping for residential, commercial, and institutional facilities; backflow preventers; and public or private water supply systems, as defined by the state building code.

(f) (g) “Single family dwelling” means a building which is occupied as, or designed or intended for occupancy as, a single residence for one or more persons.

### **§21-14-3. License required; exemptions.**

(a) ~~On and after January 1, 2009, a~~ A person performing or offering to perform plumbing work in this state shall have a license issued by the Commissioner of Labor, in accordance with the provisions of this article.

(b) A person licensed under this article must carry a copy of the license on any job in which plumbing work is being performed.

(c) This article does not apply to:

(1) A person who personally performs plumbing work on a single-family dwelling owned or leased by that person or by a member of that ~~persons~~ person’s immediate family;

(2) A person who performs plumbing at any manufacturing plant or other industrial establishment as an employee of the person, firm, or corporation operating the plant or establishment;

(3) A person who performs plumbing work while employed by an employer who engages in the business of selling appliances at retail, so long as such plumbing work is performed incidental to the installation or repair of appliances sold by the employer;

(4) A person who, while employed by a public utility or its affiliate, performs plumbing in connection with the furnishing of public utility service;

(5) A person who performs plumbing work while engaging in the business of installing, altering, or repairing water distribution or drainage lines outside the foundation walls of a building, public or private sewage treatment, or water treatment systems including all associated structures or buildings, sewers, or underground utility services;

(6) A person who performs plumbing work while engaged in the installation, extension, dismantling, adjustment, repair, servicing, or alteration of a heating ventilation and air conditioning (HVAC) system, air-veyor system, air exhaust system, or air handling system;

(7) A person who performs plumbing work at a coal mine that is being actively mined or where coal is being processed; ~~or~~

(8) A person who performs plumbing work at manufacturing, industrial, and natural gas facilities;

(9) A person who performs plumbing work at a small business, as defined by the United States Small Business Administration, as an employee of the person, firm, or corporation operating the small business; or

(10) A person who performs plumbing work for a total cost under \$2,500.

On motion of Senator Palumbo, the following amendments to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 4155) were reported by the Clerk and considered simultaneously:

On page three, section three, subsection (c), subdivision (8), after the word facilities;" by adding the word "or";

And,

On page three, section three, subsection (c), subdivision (9), after the word "business" by inserting a period and striking out the remainder of the section.

Following discussion,

The question being on the adoption of Senator Palumbo's amendments to the Government Organization committee amendment to the bill, the same was put and prevailed.

On motion of Senator Romano, the following amendments to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 4155) were next reported by the Clerk and considered simultaneously:

On page one, section two, subsection (b), after the word "person" by inserting the words "who can show proof he or she passed, within the previous 12 months, an alcohol test as defined by §21-1D-2(a) of this code and a drug test as defined by §21-1D-2(d) of this code, and who is";

On page one, section two, subsection (c), after the word "person" by inserting the words "who can show proof he or she passed, within the previous 12 months, an alcohol test as defined by §21-1D-2(a) of this code and a drug test as defined by §21-1D-2(d) of this code, and";

And,

On page two, section two, subsection (e), after the word "person" by inserting the words "who can show proof he or she

passed, within the previous 12 months, an alcohol test as defined by §21-1D-2(a) of this code and a drug test as defined by §21-1D-2(d) of this code, and”.

Following discussion,

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

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

The nays were: Azinger, Blair, Boley, Clements, Cline, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: None.

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

On motion of Senator Ihlenfeld, the following amendment to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 4155) was next reported by the Clerk:

On page two, section three, subsection (a), after the word “article” by inserting a colon and the following proviso: *Provided*, That after the effective date of this article and in order to prevent against potential identity theft and fraud the Commissioner of Labor shall determine if each applicant for new licenses and license renewal has presented valid identification and shall use one or more of the following resources to make such a determination; the E-Verify program administered by the United States Department of Homeland Security and the United State Social Security Administration; The United States Social Security

Administration's Consent Based Social Security Number Verification (CBSV) Service or any other governmental database the Commissioner has legal authority to use.

Following discussion,

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

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Stollings, Swope, Takubo, Trump, Unger, and Woelfel—19.

The nays were: Azinger, Blair, Boley, Clements, Cline, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Sypolt, Tarr, Weld, and Carmichael (Mr. President)—15.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ihlenfeld's amendment to the Government Organization committee amendment to the bill adopted.

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

The bill (Eng. Com. Sub. for H. B. 4155), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4422**, The Patient Brokering Act.

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

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



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

**ARTICLE 60. THE PATIENT BROKERING ACT.**

**§16-60-1. Definitions.**

For the purposes of this article:

“Health care provider or health care facility” means any person or entity licensed or certified or authorized by law to provide professional health care service in this state to a patient during that patient’s medical, remedial or behavioral health care, treatment, or confinement.

“Health care provider network entity” means a corporation, partnership, or limited liability company owned or operated by two or more health care providers, and organized for the purpose of entering into agreements with health insurers, health care purchasing groups, or the Medicare or Medicaid program.

“Health insurer” means any insurance company authorized to transact health insurance in the state, any insurance company authorized to transact health insurance or casualty insurance in the state that is offering a minimum premium plan or stop-loss coverage for any person or entity providing health care benefits, any self-insurance plan, any health maintenance organization, any prepaid health clinic, any prepaid limited health service organization, any multiple-employer welfare arrangement, or any fraternal benefit society providing health benefits to its members.

**§16-60-2. Patient brokering prohibited.**

(a) It is unlawful for any person, including any health care provider or health care facility, to:

(1) Offer or pay a commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of a patient or patronage to or from a health care provider or health care facility;

(2) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring a patient or patronage to or from a health care provider or health care facility;

(3) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgment of treatment from a health care provider or health care facility;

(4) Aid, abet, advise, or otherwise participate in the conduct prohibited under this subsection; or

(5) Engage in any of the unlawful acts provided for in this subsection in regard to a recovery residence as defined in §16-59-1 of this code.

(b) Penalties. –

(1) Any person who violates the provisions of subsection (a) of this section is guilty of a felony and, upon conviction thereof, shall be fined not more than \$50,000, or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(2) Notwithstanding the provisions of subdivision (1) of this section, any person who violates subsection (a) of this section, where the prohibited conduct involves 10 or more patients, is guilty of a felony and, upon conviction, shall be fined not more than \$100,000, or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned.

**§16-60-3. Exceptions.**

This article does not apply to the following payment practices:

(1) Any discount, payment, waiver of payment, or payment practice expressly authorized by 42 U.S.C. §1320a-7b(b)(3) or regulations adopted thereunder;

(2) Any payment, compensation, or financial arrangement within a group practice provided the payment, compensation, or arrangement is not to or from persons who are not members of the group practice;

(3) Payments to a health care provider or health care facility for professional consultation services;

(4) Commissions, fees, or other remuneration lawfully paid to insurance agents;

(5) Payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance abuse goods or services under a health benefit plan;

(6) Payments to or by a health care provider or health care facility, or a health care provider network entity, that has contracted with a health insurer, a health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance abuse goods or services under a health benefit plan when the payments are for goods or services under the plan;

(7) Insurance advertising and promotional gifts;

(8) Commissions or fees paid to a person or entity providing a referral service to nurses which provide health care services;

(9) Payments by a health care provider or health care facility to a health, mental health, or substance abuse information service that provides information upon request and without charge to consumers about providers of health care goods or services to enable consumers to select appropriate providers or facilities, provided that the information service;

(A) Does not attempt through its standard questions for solicitation of consumer criteria or through any other means to steer or lead a consumer to select or consider selection of a particular health care provider or health care facility;

(B) Does not provide or represent itself as providing diagnostic or counseling services or assessments of illness or injury and does not make any promises of cure or guarantees of treatment;

(C) Does not provide or arrange for transportation of a consumer to or from the location of a health care provider or health care facility; and

(D) Charges and collects fees from a health care provider or health care facility participating in its services that are set in advance, are consistent with the fair market value for those information services, and are not based on the potential value of a patient or patients to a health care provider or health care facility or of the goods or services provided by the health care provider or health care facility.

(10) Payments made by an assisted living facility to an individual employed by the assisted living facility, or with whom the facility contracts to provide marketing services for the facility, if the individual clearly indicates that he or she works with or for the facility; and

(11) Payments made to a resident of an assisted living facility who refers a friend, family members, or other individuals with whom the resident has a personal relationship to the assisted living facility, in which case the assisted living facility may provide a monetary reward to the resident for making the referral.

The bill (Eng. Com. Sub. for H. B. 4422), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4433**, Relating to deeds of trust.

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

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

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

**ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.**

**§38-1-2a. How deeds of trust construed; duties and rights of parties.**

(a) Every deed of trust to secure debts or indemnify sureties is a contract and shall be construed according to its terms to the extent its terms are not in conflict with applicable state and federal laws.

(b) Unless the deed of trust or applicable law provides otherwise, a deed of trust to secure debts or indemnify sureties executed on or after the effective date of the enactment of this section shall be construed to impose and confer upon the parties and beneficiaries the following duties, rights, and obligations as if the same were expressly provided for by the deed of trust:

(1) The deed shall be construed to secure the performance of each of the covenants entered into by the grantor as well as the payment of the primary obligation;

(2) The grantor is considered to covenant that he or she will pay all taxes, levies, and other governmental assessments and charges upon the property, as long as any obligation upon the grantor under the deed of trust remains undischarged;

(3) The grantor is considered to covenant that in the event of his or her failure to meet any obligations imposed upon him or her, then the trustee or any beneficiary may, at his or her option, satisfy the obligations to the extent reasonable or appropriate to protect the beneficiary's interest in the property and rights under a security instrument. The money advanced, with interest as provided in the deed of trust, shall be a part of the debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and is otherwise recoverable from the grantor as a debt. This section is not intended to create personal liability for a grantor that did not execute the note or debt instrument secured by the deed of trust;

(4) A covenant to pay interest is considered a covenant to pay interest on the principal balance as the rate may vary or be modified from time to time by the parties under the original instruments or agreements or a written agreement of modification, whether or not recorded, and all the interest on the principal secured by the deed of trust is on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust; and

(5) Any covenant, otherwise authorized by law, that the lender is entitled to share in the gross income or the net income, or the gross rent or revenues, or net rents or revenues of the property, or in any portion of the proceeds or appreciation upon sale or appraisal or similar event, is on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and shall be specified in the recorded deed of trust or other recorded document in order to be notice of record as against subsequent parties. This subdivision does not apply to consumer loans as defined in the West Virginia Consumer Credit and Protection Act §46A-1-101 *et seq.* of this code or residential deeds of trust, unless expressly provided for in the applicable deed of trust or by applicable law.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 4433), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4444**, Establishing Medals of Valor and Medals for Bravery for emergency medical services, firefighters, and law-enforcement officers.

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

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

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

**ARTICLE 32. MEDALS OF VALOR.**

**§29-32-1. Medal of Valor.**

(a) There is hereby established a Medal of Valor to be awarded to firefighters, law-enforcement officers, and emergency medical services personnel who distinguish themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty in the performance of their duties.

(b) A Medal of Valor can only be awarded in the manner set forth in this article.

**§29-32-2. Firefighters Honor Board.**

(a) The Firefighters Honor Board is hereby established as an advisory board to the Legislature. The purpose of the board is to recommend to the Legislature, firefighters in West Virginia who have distinguished themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty in the performance of their duties, to be awarded a Medal of Valor.

(b) *Board membership.* —

(1) The board shall consist of two members from each of the state's senatorial districts. Each state senator shall appoint one member representing his or her district.

(2) The board shall be composed of firefighters, fire chiefs, and other professionals who are qualified to evaluate and determine whether the actions of firefighters rise to the level of being above and beyond the call of duty.

(3) Members shall serve a one-year term and shall serve without compensation.

(c) The board may consider candidates for the Medal of Valor who are identified by members of the board or by other citizens, and may design a system for the receipt of those recommendations.

(d) The board shall review identified individuals to determine if those firefighters have gone above and beyond the call of duty in their professional capacities. Upon determination that a firefighter is worthy of this honor, the board shall submit the nomination to the Speaker of the House of Delegates and the President of the Senate for consideration by the Legislature.

### **§29-32-3. Law Enforcement Officers Honor Board.**

(a) The Law Enforcement Officers Honor Board is hereby established as an advisory board to the Legislature. The purpose of the board is to recommend to the Legislature, law enforcement officers in West Virginia who distinguish themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty in the performance of their duties, to be awarded a Medal of Valor.

(b) Board membership. —

(1) The board shall consist of two members from each of the state's senatorial districts. Each state senator shall appoint one member representing his or her district.

(2) The board shall be composed of law enforcement officials, such as sheriffs and police chiefs, and other professionals who are qualified to evaluate and determine whether the actions of law enforcement officers rise to the level of being above and beyond the call of duty.

(3) Members shall serve a one-year term and shall serve without compensation.

(c) The board may consider candidates for the Medal of Valor who are identified by members of the board or by other citizens, and may design a system for the receipt of those recommendations.



(d) The board shall review identified individuals to determine if those law enforcement officers have gone above and beyond the call of duty in their professional capacities. Upon determination that a law enforcement officer is worthy of this honor, the board shall submit the nomination to the Speaker of the House of Delegates and the President of the Senate for consideration by the Legislature.

#### **§29-32-4. Emergency Medical Services Honor Board.**

(a) The Emergency Medical Services Honor Board is hereby established as an advisory board to the Legislature. The purpose of the board is to recommend to the Legislature, emergency medical services personnel in West Virginia who distinguish themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty in the performance of their duties, to be awarded a Medal of Valor.

#### (b) Board membership. —

(1) The board shall consist of two members from each of the state's senatorial districts. Each state senator shall appoint one member representing his or her district.

(2) The board shall be composed of emergency medical services personnel, medical officials, doctors, and other professionals who are qualified to evaluate and determine whether the actions of emergency medical services personnel rise to the level of being above and beyond the call of duty.

(3) Members shall serve a one-year term and shall serve without compensation.

(c) The board may consider candidates for the Medal of Valor who are identified by members of the board or by other citizens, and may design a system for the receipt of those recommendations.

(d) The board shall review identified individuals to determine if those emergency medical services personnel have gone above and beyond the call of duty in their professional capacities. Upon determination that an emergency medical services provider is

worthy of this honor, the board shall submit the nomination to the Speaker of the House of Delegates and the President of the Senate for consideration by the Legislature.

**§29-32-5. Awarding of the Medal of Valor.**

(a) The Legislature may act on a nomination from one of the Honor Boards established by this article by passing a concurrent resolution.

(b) Upon nomination by the Firefighters Honor Board, and adoption of a concurrent resolution by the Legislature, the Governor shall bestow the Medal of Valor for Firefighters upon the nominee.

(c) Upon nomination by the Law Enforcement Officers Honor Board, and adoption of a concurrent resolution by the Legislature, the Governor shall bestow the Medal of Valor for Law Enforcement Officers upon the nominee.

(d) Upon nomination by the Emergency Medical Services Honor Board, and adoption of a concurrent resolution by the Legislature, the Governor shall bestow the Medal of Valor for Emergency Medical Services personnel upon the nominee.

(e) The West Virginia Department of Arts, Culture and History shall create the designs for the Medal of Valor for Firefighters, Law Enforcement Officers, and Emergency Medical Services personnel.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 4444), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4474**, Relating to peer-to-peer car sharing programs.

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

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

**Eng. Com. Sub. for House Bill 4497**, Requiring an external defibrillator device at any secondary school athlete event.

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

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

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

## **ARTICLE 2. STATE BOARD OF EDUCATION.**

### **§18-2-25b. Defibrillator required at certain events.**

(a) In memory of Alex Miller, a Roane County football player who collapsed and died during a school football game, this law shall be known as The Alex Miller Law.

(b) By the 2021-2022 school year, the West Virginia Secondary School Activities Commission shall require that an automated external defibrillator device, as well as a posted emergency action plan, be present on the school or event grounds during the duration of all athletic events and practices under the control, supervision, and regulation of the commission, and that appropriate school sports personnel be trained in the use of the device.

(c) The commission shall propose rules for promulgation by the State Board in accordance with §29A-3B-1 et seq. of this code to implement the provisions of this section including proximity.

(d) No individual, school, county board of education, or other entity shall be held liable for civil damages when such individual, school, county board of education, or other entity in good faith attempted to comply with the requirements of this section or rules promulgated pursuant thereto.

The bill (Eng. Com. Sub. for H. B. 4497), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4535**, Relating to student aide class titles.

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

**Eng. House Bill 4585**, Providing immunity from civil or criminal liability for making good faith reports of suspected or known instances of child abuse or neglect.

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

**Eng. Com. Sub. for House Bill 4587**, Modernizing the Public Service Commission's regulation of solid waste motor carriers and solid waste facilities.

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

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

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

## **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

### **ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.**

#### **§24-2-4a. Procedure for changing rates after June 30, 1981.**

(a) After June 30, 1981, no public utility subject to this chapter, except for those entities subject to the provisions of §24A-5-2a of this code and water and/or sewer utilities that are political subdivisions of the state providing separate or combined services and having at least 4,500 customers and annual gross revenue of \$3 million or more from its separate or combined services, shall change, suspend or annul any rate, joint rate, charge, rental or classification except after thirty days' notice to the commission and the public, which notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates or charges shall go into effect; but the commission may enter an order suspending the proposed rate as hereinafter provided. The proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection: *Provided*, That the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

(b) Whenever there shall be filed with the commission any schedule stating a change in the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint classification or any new individual or joint regulation or practice affecting any rate or charge, the commission may, either upon complaint or upon its own initiative without complaint, enter upon a hearing concerning the propriety of such rate, charge, classification, regulation or practice; and, if the commission so orders, it may proceed without answer or other form of pleading by the interested parties, but upon reasonable notice, and, pending such hearing and the decisions thereon, the commission, upon filing with such schedule and delivering to the public utility affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than two hundred seventy days beyond the time when such rate, charge, classification, regulation or practice would otherwise go into effect; and after full hearing,

whether completed before or after the rate, charge, classification, regulation or practice goes into effect, the commission may make such order in reference to such rate, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, charge, classification, regulation or practice had become effective: *Provided*, That in the case of a public utility having two thousand five hundred customers or less and which is not a political subdivision and which is not principally owned by any other public utility corporation or public utility holding corporation, the commission may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than one hundred twenty days beyond the time when such rate, charge, classification, regulation or practice would otherwise go into effect; and in the case of a public utility having more than two thousand five hundred customers, but not more than five thousand customers, and which is not a political subdivision and which is not principally owned by any other public utility corporation or public utility holding corporation, the commission may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than one hundred fifty days beyond the time when such rate, charge, classification, regulation or practice would otherwise go into effect; and in the case of a public utility having more than five thousand customers, but not more than seven thousand five hundred customers, and which is not a political subdivision and which is not principally owned by any other public utility corporation or public utility holding corporation, the commission may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than one hundred eighty days beyond the time when such rate, charge, classification, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, classification, regulation or practice goes into effect, the commission may make such order in reference to such rate, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, charge, classification, regulation or practice had become effective: *Provided, however*, That, in the case of rates established or proposed that increase by less than

twenty-five percent of the gross revenue of the regulated public service district, there shall be no suspension period in the case of rates established by a public service district pursuant to section nine, article thirteen-a, chapter sixteen of this code and the proposed rates of public service districts shall go into effect upon the date of filing with the commission, subject to refund modification at the conclusion of the commission proceeding. In the case of rates established or proposed that increase by more than twenty-five percent of the gross revenue of the public service district, the district may apply for, and the commission may grant, a waiver of the suspension period and allow rates to be effective upon the date of filing with the commission. Notwithstanding the provisions of subsection (e) of this section, the public service district shall provide notice by Class I legal advertisement in a newspaper of general circulation in its service territory of the percentage increase in rates at least fourteen days prior to the effective date of the increased rates. Any refund determined to be determined to be due and owing as a result of any difference between any final rates approved by the commission and the rates placed into effect subject to refund shall be refunded by the public service district as a credit against each customer's account for a period of up to six months after entry of the commission's final order. Any remaining balance which is not fully credited by credit within six months after entry of the commission's final order shall be directly refunded to the customer by check: *Provided further,* That if any such hearing and decision thereon is not concluded within the periods of suspension, as above stated, such rate, charge, classification, regulation or practice shall go into effect at the end of such period not subject to refund: *And provided further,* That if any such rate, charge, classification, regulation or practice goes into effect because of the failure of the commission to reach a decision, the same shall not preclude the commission from rendering a decision with respect thereto which would disapprove, reduce or modify any such proposed rate, charge, classification, regulation or practice, in whole or in part, but any such disapproval, reduction or modification shall not be deemed to require a refund to the customers of such utility as to any rate, charge, classification, regulation or practice so disapproved, reduced or modified. The fact of any rate, charge, classification, regulation or practice going

into effect by reason of the commission's failure to act thereon shall not affect the commission's power and authority to subsequently act with respect to any such application or change in any rate, charge, classification, regulation or practice. Any rate, charge, classification, regulation or practice which shall be approved, disapproved, modified or changed, in whole or in part, by decision of the commission shall remain in effect as so approved, disapproved, modified or changed during the period or pendency of any subsequent hearing thereon or appeal therefrom. Orders of the commission affecting rates, charges, classifications, regulations or practices which have gone into effect automatically at the end of the of the suspension period are prospective in effect.

(c) At any hearing involving a rate sought to be increased or involving the change of any rate, charge, classification, regulation or practice, the burden of proof to show the justness and reasonableness of the increased rate or proposed increased rate, or the proposed change of rate, charge, classification, regulation or practice shall be upon the public utility making application for such change. The commission shall, whenever practicable and within budgetary constraints, conduct one or more public hearings within the area served by the public utility making application for such increase or change, for the purpose of obtaining comments and evidence on the matter from local ratepayers.

(d) Each public utility subject to the provisions of this section shall be required to establish, in a written report which shall be incorporated into each general rate case application, that it has thoroughly investigated and considered the emerging and state-of-the-art concepts in the utility management, rate design and conservation as reported by the commission under subsection (c), section one, article one of this chapter as alternatives to, or in mitigation of, any rate increase. The utility report shall contain as to each concept considered the reasons for adoption or rejection of each. When in any case pending before the commission all evidence shall have been taken and the hearing completed, the commission shall render a decision in such case. The failure of the commission to render a decision with respect to any such proposed change in any such rate, charge, classification, regulation or



practice within the various time periods specified in this section after the application therefor shall constitute neglect of duty on the part of the commission and each member thereof.

(e) Other than as provided in subsection (b) of this section relating to public service districts, where more than twenty members of the public are affected by a proposed change in rates, it shall be a sufficient notice to the public within the meaning of this section if such notice is published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the community where the majority of the resident members of the public affected by such change reside or, in case of nonresidents, have their principal place of business within this state.

(f) The commission may order rates into effect subject to refund, plus interest in the discretion of the commission, in cases in which the commission determines that a temporary or interim rate increase is necessary for the utility to avoid financial distress, or in which the costs upon which these rates are based are subject to modification by the commission or another regulatory commission and to refund to the public utility. In such case the commission may require such public utility to enter into a bond in an amount deemed by the commission to be reasonable and conditioned upon the refund to the persons or parties entitled thereto of the amount of the excess if such rates so put into effect are subsequently determined to be higher than those finally fixed for such utility.

(g) No utility regulated under the provisions of this section may make application for a general rate increase while another general rate application is pending before the commission and not finally acted upon, except pursuant to the provisions of subsection (f) of this section. The provisions of this subsection shall not be construed so as to prohibit any such rate application from being made while a previous application which has been finally acted upon by the commission is pending before or upon appeal to the West Virginia Supreme Court of Appeal.

**CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.****ARTICLE 2. COMMON CARRIERS BY MOTOR VEHICLES.****§24A-5-2. Certificate of convenience and necessity.**

(a) *Required; application; hearing; granting.* — It shall be unlawful for any common carrier by motor vehicle to operate within this state without first having obtained from the commission a certificate of convenience and necessity. Upon the filing of an application for such certificate, the commission shall set a time a place for a hearing on the application: *Provided*, That the commission may, after giving proper notice and if no protest is received, waive formal hearing on the application. Notice shall be by publication which shall state that a formal hearing may be waived in the absence of a protest to such application. The notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the proposed area of operation. The notice shall be published at least ten days prior to the date of the hearing. After the hearing or waiver by the commission of the hearing, if the commission finds from the evidence that the public convenience and necessity require the proposed service or any part thereof, it shall issue the certificate as prayed for, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the right granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require, and if the commission shall be of the opinion that the service rendered by any common carrier holding a certificate of convenience and necessity over any route or routes in this state is in any respect inadequate or insufficient to meet the public needs, such certificate holder shall be given reasonable time and opportunity to remedy such inadequacy or insufficiency before any certificate shall be granted to an applicant proposing to operate over such route or routes as a common carrier. Before granting a certificate to a common carrier by motor vehicle the commission shall take into consideration existing transportation facilities in the territory for which a certificate is sought, and in case it finds from the evidence that the service furnished by existing transportation facilities is reasonably

efficient and adequate, the commission shall not grant such certificate.

(b) *Rules and regulations; taking evidence at hearings; burden of proof.* — The commission shall prescribe such rules and regulations as it may deem proper for the enforcement of the provisions of this section and in establishing that public convenience and necessity do exist the burden of proof shall be upon the applicant. The commission may designate any of its employees to take evidence at the hearing of any application for a certificate and submit findings of fact as a part of a report or reports to be made to the commission.

(c) *Certificate not franchise, etc.; assignment or transfer.* — No certificate issued in accordance with the terms of this chapter shall be construed to be either a franchise or irrevocable or to confer any proprietary or property rights in the use of the public highways. No certificate issued under this chapter shall be assigned or otherwise transferred without the approval of the commission.  
That

(1) Upon the death of a person holding a certificate, his or her personal representative or representatives may operate under such certificate while the same remains in force and effect and, with the consent of the commission, may transfer such certificate; and

(2) An application by a motor carrier to transfer a certificate of convenience and necessity, or a portion thereof, to another motor carrier possessing one or more certificates of public convenience and necessity for the same commodity shall be affirmed or denied within 90 days of the submission of a complete application for transfer. The commission shall make a determination within ten business days of receiving a transfer application if the application is complete and notify the applicant if additional information is required. If the commission fails to act on a complete application within 90 days, the application to transfer the certificate shall be deemed approved.

(d) *Suspension, revocation or amendment.* — The commission may at any time, for good cause, suspend and, upon not less than

fifteen days' notice to the grantee of any certificate and an opportunity to be heard, revoke or amend any certificate.

(e) The commission shall have the authority, after hearing, to ratify, approve and affirm those orders issued pursuant to this section since March 10, nineteen hundred seventy-nine. For the purposes of this subsection the commission may give notice by a Class I legal advertisement of such hearing in any newspaper or newspapers of general circulation in this state, and such other newspapers as the commission may designate.

## **ARTICLE 5. POWERS AND DUTIES OF COMMISSION.**

### **§24A-5-2a. Procedure for changing rates for collection and hauling of solid waste by motor carriers; rural rates.**

(a) Unless a motor carrier collecting and hauling solid waste elects to increase rates under section 2 of this chapter and the commission's existing rules and regulations, effective July 1, 2020, no solid waste motor carrier subject to this chapter shall change, suspend, or annul any individual rate, joint rate, fare, charge, or classification for the collection or hauling of solid waste, except after 30 days' notice to the commission and the carrier's customers, with such notice to customers being sent as a bill insert or separately mailed statement that plainly states the changes proposed to be made in the schedule then in force and the time when the changed rates or charges will go into effect. The motor carrier shall file its proposed public notice with the commission for review. Within five business days of the filing of the notice with the commission, the commission shall issue an order approving the notice.

(b) Any proposed rate changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection: *Provided*, That the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

(c) Whenever a solid waste motor carrier shall file with the commission any schedule stating a change in the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint classification or any new individual or joint regulation or practice affecting any rate or charge, except as set forth in subsection (d) below, the commission shall have authority, on its own initiative, or upon substantial protest filed with the commission within 30 days' notice of the proposed increase or change demonstrated by the complaints submitted by the lesser of: (i) 25 percent of the customers impacted by the proposed change in rates or charges; or (ii) 750 customers impacted by the proposed change in rates or charges to suspend the rates pending a hearing and final determination that the rate, charge, classification, regulation or practice is just, reasonable, and based primarily on the cost of service. At any hearing involving a rate sought to be increased or involving the change of any fare, charge, classification, regulation, or practice, the burden of proof to show that the increased rate or proposed increased rate, or the proposed change of fare, charge, classification, regulation or practice, is just, reasonable, and based primarily on the cost of service, shall be upon the motor carrier making application for such change. Any suspension of a rate, charge classification, regulation, or practice under this subsection shall not extend beyond such time that the commission enters a final decision in the case or 120 days from the date notice was first given. The commission may extend the time in which a final decision is due by an additional 30 days if a motor carrier fails to provide material information requested by the commission more than 30 days in advance of the hearing.

(d) Urban Consumer Garbage Trash Collection Index rate change – Effective July 1, 2020, solid waste motor carriers shall be permitted to increase rates for the collection and hauling of solid waste once on January 1 of each year, without the filing of an application for approval by the commission and such increase shall be considered just and reasonable and not unfairly discriminatory, prejudicial or preferential if: (1) The carrier complies with the notice requirements of subsection (a) of this section; and (2) the percentage of the increase over the prior rate is equal to or less than the percentage of any increase in the United States Department of

Labor Bureau of Labor Statistics Garbage and Trash Collection Index (the "Index") from January 1, of the preceding year. Any rate increase that a motor carrier believes is at or below the aforementioned increase in the Index shall be identified as such when filed with the commission. Such rate increases shall be subject to challenge by the commission only if it determines that the increase is in fact in excess of the amount of the increase in the Index for the relevant time period. If the commission determines a rate increase filed pursuant to this subsection is in excess of the increase in the Index for the relevant time period, it may enter an order suspending the rate increase consistent with subsection (c) of this section. If such an order is entered, the motor carrier shall be entitled to a hearing pursuant to the process authorized in subsection (c) of this section. Notwithstanding any provision to the contrary, the fact that a solid waste motor carrier has already raised its rates in a given year pursuant to this subsection shall not preclude that carrier from applying for and receiving from the commission a rate increase pursuant to subsection (c) of this section: *Provided*, That the commission shall take into account the prior rate increase taken pursuant to this subsection when considering the carrier's application to increase rates. A motor carrier may implement up to four annual indexed rate increases under this subsection before filing for a rate increase under chapter 24A of this code: *Provided*, That the commission shall not engage in retroactive rate making.

(e) The commission shall prescribe such rules and regulations as to the giving of notice of a change in rates pursuant to this section as are reasonable and are deemed proper in the public interest.

**§24A-5-2b. Authorizing Public Service Commission to approve alternative pick-up due to adverse conditions.**

Every motor carrier of solid waste in residential service shall provide and maintain regularly scheduled pickup service. Exceptions to the regularly scheduled pickup service may be made for reasons beyond the motor carrier's control, including, but not limited to, dangerous road conditions, inclement weather, flooding, road closures. Exceptions to the regularly scheduled pickup service

based on such conditions will be at the motor carrier's discretion: *Provided*, That nothing herein changes the universal service obligations of any motor carrier. Any interruption of service in this regard that lasts beyond five days shall be reported by the motor carrier to the commission and the motor carrier and the staff of the commission shall establish a contingency pickup arrangement for the affected customers that the motor carrier shall implement until the condition causing the service interruption is alleviated.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 4587), as amended, was then ordered to third reading.

**Eng. House Bill 4606**, Listing contractor classifications on a contractor license.

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

**Eng. House Bill 4607**, Authorizing the operation of mobile shops for hair, nail, cosmetology, and aesthetics services.

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

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

**Eng. Com. Sub. for House Bill 4615**, West Virginia Critical Infrastructure Protection Act.

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

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

**Eng. Com. Sub. for House Bill 4634, Southern West Virginia Lake Development Study Commission Act.**

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

The following amendment to the bill, from the Committee on Natural Resources, was reported by the Clerk:

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

**ARTICLE 1B. SOUTHERN WEST VIRGINIA LAKE DEVELOPMENT STUDY COMMISSION.**

**§5B-1B-1. Southern West Virginia Lake Development Study Commission Act.**

This article shall be known as the “Southern West Virginia Lake Development Study Commission Act.”

**§5B-1B-2. Legislative findings.**

(a) The Legislature finds that the southern coalfields of West Virginia, long one of the most productive coal producing areas of the world, having provided untold millions of dollars to the state economy, and having been the financial backbone of the state’s economy for over a century, is now in the midst of a long decline in coal production and population, and because of rugged terrain and remoteness from surrounding regions, suffers from high unemployment and deteriorating infrastructure and economic base, and requires innovative and alternative approaches to revitalization; and therefore demands the Legislature look at innovative ideas and alternatives for new industries and businesses that provide sustainable long term development for southern West Virginia.



(b) The natural beauty of the mountainous regions, now popular with outdoor enthusiasts for its Hatfield McCoy Trail System, would be an ideal location for a large recreational lake or lakes, constructed with hundreds of miles of lake front property, tens of thousands of acres of lake surface, near a four lane highway and situated near large tracts of developable property, with carefully considered design and development, could create a new and exciting recreational area of the state, and provide a myriad of opportunities for further development and with creative initiative could revitalize this area of our state. Such a proposal is worthy of careful study and marshalling the forces of our state and federal governments to thoroughly evaluate and consider this development, maximizing the design and use of a lake or lake system to provide a variety of benefits, potentially including hydro-electric generation, resort developments, housing, and economic opportunities that would create diversity and renewal to this long neglected and deserving area of our state.

**§5B-1B-3. Commission created; undertake study; report to the Legislature.**

(a) There is hereby created the Southern West Virginia Lake Development Study Commission within the West Virginia Development Office. The commission shall consist of the following members:

(1) The president of the West Virginia Economic Development Council, who will serve as chair of the commission;

(2) Six members designated by each of the county commissions of Boone, Logan, McDowell, Mercer, Mingo, and Wyoming Counties;

(3) One member representing the Department of Environmental Protection, to be appointed by the Governor;

(4) One member representing the Division of Natural Resources, to be appointed by the Governor;

(5) One member representing and having expertise in each of the following fields, to be appointed by the Governor:

(A) Geology;

(B) Land use planning;

(C) Law;

(D) Natural resource management;

(E) Tourism development;

(F) Public recreation;

(G) Hydrology; and

(H) Ecology; and

(6) Six citizen members representing Boone, Logan, McDowell, Mercer, Mingo, and Wyoming to be appointed by the Governor.

(b) The West Virginia University Bureau of Business and Economic Research and the Marshall University Center for Business and Economic Research shall assist the commission by undertaking the study of topics as directed by this section and by the commission. Working with the commission, the two research groups shall investigate lake developments across the region and country to identify what makes large lake developments successful, types of unique amenities and development sites that would promote economic growth, alternative uses for the lake and its resources in power generation, regional resource preservation and integration, enhancement of the Hatfield and McCoy ATV Trail System, and other outdoor recreational opportunities.

(c) The commission shall oversee studies that evaluate where a lake can be located to maximize economic benefits and assess environmental impacts, property ownership assessment and purchasing costs, impacts to mineral ownership and development impacts, and other issues as identified by the commission. The commission is empowered to form specialized committees of experts in various fields of law, science, economic development, geological, mineral, and natural resources to make

recommendations and provide expertise in their respective fields regarding viability and implications of lake construction, road location, and resource preservation.

(d) The commission is directed to undertake the inclusion of federal resources for assistance in the study of the feasibility and implementation recommendations. The commission shall pursue federal funding for undertaking the study and the subsequent construction of this project upon the finding of viability of the study project.

(e) The commission may call upon other officers, departments, and agencies of state government to assist in its investigation. Upon the request of the commission, the Attorney General of the state shall render legal research and analysis on legal issues associated with developing recommendations for lawful land development construction and compliance with state and federal laws associated with land acquisition and lake construction, to the commission.

(f) All actual and necessary travel expenses of the members of the commission shall be reimbursed by the member's employing agency. All other expenses incurred by the commission shall be paid by the Development Office.

#### **§5B-1B-4. Report to the Legislature.**

The commission shall provide regular updates to the Legislature, through the Joint Committee on Government and Finance, and shall complete this study and its recommendations by July 1, 2022. The report shall include at a minimum, recommendations for any necessary legislation, funding recommendations, and analysis of the implications and costs associated with the development project provided in this article.

Following discussion,

The question being on the adoption of the Natural Resources committee amendment to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4634), as amended, was then ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Blair and Woelfel—2.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4634) was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4634 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4634) passed with its title.

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

**Eng. Com. Sub. for House Bill 4645**, Establishing the Office of Regulatory and Fiscal Affairs under the Joint Committee on Government and Finance.

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

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

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

**ARTICLE 2. LEGISLATIVE AUDITOR; POWERS; FUNCTIONS; DUTIES; COMPENSATION.**

**§4-2-4. Duties of Auditor; filing reports.**

(a) It is the duty of the Legislative Auditor to:

(1) Compile fiscal information for the Senate and the House of Delegates, ~~to~~ including the fiscal information and economic analysis required by §4-2-6a of this code;

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

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

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

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

(b) The Legislative Auditor may collect, and the department, agency or board shall pay, any or all of the costs associated with

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

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

**§4-2-6a. Division of Regulatory and Fiscal Affairs established; fiscal note and economic impact analysis process authorized.**

(a) In order to better ascertain both the fiscal impact of proposed legislation and the economic impact of legislative rules promulgated pursuant to §29A-3-1 et seq. of this code, the Division of Regulatory and Fiscal Affairs (“division”) is hereby established under the Joint Committee on Government and Finance. The division shall be administered by the Legislative Auditor, and shall provide the Legislature with fiscal and economic analysis of proposed legislation and legislative rules as set forth in this section.

(b) Fiscal notes. –

(1) The division is responsible for obtaining any and all information necessary to complete a required fiscal note, which shall conform to the requirements as to form and content as prescribed by the Clerks of the Senate and the House of Delegates: Provided, That every fiscal note shall include the following:

(A) An estimate in dollars, if available, of the immediate and long-range fiscal impacts of the measure. If no dollar estimate is available, the fiscal note shall set forth the reasons therefor;

(B) A detailed breakdown of the costs of the fiscal impacts of the measure, including, but not limited to, any fiscal impact on personal services, current expenses, repairs and alterations, assets, or such other relevant information as the division considers appropriate;

(C) The name of the agency, if any, furnishing information required by the division for completion of the fiscal note;

(D) An analysis of any fiscal notes prepared by the agency or agencies impacted by the measure;

(E) Any discernable economic impact the measure may have on the revenues of the state; and

(F) To the extent practicable, an assessment of the potential compliance costs to the public of conforming to the proposed measure.

(2) To the extent that additional information is required by the division from any agency or governmental entity, the information shall be provided to the division within 24 hours, or as soon as reasonably available, of the request.

(c) *Economic impact analysis.* –

(1) The division shall perform an economic impact analysis pursuant to the provisions of this subsection for any legislative rule submitted to the Legislature in accordance with §29A-3-9 of this code.

(2) When an agency finally approves a proposed legislative rule for submission to the Legislature, the division shall conduct an initial economic analysis of the rule to determine the potential fiscal and economic impact of the rule. In performing its analysis, the division may consider, but not exclusively rely upon, any fiscal note or economic impact statement provided by the agency in accordance with §29A-3-11(a)(5) of this code. If the division independently determines that the rule could have a fiscal or economic impact greater than \$1 million, then the division shall

perform a full economic impact analysis in accordance with subdivision (3) of this subsection.

(3) The division shall conduct an economic impact analysis for any agency approved legislative rule with a fiscal or economic impact determined to be greater than \$1 million. The economic impact analysis conducted shall include, but may not be limited to, the following:

(A) A statement of need;

(B) The legal basis for the rule and whether the rule is mandatory by law or discretionary on the part of the proposing agency;

(C) An examination of alternatives to the proposed rule;

(D) An evaluation of costs and benefits, including:

(i) Estimated primary or direct benefits;

(ii) Estimated cost savings or financial benefits to the citizens of West Virginia;

(iii) Estimated compliance costs for regulated entities;

(iv) Estimated secondary or indirect costs;

(v) Estimated impact on state revenue;

(vi) Estimated impact on state expenditures, including estimated administrative expenses;

(vii) Estimated opportunity cost of compliance resulting from the removal of private capital from the market;

(viii) An evaluation of any potential adverse impacts on the citizens and businesses within the state;

(ix) Any estimated costs, savings or impacts of proposed alternatives to the rule; and



(x) The estimated net financial impact of the rule as well as any proposed alternatives to the rule.

(E) Any key assumptions made or areas of uncertainty.

(4) An economic impact analysis shall also be performed pursuant to the provisions of this subsection for any legislative rule being renewed in accordance with §29A-3-19(d) of this code.

(5) The division shall conduct an economic impact analysis for any rule, including any existing legislative rule or agency proposed rule, upon request of either the President of the Senate or the Speaker of the House of Delegates, either of the chairs of the Legislative Rule-Making Review Committee, or either Minority Leader for the Senate or the House of Delegates.

(6) A copy of any economic impact analysis shall be filed with the Secretary of State for publication with the agency approved rule.

(7) The requirements of this subsection do not apply to legislative exempt rules in accordance with §29A-3-4 of this code.

(d) Upon request of the Chairs of the Joint Committee on Government and Finance, and under the supervision of the Legislative Auditor, the division may assist with a performance review or economic analysis of specific laws, rules of the state to determine the effectiveness of the measure in achieving initial legislative intent, the continuing impact of such a measure, and whether the measure under review should be continued, amended or terminated.

### **ARTICLE 3. JOINT COMMITTEE ON GOVERNMENT AND FINANCE.**

#### **§4-3-3c. Reorganization of joint legislative agencies.**

(a) The Joint Committee on Government and Finance has the authority over and direction of joint legislative agencies, personnel and services, including, but not limited to, the following:

(1) The Commission on Special Investigations provided for in §4-5-1 *et seq.* of this code;

(2) The ~~Court of~~ West Virginia Legislative Claims Commission provided for in §14-2-1 *et seq.* of this code and crime victims compensation provided for in §14-2A-1 *et seq.* of this code;

(3) The Legislative Auditor provided for in §4-2-1 *et seq.* of this code;

(4) The Legislative Rule-Making Review Committee provided for in §29A-3-1 *et seq.* of this code;

(5) The Division of Regulatory and Fiscal Affairs provided for in §4-2-6a of this code;

~~(5)~~ (6) The legislative reference library provided for in §4-3-3 of this code;

~~(6)~~ (7) The legislative automated systems division;

~~(7)~~ (8) Legislative Services;

~~(8)~~ (9) Public information; and

~~(9)~~ (10) Joint services provided by one or more of the joint agencies set forth in this subsection. The following joint services are included:

(A) Bill drafting;

(B) Budget analysis;

(C) Duplicating;

(D) Financial, payroll, personnel and purchasing for joint agencies and personnel;

(E) Fiscal analysis;

(F) Post audits, full performance evaluations and preliminary performance reviews;

(G) Research; and

(H) Joint services to other joint legislative committees created and authorized by this code, to joint standing committees of the Senate and House of Delegates, to standing committees of the Senate and House of Delegates and to legislative interim committees.

(b) Notwithstanding any other provision of this chapter to the contrary, the Joint Committee on Government and Finance has the authority to reorganize and restructure the joint legislative agencies, personnel and services as provided in subsection (a) of this section for the purposes of improving their efficiency and the service they provide to the Legislature and to improve the management thereof by the joint committee. To accomplish these purposes, the joint committee may create divisions as it determines necessary and transfer and assign the joint agencies, personnel and services to the divisions. The divisions, joint agencies, personnel and services shall operate under the direction and policies of the joint committee: *Provided*, That ~~nothing in this section shall be construed to~~ does not permit the joint committee to alter or redefine the powers, duties and responsibilities vested in the Commission on Special Investigations pursuant to §4-5-1 *et seq.* of this code.

The following amendments to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 4645), from the Committee on Finance, were reported by the Clerk and considered simultaneously:

On page two, section six-a, subsection (b), subdivision (1), by striking out the word “required”;

And,

On page five, section six-a, by striking out all of subsection (d) and inserting in lieu thereof a new subsection, designated subsection (d), to read as follows:

(d) Upon request of the Chairs of the Joint Committee on Government and Finance, and under the supervision of the Legislative Auditor, the division may assist with a performance

review or economic analysis of specific laws or rules of the state to determine the effectiveness or potential effectiveness of the measure or proposed measure in achieving initial legislative intent, the continuing impact of such a measure or proposed measure, and whether the measure or proposed measure under review should be continued, adopted, amended, or terminated, as applicable.

Following discussion,

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

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

The bill (Eng. Com. Sub. for H. B. 4645), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 4648**, The Parenting Fairness Act of 2020.

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

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

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

## **ARTICLE 1. GENERAL PROVISIONS; DEFINITIONS.**

### **§48-1-239a. Shared legal custody defined.**

“Shared legal custody” means a continued mutual responsibility and involvement by both parents in major decisions regarding the child’s welfare including matters of education, medical care, and emotional, moral and religious development consistent with the provisions of §48-9-207 of this code.

**§48-1-239b. Shared physical custody defined.**

“Shared physical custody” means a child has periods of residing with, and being under the supervision of, each parent consistent with the provisions of §48-9-206 of this code: *Provided*. That physical custody shall be shared by the parents in such a way as to assure a child has frequent and continued contact with both parents. Such frequent and continued contact with both parents is rebuttably presumed to be in the child’s best interests unless the evidence shows otherwise.

**ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.****§48-9-102. Objectives; best interests of the child.**

(a) The primary objective of this article is to serve the child’s best interests, by facilitating:

- (1) Stability of the child;
- (2) Parental planning and agreement about the child’s custodial arrangements and upbringing;
- (3) Continuity of existing parent-child attachments;
- (4) Meaningful contact between a child and each parent;
- (5) Caretaking relationships by adults who love the child, know how to provide for the child’s needs, and who place a high priority on doing so;
- (6) Security from exposure to physical or emotional harm; ~~and~~
- (7) Expedient, predictable decisionmaking and avoidance of prolonged uncertainty respecting arrangements for the child’s care and control: and
- (8) Meaningful contact with a child’s siblings, including half-siblings.

(b) As used in subsection (a) of this section, “meaningful contact between a child and each parent” connotes a rebuttable presumption that shared legal custody and shared physical custody are in a child’s best interest. This presumption can be rebutted due to the circumstances of the child and parties and other evidence.

On motion of Senator Rucker, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4648) were reported by the Clerk and considered simultaneously:

On page two, section one hundred two, subsection (b), by striking out the word “connotes” and inserting in lieu thereof the word “creates”;

And,

On page two, section one hundred two, subsection (b), after the word “that” by inserting the word “co-equal”.

Following extended discussion,

The question being on the adoption of Senator Rucker’s amendments to the Judiciary committee amendment to the bill, and on this question, Senator Smith demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Cline, Maynard, Rucker, Smith, Sypolt, Tarr, and Carmichael (Mr. President)—10.

The nays were: Baldwin, Beach, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Stollings, Swope, Takubo, Trump, Unger, Weld, and Woelfel—24.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Rucker’s amendments to the Judiciary committee amendment to the bill rejected.

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

Thereafter, at the request of Senator Trump, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 4648), as just amended by the Committee on the Judiciary, was advanced to third reading with the right for further amendments to be considered on that reading.

**Eng. House Bill 4664**, Clarifying the offense of driving under the influence of alcohol, controlled substances, or drugs.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Trump, unanimous consent being granted, the bill was referred to the Committee on Rules.

**Eng. Com. Sub. for House Bill 4693**, Expanding the scope of the Veterans to Agriculture Program.

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

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

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

#### **ARTICLE 1. DEPARTMENT OF AGRICULTURE.**

##### **§19-1-12. Veterans and ~~Warriors~~ Heroes to Agriculture Program and fund.**

(a) *Legislative findings.* —

West Virginians have a longstanding tradition of service in the armed forces of the United States. Many veterans suffer from physical and emotional afflictions and are often unable to find gainful employment upon returning from combat. Exploring opportunities to engage West Virginia's veterans in agriculture is

beneficial to the health and welfare of veterans, as well as to the future of West Virginia's agricultural economy.

(b) *Veterans and ~~Warriors~~ Heroes to Agriculture Program.* —

The Department of Agriculture shall develop a Veterans and ~~Warriors~~ Heroes to Agriculture Program to integrate veterans into the field of agriculture, and support veterans currently working in agriculture. These programs may include, but are not limited to, using post-mine land for agricultural development, promoting high tunnel crops and production, expanding the apiary industry, developing cottage industries, exploring niche crops, raising more livestock, increasing the aquaculture industry and helping veterans promote their agricultural products through farmers markets and cooperatives. The department may call on the Department of Veterans' Assistance and the state's Adjutant General ~~shall work together~~ for assistance to recruit and train eligible veterans, and develop and support the program.

(c) *Veterans ~~and Warriors~~ and Heroes to Agriculture Fund.* — ~~There is hereby created in the State Treasury a special revenue account, designated the Veterans and Warriors to Agriculture Fund. The Veterans and Warriors to Agriculture Fund is continued, but is renamed the Veterans and Heroes to Agriculture Fund.~~ The fund shall consist of income from leasing the department's property for the program, surplus funds which may be transferred from the fund created by §19-12A-6a, gifts, grants and donations, and legislative appropriations which may be made to support the program. Expenditures from the fund shall be used exclusively, in accordance with appropriations by the Legislature, to pay costs, fees and expenses necessary to administer the Veterans and ~~Warriors~~ Heroes to Agriculture Program. *Provided, That for fiscal year ending June 30, 2015, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature*

(d) Notwithstanding any provision in this code to the contrary, should the Department of Agriculture deem it necessary to provide land for activities within this program, it is exempt from the



purchasing requirements as they relate to the competitive leasing of state property.

(e) The commissioner may propose emergency or legislative rules for approval in accordance with the provisions of §29A-3-1 *et seq.* to effectuate the provisions of this section.

The bill (Eng. Com. Sub. for H. B. 4693), as amended, was then ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4693) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4693) passed.

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

**Eng. Com. Sub. for House Bill 4693**—A Bill to amend and reenact §19-1-12 of the Code of West Virginia, 1931, as amended, relating to renaming the Veteran and Warriors to Agriculture Program to the Veterans and Heroes to Agriculture Program; renaming Veterans and Warriors to Agriculture fund; and eliminating outdated language.

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

**Eng. House Bill 4697**, Removing the restriction that a mini-distillery use raw agricultural products originating on the same premises.

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

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

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

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

### **§60-1-5b. Mini-distilleries defined.**

For the purpose of this chapter: “Mini-distillery” means an establishment where in any year no more than ~~twenty thousand~~ 50,000 gallons of alcoholic liquor is manufactured with no less than 25% of raw agricultural products being produced by the owner of the mini-distillery on the premises of that establishment, and no more than 25% of raw agricultural products originating from any source outside this state: *Provided*, That the maximum allotted

production amounts shall not exceed the annual incremental production limitations provided for pursuant to section three-a of this article: *Provided, however,* That a distillery licensed and operating as of the effective date of this section that applies for designation by the Commissioner as a mini-distillery is eligible to be licensed as a mini-distillery without compliance with the requirements for the percentage use of on-premises grown and in-state raw agricultural products.

#### **§60-1-5d Micro-distilleries defined.**

For the purposes of Chapter 60 of this code “Micro-distillery” means an establishment where in any one year no more than 10,000 gallons of alcoholic liquor is manufactured and no more than 25% of raw agricultural products used in production may originate from outside this state is used in distillation.

#### **§60-4-3. To whom licensed manufacturer may sell.**

A person who is licensed to manufacture alcoholic liquors in this state may sell liquors in this state only to the West Virginia Alcohol Beverage Control Commissioner and to wholesalers and retailers licensed as provided in this chapter: *Provided,* That a holder of a winery or a farm winery license may sell wines and a holder of a distillery ~~or a,~~ mini-distillery or micro-distillery license may sell alcoholic liquors manufactured by it in this state in accordance with the provisions of §60-6-2 of this code. Hours of retail sale by a winery or a farm winery or distillery, ~~or a,~~ mini-distillery or micro distillery are subject to regulation by the commissioner. A winery, distillery, farm winery, or mini-distillery may sell and ship alcoholic liquors outside of the state subject to provisions of this chapter.

#### **§60-4-3a. Distillery and mini-distillery license to manufacture and sell.**

(a) *Sales of liquor.* — An operator of a distillery ~~or a,~~ mini-distillery, or micro-distillery may offer liquor for retail sale to customers from the distillery ~~or the,~~ mini-distillery, or micro-distillery for consumption off premises only. Except for free

complimentary samples offered pursuant to §60-6-1 of this code, customers are prohibited from consuming any liquor on the premises of the distillery ~~or the~~, mini-distillery, or micro-distillery: *Provided*, That a licensed distillery ~~or~~, mini-distillery, or micro-distillery may offer complimentary samples per this subsection of alcoholic liquors manufactured by that licensed distillery ~~or~~, mini-distillery, or micro-distillery for consumption on the premises only on Sundays beginning at 10:00 a.m. in any county in which the same has been approved as provided for in §7-1-3pp of this code.

(b) *Retail sales.* — Every licensed distillery ~~or~~, mini-distillery, or micro-distillery shall comply with the provisions of sections nine, eleven, thirteen, sixteen, seventeen, eighteen, nineteen, twenty-two, twenty-three, twenty-four, twenty-five and twenty-six, article three-a of this chapter and the provisions of articles three and four of this chapter applicable to liquor retailers and distillers.

(c) *Payment of taxes and fees.* — The distillery ~~or~~, 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 ~~or the~~, mini-distillery, or micro distillery for off-premises consumption shall be 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 no liquor sold by the distillery ~~or~~, mini-distillery, or micro distillery shall 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 ~~or~~, 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 ~~or the~~, mini-distillery, or micro-distillery each month. This collection shall be distributed by the commissioner, at least quarterly, to each market zone retailer located in the distillery ~~or~~, mini-distillery's, 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 ~~or~~, mini-distillery, or micro-distillery shall be required to submit to the commissioner is \$15,000 per annum.

(e) *Limitations on licensees.* — No distillery ~~or~~, mini-distillery, or micro-distillery may sell more than 3,000 gallons of product at the distillery ~~or~~, mini-distillery, or micro-distillery location the initial two years of licensure. The distillery ~~or~~, mini-distillery, or micro-distillery may increase sales at the distillery ~~or~~, mini-distillery, micro-distillery location by 2,000 gallons following the initial 24 month period of licensure and may increase sales at the distillery ~~or~~, mini-distillery, or micro-distillery location each subsequent 24 month period by 2,000 gallons, not to exceed 10,000 gallons a year of total sales at the distillery ~~or~~, mini-distillery, or micro-distillery location. No licensed mini-distillery may produce more than 50,000 gallons per calendar year at the mini-distillery location. No licensed micro-distillery may produce more than 10,000 gallons per calendar year at the micro-distillery location. No more than one distillery or mini-distillery license may be issued to a single person or entity and no person may hold both a distillery and a mini-distillery license.

#### **§60-4-15. Amount of license fees.**

A person to whom a license is issued under the provisions of this chapter shall pay annually to the commissioner a license fee as follows, for:

- (1) Distilleries, \$1,500;
- (2) Wineries, \$1,500;
- (3) Breweries, \$1,500;
- (4) Bottling plants, \$100;
- (5) Wholesale druggists, \$50;
- (6) Institutions, \$10;
- (7) Industrial use, \$50;

- (8) Industrial plants producing alcohol, \$250;
- (9) Retail druggists, \$10;
- (10) Farm wineries, \$50;
- (11) Mini-distilleries, \$50
- (12) Micro-distillers, \$750

## **ARTICLE 6. MISCELLANEOUS PROVISIONS**

### **§60-6-1. When lawful to possess, use or serve alcoholic liquors.**

The provisions of this chapter may not prevent:

(1) A person from keeping and possessing alcoholic liquors in his or her residence for the personal use of himself or herself, his or her family, his or her employee, or his or her guests if the alcoholic liquors have been lawfully acquired by him or her;

(2) A person, his or her family, or employee from giving or serving such alcoholic liquors to guests in the residence, when the gift or service is not for the purpose of evading the provisions of this chapter;

(3) The holder of a winery or a farm winery license from serving complimentary samples of its wine in moderate quantities for tasting on the winery or the farm winery premises; and

(4) The holder of a distillery ~~or a~~ mini-distillery, or a micro-distillery license from serving complimentary samples of its alcoholic liquor in moderate quantities for tasting on the distillery ~~or the~~, mini-distillery, or micro-distillery premises.

### **§60-6-2. When lawful to manufacture and sell wine and cider.**

The provisions of this chapter may not prevent:

(1) A person from manufacturing wine at his or her residence for consumption at his or her residence as permitted by §60-6-1 of this code.

(2) A person from manufacturing and selling unfermented cider;

(3) A person from manufacturing and selling cider made from apples produced by him or her within this state to persons holding distillery licenses, if the manufacture and sale is under the supervision and regulation of the commissioner;

(4) A person from manufacturing and selling wine made from fruit produced by him or her within this state to persons holding winery licenses, if the manufacture and sale is under the supervision and regulation of the commissioner;

(5) The holder of a winery or a farm winery license from selling wine for off-premises consumption sold at retail at the winery or the farm winery, as provided in §60-3B-4 of this code, or for any other person who is licensed under this chapter to sell wine as a wine supplier or distributor; and

(6) The holder of a distillery ~~or a~~, mini-distillery, or micro-distillery license from selling alcoholic liquor for off-premises consumption sold at retail at the distillery ~~or the~~, mini-distillery, or micro-distillery, as provided in §60-3A-4 of this code.

Following discussion,

At the request of Senator Takubo, and by unanimous consent, the bill (Eng. H. B. 4697) was advanced to third reading with the Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 4748**, Relating to the increase of fees that private nongovernment notary publics may charge for notarial acts.

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

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

**Eng. Com. Sub. for House Bill 4803**, Relating to certification of electrical inspectors.

Having been read a second time on Tuesday, March 3, 2020, and now coming up in regular order with Senator Maynard's amendment (*shown in the Senate Journal of that day, pages 1963 and 1964*) pending, was reported by the Clerk.

The question being on the adoption of Senator Maynard's amendment to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4803), as amended, was then ordered to third reading.

At the request of Senator Trump, unanimous consent being granted, the Senate returned to the sixth order of business, which agenda includes the making of main motions.

Senator Trump moved that the Senate reconsider the vote by which in earlier proceedings today it passed

**Eng. Com. Sub. for Senate Bill 136**, Prohibiting certain misleading lawsuit advertising practices.

The bill still being in the possession of the Senate,

The question being on the adoption of Senator Trump's aforesaid motion, the same was put and prevailed.

The vote thereon having been reconsidered,

On motion of Senator Trump, the Senate reconsidered the vote by which in earlier proceedings today it adopted Senator Takubo's motion that the Senate concur in the House of Delegates amendments to the bill (*shown in the Senate Journal of today, pages 2437 to 2441, inclusive*).

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Takubo's motion that the Senate concur in the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 136).



At the request of Senator Takubo, and by unanimous consent, his aforestated motion was withdrawn.

On motion of Senator Trump, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 136) were reported by the Clerk, considered simultaneously, and adopted:

On page one, section two, subdivision (3), by striking out “45 C.F.R. 106.103” and inserting in lieu thereof “45 C.F.R. 160.103”;

And,

On page three, section three, subsection (d), by striking out “§46A-6-1 *et seq.*” and inserting in lieu thereof “§46A-6-101 *et seq.*”

On motion of Senator Trump, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 136, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 136) passed with its House of Delegates amended title.

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

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

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

**Eng. Com. Sub. for Senate Bill 130**, Relating to procedure for driver's license suspension and revocation for DUI.

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

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

On page twelve, section two-a, lines one through seven, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

For purposes of this article and §17C-5A-1 *et seq.* of this code, the phrase "in this state" shall mean anywhere within the physical boundaries of this state, including, but not limited to, publicly maintained streets and highways, and subdivision streets or other areas not publicly maintained but nonetheless open to the use of the public for purposes of vehicular travel, but as used in §17C-5-2(e), §17C-5-2(f), §17C-5-2(g), §17C-5-2(h), §17C-5-2(i), §17C-5-2(j), and §17C-5-2(k) of this code, the term does not mean or include driving or operating a vehicle solely and exclusively on one's own property in an area not open to the use of the public for purposes of vehicular travel.;

And,

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

**Eng. Com. Sub. for Senate Bill 130**—A Bill to amend and reenact §17C-5-2, §17C-5-2a, §17C-5-2b, §17C-5-4, §17C-5-7, and §17C-5-12 of the Code of West Virginia, 1931, as amended; to

amend said code by adding thereto a new section, designated §17C-5-7a; to amend and reenact §17C-5A-1, §17C-5A-1a, and §17C-5A-3 of said code; to amend said code by adding thereto a new section, designated §17C-5A-2b; and to amend said code by adding thereto a new section, designated §17C-5C-1a, all relating generally to offenses involving operating a motor vehicle while under the influence of alcohol, controlled substances, or drugs and the administrative process for revocation or suspension of a person's license to operate a motor vehicle based on such offenses; defining terms; transferring authority for hearing certain matters related to revocations or suspensions of licenses from the Office of Administrative Hearings to the courts; establishing mandatory license revocation or suspension periods for individuals convicted of certain offenses; authorizing alternate revocation or suspension periods conditioned upon participation in Motor Vehicle Alcohol Test and Lock Program for certain offenses; establishing mandatory license revocation or suspension periods for individuals upon second and subsequent convictions for certain offenses; clarifying what constitutes a second or subsequent offense for purposes of criminal penalties and license revocations and suspensions; clarifying that certain offenses involving driving under the influence take place only when the operator is upon a public highway or private road; clarifying the term "in this state" for purposes of enforcement of certain serious traffic crimes; requiring the Commissioner of the Division of Motor Vehicles to revoke a person's license upon conviction of certain offenses or for refusal to submit to a secondary chemical test in certain circumstances; requiring individuals whose licenses have been revoked or suspended upon conviction of certain offenses to complete the comprehensive safety and treatment program before the license can be reinstated; requiring driver consent to participation in Motor Vehicle Alcohol Test and Lock Program; requiring deferral program for certain first offenses to be completed within one year; prohibiting a secondary test of blood without consent absent issuance of a search warrant; requiring that a person arrested for driving under the influence be provided with certain verbal and written warnings prior to submitting to a secondary chemical test; requiring an officer to 15 minutes before a refusal to submit to a secondary chemical test is considered final; requiring that, following an individual's refusal to submit to a

secondary chemical test, an arresting officer submit a sworn statement containing certain information to Commissioner of the Division of Motor Vehicles and the court; providing for a hearing before the court to contest a documented refusal to submit to a secondary chemical test; providing minimum license revocation periods for refusal to submit to a secondary chemical test; directing the Bureau for Public Health to make reports and recommendations on the levels of drugs and controlled substances to be used as evidence in certain criminal proceedings; limiting the administrative jurisdiction of Division of Motor Vehicles and Office of Administrative Hearings to offenses occurring on or before June 30, 2020; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual's license on the basis of driving under the influence or refusal to submit to a secondary test absent direction from court; requiring the Commissioner of the Division of Motor Vehicles to provide certain records to the court following a person's arrest; providing a procedure to correct a license revocation or suspension based on mistaken driver identity; providing that a plea of no contest constitutes a conviction; requiring the clerk of the court to transmit a copy of an order related to revoking or suspending a person's license to the Division of Motor Vehicles; directing that a copy of a license revocation or suspension order to be sent to the person whose license is being revoked or suspended by certified mail; providing that revocation for refusal to submit to secondary chemical test run concurrently with other revocation or suspension imposed as a result of an offense that led to the arrest; making persons convicted of driving under the influence eligible for participation in comprehensive safety and treatment program and related reductions in length of revocation for successful completion thereof; requiring the Office of Administrative Hearings to dispose of all matters pending before it by a certain date; establishing a timeline for jurisdiction of matters currently filed in the Office of Administrative Hearings to transfer to the courts; requiring that matters related to license suspension or revocation for driving under the influence, pending before the Office of Administrative Hearings on its termination, be dismissed; requiring that matters not related to license suspension or revocation for driving under the influence, pending before the Office of

Administrative Hearings on its termination, be transferred to a circuit court according to certain procedures; terminating the Office of Administrative Hearings by a certain date; eliminating obsolete language; providing internal effective dates; and making technical corrections.

Senator Takubo moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforesaid motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 130, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Plymale and Unger—2.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 130) passed with its House of Delegates amended title.

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

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions:

**Senate Concurrent Resolution 62:** Senators Stollings, Cline, and Lindsay;

**Senate Concurrent Resolution 63:** Senators Stollings, Unger, Palumbo, Plymale, and Cline;

**Senate Resolution 69:** Senators Stollings, Unger, Prezioso, Palumbo, Plymale, Cline, and Hardesty;

And,

**Senate Resolution 70:** Senators Stollings, Unger, Plymale, and Lindsay.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 6:53 p.m., the Senate adjourned until tomorrow, Saturday, March 7, 2020, at 10 a.m.

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## SATURDAY, MARCH 7, 2020

The Senate met at 10:37 a.m.

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

Prayer was offered by Bishop Joe Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Paul Hardesty, a senator from the seventh district.

Pending the reading of the Journal of Friday, March 6, 2020,

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

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

The Clerk presented the following communications from various state agencies as required by the provisions of law:

Administrative Hearings, Office of (§17C-5C-2)

Funeral Service Examiners, Board of (§30-1-12)

James “Tiger” Morton Catastrophic Illness Commission (§16-5Q-2)

At the request of Senator Takubo, unanimous consent being granted, the Senate proceeded to the seventh order of business.

**Senate Resolution 71**, Memorializing life of Karl Cameron “Butch” Lilly III, former Assistant Clerk of WV Senate.

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

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

The question being on the adoption of the resolution, and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 71) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Plymale and Stollings regarding the adoption of Senate Resolution 71 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 10:56 a.m., the Senate recessed to present Senate Resolution 71.

The Senate reconvened at 11:07 a.m.

At the request of Senator Plymale, unanimous consent being granted, Senator Plymale addressed the Senate regarding the Keith-Albee Theatre in Huntington, West Virginia.

Thereafter, at the request of Senator Woelfel, and by unanimous consent, the remarks by Senator Plymale were ordered printed in the Appendix to the Journal.

The Senate resumed consideration of its seventh order of business, the next resolution coming up in numerical sequence being

**Senate Resolution 72**, Urging Congress safeguard pharmaceutical supply chains.

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

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Stollings regarding the adoption of Senate Resolution 72 were ordered printed in the Appendix to the Journal.

**Senate Resolution 73**, Memorializing life of Dorothy Vaughan, NASA mathematician and computer programmer.

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



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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Beach regarding the adoption of Senate Resolution 73 were ordered printed in the Appendix to the Journal.

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

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

**Eng. Senate Bill 51**, Specifying forms of grandparent visitation.

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

**Eng. Com. Sub. for Senate Bill 195**, Updating powers of personal representatives of deceased person's estate.

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 275**, Creating Intermediate Court of Appeals.

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

**Eng. Com. Sub. for Senate Bill 288**, Relating to family planning and child spacing.

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

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

On page one, section one, line nine, after the word “replacement.” by inserting the following: “The Bureau for Medical Services shall update the managed care contract to include language that the contracted managed care company may not present barriers that delay or prevent access, such as prior authorizations or step-therapy failure requirements; and should receive patient centered education and counseling on all FDA approved birth control methods.”;

On page one, section one, line thirteen, by striking out the words “unborn children” and inserting in lieu thereof the words “a fetus”;

And,

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

**Eng. Com. Sub. for Senate Bill 288**—A Bill to amend and reenact §16-2B-1 of the Code of West Virginia, 1931, as amended, relating to family planning; extending family planning resources provided by Bureau for Public Health to other entities; providing that Bureau for Medical Services shall not require multiple office visits for women who select long-acting reversible contraceptive methods unless medically necessary; requiring Bureau for Medical Services to provide payments; authorizing Bureau for Public Health to make long-acting reversible contraceptive products available in practitioner offices without upfront practitioner costs; requiring Bureau for Public Health to develop statewide plan; providing requirements for plan; and requiring an annual report by Department of Health and Human Resources.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 288) was reported by the Clerk and adopted:

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

**Eng. Com. Sub. for Senate Bill 288**—A Bill to amend and reenact §16-2B-1 of the Code of West Virginia, 1931, as amended, relating to family planning; extending family planning resources provided by Bureau for Public Health to other entities; providing that Bureau for Medical Services shall not require multiple office visits for women who select long-acting reversible contraceptive methods unless medically necessary; requiring Bureau for Medical Services to provide payments; requiring Bureau for Medical Services to update managed care contract; authorizing Bureau for Public Health to make long-acting reversible contraceptive products available in practitioner offices without upfront practitioner costs; requiring Bureau for Public Health to develop statewide plan; providing requirements for plan; and requiring an annual report by Department of Health and Human Resources.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 288, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 288) passed with its Senate amended title.

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

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

take effect January 1, 2021, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 303**, Enacting Students' Right to Know Act.

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

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

On page two, section three, line twenty-eight, after the word "enlistments" by inserting the words "and each branch's starting salary";

On page two, section three, line thirty, after the word "state" by inserting a comma and the words "and each branch of the US Armed Forces, National Guard and Reserves";

And,

On page three, by striking out all of section four and inserting in lieu thereof a new section, designated section four, to read as follows:

**§18-10P-4. Information distribution.**

No later than October 15 of each year, the State Superintendent shall distribute the information collected by the State Board of Education in §18-10P-3 of this code:

(1) To every public high school in the state for distribution to students by school guidance counselors; and

(2) To the public by making it readily available through publishing on the Department of Education's website.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 303) was reported by the Clerk and adopted:

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

**Eng. Com. Sub. for Senate Bill 303**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-10P-1, §18-10P-2, §18-10P-3, §18-10P-4, §18-10P-5, and §18-10P-6, all relating to enacting the Students' Right-to-Know Act; declaring purpose of helping high school students make more informed decisions about their futures and ensuring they are adequately aware of the cost and benefits of certificate programs, vocational programs, two-year college, four-year college, and other alternative career paths; requiring the State Board of Education to collect and the State Superintendent of Schools to distribute certain career landscape information; allowing the State Board of Education to execute a memorandum of understanding with any department, agency, or division for information required to be collected; requiring any department, agency, or division that possesses certain required information to provide that information to the State Board of Education annually; and establishing an effective date.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 303, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 303) passed with its Senate amended title.

Senator Takubo moved that the bill take effect January 1, 2021.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 303) takes effect January 1, 2021.

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

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

**Eng. Senate Bill 322**, Relating to prequalifications for state contract vendors.

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

**Eng. Com. Sub. for Senate Bill 472**, Providing alternative sentencing program for work release.

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

**Eng. Com. Sub. for Senate Bill 517**, Creating State Parks and Recreation Endowment Fund.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill,

passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 575**, Designating local fire department as safe-surrender site to accept physical custody of certain children from lawful custodian.

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

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

**Eng. Com. Sub. for Senate Bill 575**—A Bill to amend and reenact §49-4-201 and §49-4-202 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §49-4-206, all relating to safe-surrender sites; allowing the governing entity of a local fire department to designate the premises of its fire department as a safe-surrender site; providing the criteria of the child who may be accepted from an parent or individual who has lawful custody of the child; setting forth requirements upon the fire department upon taking possession of a child; and establishing criteria for the fire department as a safe-surrender site.

On motion of Senator Maroney, the following amendment to the House of Delegates amendment to the title of the bill (Eng. Com. Sub. for S. B. 575) was reported by the Clerk and adopted:

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

**Eng. Com. Sub. for Senate Bill 575**—A Bill to amend and reenact §49-4-201 and §49-4-202 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §49-4-206, all relating to safe-surrender sites; allowing the governing entity of a local fire department to designate the premises of its fire department as a safe-surrender site; providing the criteria of the child who may be accepted from a parent; setting forth requirements upon the fire department upon

taking possession of a child; and establishing criteria for the fire department as a safe-surrender site.

Senator Takubo moved that the Senate concur in the House of Delegates amendment, as amended.

Following discussion,

The question being on the adoption of Senator Takubo's aforesaid motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 575, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 575) passed with its Senate amended title.

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

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

**Eng. Com. Sub. for Senate Bill 579**, Changing and adding fees to wireless enhanced 911 fee.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect July 1, 2020, of



**Eng. Senate Bill 610**, Removing resident manager requirement for Alcohol Beverage Control Administration.

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 648**, Providing dental coverage for adult Medicaid recipients.

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

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

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

## **ARTICLE 5. MISCELLANEOUS PROVISIONS.**

### **§9-5-12a. Medicaid program; dental care.**

(a) The following terms are defined:

(1) “Cosmetic services” means dental work that improves the appearance of the teeth, gums, or bite, including, but not limited to, inlays or onlays, composite bonding, dental veneers, teeth whitening, or braces.

(2) “Diagnostic and preventative services” means dental work that maintains good oral health and includes oral evaluations, routine cleanings, x-rays, fluoride treatment, fillings, and extractions.

(3) “Restorative services” means dental work that involves tooth replacement, including, but not limited to, dentures, dental implants, bridges, crowns, or corrective procedures such as root canals.

(b) The Department of Health and Human Resources shall extend Medicaid coverage to adults age 21 and over covered by the Medicaid program for diagnostic and preventative dental services and restorative dental services, excluding cosmetic services. This coverage is limited to \$1,000 each budget year. Recipients must pay for services over the \$1,000 yearly limit. No provision in this section shall restrict the department in exercising new options provided by, or to be in compliance with, new federal legislation that further expands eligibility for dental care for adult recipients.

(c) The Department of Health and Human Resources is responsible for the implementation of, and program design for, a dental care system to reduce the continuing harm and continuing impact on the health care system in West Virginia. The dental health system design shall include oversight, quality assurance measures, case management, and patient outreach activities. The Department of Health and Human Resources shall assume responsibility for claims processing in accordance with established fee schedules and financial aspects of the program necessary to receive available federal dollars and to meet federal rules and regulations. The Department of Health and Human Resources shall seek authority from the Centers for Medicare and Medicaid Services to implement the provisions of this section.

(d) The provisions of this section enacted during the 2020 regular legislative session shall only become effective upon approval from the federal Centers for Medicare and Medicaid Services of the provider tax as set forth in §11-27-10a of this code.

On motion of Senator Maroney, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 648) was reported by the Clerk and adopted:

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 648**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-12a, relating to providing dental coverage for adult Medicaid recipients; providing

limitations; defining terms; designating the Department of Health and Human Resources as the responsible department to implement these provisions; providing for the Department of Health and Human Resources to seek authority from the Centers for Medicare and Medicaid Services to implement the program; and making the provisions on the section effective only upon the approval by the Centers for Medicare and Medicaid Services for specified provider taxes.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 648, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Azinger and Tarr—2.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 648) passed with its Senate amended title.

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

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

**Eng. Com. Sub. for Senate Bill 660**, Regulating electric bicycles.

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

**Eng. Senate Bill 664**, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity.

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

**Eng. Com. Sub. for Senate Bill 670**, Amending service of process on nonresident persons or corporate entities.

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

**Eng. Com. Sub. for Senate Bill 711**, Relating to juvenile jurisdiction of circuit courts.

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

**Eng. Com. Sub. for Senate Bill 717**, Relating generally to adult protective services.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect July 1, 2020, of

**Eng. Com. Sub. for Senate Bill 719**, Imposing health care-related provider tax on certain health care organizations.

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

**Eng. Senate Bill 723**, Requiring Department of Education develop plan based on analyzed data on school discipline.

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

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

On page one, after the section caption, by striking out the remainder of the bill and inserting in lieu thereof the following:

(a) The Department of Education shall analyze statewide data collected on school disciplinary action and, based on the findings of this data, develop a statewide program intended to address the number of disciplinary actions taken by school personnel and county school boards against students enrolled in grades K-12. This program will include information by subgroup, including but not limited to, race, gender and disability.

(b) County boards of education shall implement the program outlined in subsection (a) of this section with the ultimate goal of improving disciplinary outcomes.

(c) The Department of Education shall prepare a report on the findings of statewide disciplinary data and, in addition to these findings, provide a summary of the progress of the statewide program and individual county programs, evaluating the extent to which the programs have successfully led to making a positive impact in disciplinary actions in West Virginia school systems. The Department of Education shall present these findings to the Legislative Oversight Commission on Education Accountability every two years starting in the year 2022.;

And,

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

**Eng. Senate Bill 723**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-43, relating to requiring West Virginia Department of Education to analyze statewide data collected on school disciplinary action and, based on the findings of this data,

develop a statewide program intended to address the number of disciplinary actions taken by school personnel and county boards; and requiring the West Virginia Department of Education to prepare a report on the findings and provide a summary of the progress of the statewide program to Legislative Oversight Commission on Education Accountability every two years.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. S. B. 723) was reported by the Clerk and adopted:

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

**Eng. Senate Bill 723**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-43, relating to requiring Department of Education to analyze statewide data collected on school disciplinary action and, based on the findings of this data, develop a statewide program intended to address the number of disciplinary actions taken by school personnel and county boards; requiring information by subgroups; requiring county board implementation with goal of improving disciplinary outcomes; requiring the Department of Education to prepare a report on the findings and provide a summary of the progress of the statewide and individual county programs; and present these findings to the Legislative Oversight Commission on Education Accountability every two years.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 723, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano,

Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 723) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 723) takes effect from passage.

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

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

**Eng. Com. Sub. for Senate Bill 738**, Creating Flatwater Trail Commission.

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

**Eng. Senate Bill 740**, Clarifying authorized users of Ron Yost Personal Assistance Services Fund.

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

**Eng. Senate Bill 842**, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years.

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

**Eng. Senate Bill 843**, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund.

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

**Eng. Senate Bill 844**, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund.

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

**Eng. Com. Sub. for Senate Bill 845**, Supplemental appropriation from Treasury to DHHR, Division of Human Services.

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

**Eng. Senate Bill 851**, Requiring Governor's Committee on Crime, Delinquency, and Correction propose rule in coordination with law enforcement and certain medical boards.



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

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

On page one, section seven, in the section caption, after the word “treatment” by inserting the words “abstinence-based recovery”;

On page one, section seven, line two, after the word “enforcement” by inserting the words “a representative of an abstinence-based recovery program”;

On page one, section seven, line four, after the word “treatment” by inserting the words “abstinence-based recovery”;

On page one, section seven, line eight, after the word “treatment” by inserting the words “abstinence-based recovery”;

On page two, section seven, line sixteen, after the word “treatment” by inserting the words “abstinence-based recovery”;

On page two, section seven, line twenty, after the word “from” by striking out the words “criminal or”;

And,

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

**Eng. Senate Bill 851**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-9-7, relating to requiring the Governor’s Committee on Crime, Delinquency, and Correction to propose a legislative rule in coordination with law enforcement, certain medical boards, and certain representative persons; developing policies and protocols for law enforcement and medical professionals to create treatment and abstinence-based recovery referral programs for persons suffering from substance use disorder; setting forth requirements for policies and protocols;

providing that existing criminal charges not affected; providing civil immunity for law-enforcement officers and medical professionals; and requiring proposal of legislative and emergency rules.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. S. B. 851) and requested the House of Delegates to recede therefrom.

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

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

**Eng. Senate Bill 852**, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Fund.

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

**Eng. Senate Bill 853**, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Authority.

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

**Eng. Com. Sub. for House Bill 2646**, Providing a safe harbor for employers to correct underpayment or nonpayment of wages and benefits due to separated employees.

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

**Eng. Com. Sub. for House Bill 4094**, Continuing the Foster Care Ombudsman.

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

**Eng. Com. Sub. for House Bill 4102**, Relating to opioid antagonists.

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

**Eng. Com. Sub. for House Bill 4108**, Relating generally to certificates of need for health care services.

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

**Eng. Com. Sub. for House Bill 4252**, Authorizing miscellaneous agencies and boards to promulgate legislative rules.

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

**Eng. Com. Sub. for House Bill 4378**, Relating to disciplining teachers.

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

**Eng. House Bill 4502**, Relating to insurance adjusters.

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

**Eng. Com. Sub. for House Bill 4581**, Relating to West Virginia Clearance for Access: Registry and Employment Screening.

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

**Eng. House Bill 4589**, Conducting study for an appropriate memorial for West Virginians killed in the War on Terror.

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

**Eng. Com. Sub. for House Bill 4668**, Creating the misdemeanor crime of trespass for entering a structure that has been condemned.

At the request of Senator Takubo, unanimous consent being granted, the Senate proceeded to the fourth order of business.

Senator Boley, from the Committee on Confirmations, submitted the following report, which was received:

Your Committee on Confirmations has had under consideration

**Senate Executive Message 2**, dated March 4, 2020, requesting confirmation by the Senate of the nominations mentioned therein. The following list of names from Executive Message 2 is submitted:

1. For Chief Administrative Law Judge, Workers' Compensation Office of Judges within the Office of the Insurance Commissioner, Bradley A. Crouser, Charleston, Kanawha County, for the term ending December 31, 2023.
2. For Member, West Virginia Board of Social Work Examiners, Natalie Buskirk Murphy, Huntington, Cabell County, for the term ending June 30, 2020.

3. For Member, West Virginia Board of Social Work Examiners, Joanne Mahood Boileau, Ghent, Raleigh County, for the term ending June 30, 2020.

4. For Member, West Virginia Board of Social Work Examiners, Charles S. Inghram, Athens, Mercer County, for the term ending June 30, 2020.

5. For Member, West Virginia Board of Social Work Examiners, Robert D. Musick, Morgantown, Monongalia County, for the term ending June 30, 2020.

6. For Member, West Virginia School of Osteopathic Medicine Board of Governors, Randall Belt, Johnson City, Tennessee, for the term ending June 30, 2021.

7. For Member, West Virginia Parole Board, David P. Reider, Bridgeport, Taylor County, for the term ending June 30, 2021.

8. For Member, West Virginia Investment Management Board of Trustees, Georgette Rashid George, Charleston, Kanawha County, for the term ending January 31, 2024.

9. For Member, Board of Veterinary Medicine, Monica Patton, Charleston, Kanawha County, for the term ending June 30, 2024.

10. For Member, Board of Veterinary Medicine, Mark A. Ayers, Hurricane, Putnam County, for the term ending June 30, 2023.

11. For Member, Retail Liquor Licensing Board, Clarence Pennington, Martinsburg, Berkeley County, for the term ending December 1, 2022.

12. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, Douglas M. Wood, Hurricane, Putnam County, for the term ending June 30, 2022.

13. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, Edward F. Maguire II, Charleston, Kanawha County, for the term ending June 30, 2022.

14. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, James T. Anderson, Reedsville, Preston County, for the term ending June 30, 2023.

15. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, Elizabeth Wheatley, Charleston, Kanawha County, for the term ending June 30, 2023.

16. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, M. Lavonne Paden, Martinsburg, Berkeley County, for the term ending June 30, 2023.

17. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, Barbara Breshock, Arnett, Raleigh County, for the term ending June 30, 2020.

18. For Member, West Virginia Outdoor Heritage Conservation Fund Board of Trustees, Zachary J. Loughman, Wheeling, Ohio County, for the term ending June 30, 2022.

19. For Commissioner, West Virginia Division of Motor Vehicles, Everett J. Frazier, Cyclone, Wyoming County, to serve at the will and pleasure of the Governor.

20. For Member, West Virginia Emergency Medical Services Advisory Council, Robert Craig Horn, Harpers Ferry, Jefferson County, for the term ending June 30, 2022.

21. For Member, West Virginia Emergency Medical Services Advisory Council, William A. Weese, Jr., Man, Logan County, for the term ending June 30, 2022.

22. For Member, Board of Barbers and Cosmetologists, Donald Snyder, Fayetteville, Fayette County, for the term ending June 30, 2024.

23. For Member, Board of Barbers and Cosmetologists, Catherine Donahoe, Barboursville, Cabell County, for the term ending June 30, 2020.

24. For Member, Board of Barbers and Cosmetologists, Chelsea McBee, Rippon, Jefferson County, for the term ending June 30, 2024.

25. For Member, Board of Barbers and Cosmetologists, Samantha Grady, Eleanor, Putnam County, for the term ending June 30, 2023.

26. For Member, Board of Barbers and Cosmetologists, Catelyne Nguyen, Hurricane, Putnam County, for the term ending June 30, 2023.

27. For Member, Board of Barbers and Cosmetologists, Margaret Osborne, Cross Lanes, Kanawha County, for the term ending June 30, 2022.

28. For Member, Board of Barbers and Cosmetologists, Tyler Yates, Morgantown, Monongalia County, for the term ending June 30, 2024.

29. For Member, Board of Barbers and Cosmetologists, Melissa Kelley, Kingwood, Preston County, for the term ending June 30, 2024.

30. For Member, Fairmont State University Board of Governors, Robert R. Hutson, Jr., Birmingham, Alabama, for the term ending June 30, 2021.

31. For Member, West Virginia Commission for the Deaf and Hard of Hearing, Nancy B. Mullins Gillispie, Sumerco, Lincoln County, for the term ending June 30, 2022.

32. For Member, Board of Risk and Insurance Management, Gordon Lane, Jr., Charleston, Kanawha County, for the term ending June 30, 2023.

33. For Member, Motor Vehicle Dealers Advisory Board, Larry Dawson, Winfield, Putnam County, for the term ending June 30, 2020.

34. For Member, Motor Vehicle Dealers Advisory Board, Johnnie Brown, Charleston, Kanawha County, for the term ending June 30, 2022.

35. For Member, Motor Vehicle Dealers Advisory Board, Kellee Turner Humphrey, Charleston, Kanawha County, for the term ending June 30, 2022.

36. For Member, West Virginia University – Parkersburg Board of Governors, Steven R. Hardman, Parkersburg, Wood County, for the term ending June 30, 2022.

37. For Member, West Virginia University – Parkersburg Board of Governors, John Denbigh, Spencer, Roane County, for the term ending June 30, 2022.

38. For Member, West Virginia University – Parkersburg Board of Governors, Stephanie McCoy, Cottageville, Jackson County, for the term ending June 30, 2022.

39. For Member, West Virginia Northern Community and Technical College Board of Governors, Davis S. Artman, New Cumberland, Hancock County, for the term ending June 30, 2023.

40. For Member, West Virginia Northern Community and Technical College Board of Governors, Amy Dobkin, Wheeling, Ohio County, for the term ending June 30, 2021.

41. For Member, West Virginia Northern Community and Technical College Board of Governors, Christine Mitchell, Pine Grove, Wetzel County, for the term ending June 30, 2020.

42. For Member, State Board of Sanitarians, Jesse J. Rose, Welch, McDowell County, for the term ending June 30, 2022.

43. For Member, State Board of Sanitarians, Phyllis L. Lowe, Chapmanville, Logan County, for the term ending June 30, 2024.

44. For Member, State Board of Sanitarians, Warren L. Elmer, Jane Lew, Lewis County, for the term ending June 30, 2021.



45. For Member, Board of Pharmacy, James E. Rucker, Elkview, Kanawha County, for the term ending June 30, 2024.

46. For Member, Solid Waste Management Board, Roger E. Bryant, Logan, Logan County, for the term ending June 30, 2023.

47. For Member, Solid Waste Management Board, Mallie J. Combs, Moorefield, Hardy County, for the term ending June 30, 2024.

48. For Member, West Virginia Children's Health Insurance Program Board, Lisa M. Costello, Morgantown, Monongalia County, for the term ending June 30, 2022.

49. For Member, West Virginia Children's Health Insurance Program Board, Kellie Wooten-Willis, Logan, Logan County, for the term ending June 30, 2022.

50. For Member, West Virginia Children's Health Insurance Program Board, Janet Allio, Elkview, Kanawha County, for the term ending June 30, 2021.

51. For Member, West Virginia Children's Health Insurance Program Board, Kelli Caseman, South Charleston, Kanawha County, for the term ending June 30, 2022.

52. For Member, West Virginia Children's Health Insurance Program Board, M. Jill Griffith, Bloomingrose, Boone County, for the term ending June 30, 2020.

53. For Member, West Virginia Children's Health Insurance Program Board, Robert D. Whitler, Elkview, Kanawha County, for the term ending June 30, 2022.

54. For Member, Board of Examiners of Psychologists, Shirley Vinciguerra, Bluefield, Mercer County, for the term ending June 30, 2021.

55. For Member, Board of Examiners of Psychologists, Beverly Ann Branson, Charleston, Kanawha County, for the term ending June 30, 2022.

56. For Member, Board of Examiners of Psychologists, Scott A. Fields, Charleston, Kanawha County, for the term ending June 30, 2021.

57. For Member, State Board of Sanitarians, Delores W. Cook, Ridgeview, Boone County, for the term ending June 30, 2023.

58. For Member, West Virginia School of Osteopathic Medicine Board of Governors, Gary L. Poling, Beckley, Raleigh County, for the term ending June 30, 2023.

59. For Member, West Virginia School of Osteopathic Medicine Board of Governors, Robert B. Holstein, Venice, Florida, for the term ending June 30, 2023.

60. For Member, Bridge Valley Community and Technical College Board of Governors, JB Akers, Charleston, Kanawha County, for the term ending June 30, 2020.

61. For Member, Bridge Valley Community and Technical College Board of Governors, Mark C. Blankenship, Charleston, Kanawha County, for the term ending June 30, 2020.

62. For Member, Athletic Commission, Paul E. Thornton, Williamstown, Wood County, for the term ending June 30, 2023.

63. For Member, Athletic Commission, Leon Ramsey, Glenville, Gilmer County, for the term ending June 30, 2023.

64. For Member, Athletic Commission, Anthony Figaretti, Wheeling, Ohio County, for the term ending June 30, 2022.

65. For Member, Athletic Commission, Michael Shawn Johnson, Crawley, Greenbrier County, for the term ending June 30, 2020.

66. For Member, Housing Development Fund, Wendy E. McCuskey, Charleston, Kanawha County, for the term ending June 30, 2023.

67. For Member, West Virginia Board of Licensed Dietitians, Susan J. Arnold, Morgantown, Monongalia County, for the term ending June 30, 2022.

68. For Member, West Virginia Board of Licensed Dietitians, Mallory Mount, Milton, Cabell County, for the term ending June 30, 2020.

69. For Member, West Virginia Commission on Holocaust Education, Barbara A. Lewine, Wheeling, Ohio County, for the term ending June 30, 2022.

70. For Member, West Virginia Commission on Holocaust Education, Matthew D. Cox, Hurricane, Putnam County, for the term ending June 30, 2022.

71. For Member, West Virginia Commission on Holocaust Education, Marc J. Slotnick, Charleston, Kanawha County, for the term ending June 30, 2022.

72. For Member, West Virginia Commission on Holocaust Education, Victor H. Urecki, Charleston, Kanawha County, for the term ending June 30, 2022.

73. For Member, Real Estate Commission, Gregory A. Duckworth, Beaver, Raleigh County, for the term ending June 30, 2023.

74. For Member, Housing Development Fund, Patrick J. Martin, Morgantown, Monongalia County, for the term ending June 30, 2023.

75. For Member, Bluefield State College Board of Governors, Rebecca Peterson, Bluefield, Virginia, for the term ending June 30, 2023.

76. For Member, Board of Control for Southern Regional Education, The Honorable Roman W. Prezioso, Jr., Fairmont, Marion County, for the term ending June 30, 2023.

77. For Member, Board of Control for Southern Regional Education, Sarah Armstrong Tucker, Charleston, Kanawha County, for the term ending June 30, 2020.

And reports the same back with the recommendation that the Senate do advise and consent to all of the nominations listed above.

Respectfully submitted,

Donna J. Boley,  
*Chair.*

The time having arrived for the special order of business to consider the list of nominees for public office submitted by His Excellency, the Governor, the special order thereon was called by the President.

Thereupon, Senator Carmichael (Mr. President) laid before the Senate the following executive message:

**Senate Executive Message 2**, dated March 4, 2020 (*shown in the Senate Journal of that day, pages 2178 to 2183, inclusive*).

Senator Boley then moved that the Senate advise and consent to all of the executive nominations referred to in the foregoing report from the Committee on Confirmations, except the nomination of the Honorable Romano W. Prezioso, Jr., to the Board of Control for Southern Regional Education (being nomination number 76 in Executive Message 2).

The question being on the adoption of Senator Boley's aforestated motion,

The roll was then taken; and

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared Senator Boley's motion had prevailed and that all the executive nominations referred to in the foregoing report from the Committee on Confirmations, except the nomination of the Honorable Romano W. Prezioso, Jr., to the Board of Control for Southern Regional Education (being nomination number 76 in Executive Message 2) had been confirmed.

Senator Boley then moved that the Senate advise and consent to the nomination of the Honorable Roman W. Prezioso, Jr., to the Board of Control for Southern Regional Education (being nomination number 76 in Executive Message 2).

Prior to the call of the roll, Senator Prezioso moved to be excused from voting under Rule 43 of the Rules of the Senate, which motion prevailed.

The roll was then taken; and

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: None.

Excused from voting: Prezioso—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared Senator Boley's motion had prevailed and the nomination of the Honorable

Romano W. Prezioso, Jr., to the Board of Control for Southern Regional Education had been confirmed.

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Consideration of executive nominations having been concluded, without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. House Bill 4039**, Providing limitations on nuisance actions against fire department and emergency medical services.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Bibby, J. Kelly, and N. Brown.

A message from the Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. House Bill 4887**, Relating to revocation, cancellation, or suspension of business registration certificates.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates C. Martin, Barnhart, and Angelucci.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. House Bill 4524**, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption.

On motion of Senator Takubo, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Weld, Takubo, and Hardesty.

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

### **Executive Communications**

Senator Carmichael (Mr. President) laid before the Senate the following communication from His Excellency, the Governor:



*Jim Justice*  
 Governor of West Virginia

March 6, 2020

The Honorable Mitch Carmichael  
 President of the Senate  
 State Capitol, Building 1, Room 229-M  
 Charleston, West Virginia 25305

The Honorable Roger Hanshaw  
 Speaker of the House of Delegates  
 State Capitol, Building 1, Room 228-M  
 Charleston, West Virginia 25305

Dear President Carmichael and Speaker Hanshaw:

After submission of my recommended FY 2021 Executive Budget on January 8, 2020, there have been a few areas that require adjustments.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2021 Budget Bill for the TITLE II – APPROPRIATIONS as follows:

**Section 1. Appropriations from general revenue.**

**Department of Commerce**

*West Virginia Tourism Office, Fund 0246, Fiscal Year 2021, Org 0304*  
 (To correct drafting error.)

- Replace the phrase at the end of the first paragraph that reads "...are hereby reappropriated for expenditure during the fiscal year 2020." with "...are hereby reappropriated for expenditure during the fiscal year 2021."

**Department of Education**

*State Board of Education – State Department of Education, Fund 0313, Fiscal Year 2021, Org 0402*  
 (To adjust the Teachers' Retirement Savings Realized appropriation based on the actuarial requirement from the West Virginia Consolidated Public Retirement Board.)

- Decrease "Teachers' Retirement Savings Realized" Appropriation 09500 by \$9,115,000.

*State Board of Education – State Aid to Schools, Fund 0317, Fiscal Year 2021, Org 0402*  
 (To adjust School Aid Formula based on final local share numbers.) *(Subject to revision)*

- Increase "Improved Instructional Programs" Appropriation 15600 by \$105,056.
- Increase "21<sup>st</sup> Century Strategic Technology Learning Growth" Appropriation 93600 by \$210,113.

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## OFFICE OF THE GOVERNOR

The Honorable Mitch Carmichael, President  
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- Increase "Teacher and Leader Induction" Appropriation 93601 by \$210,113
- Decrease "Less Local Share" line by (\$1,050,567) from (\$475,033,135) to (\$476,083,702).  
 (To adjust the State Aid Formula Teachers' Retirement System appropriations based on the actuarial requirement from the West Virginia Consolidated Public Retirement Board.)
- Decrease "Teachers' Retirement System" Appropriation 01900 by \$9,775,000.
- Decrease "Retirement Systems – Unfunded Liability" Appropriation 77500 by \$14,670,000.

**Department of Health and Human Resources**

*Division of Health – Central Office, Fund 0407, Fiscal Year 2021, Org 0506*

(To add reappropriation language.)

- Add an "(R)" to indicate reappropriation on the line item "Office of Medical Cannabis".
- Insert into the reappropriation language after Statewide EMS Program Support (fund 0407, appropriation 38300), "...Office of Medical Cannabis (fund 0407, appropriation 42001)..."

*Division of Human Services, Fund 0403, Fiscal Year 2021, Org 0511*

(To adjust Child Protective Services staffing improvement due to appropriation request error.)

- Decrease "Current Expenses" Appropriation 13000 by \$1,158,301.
- Increase "Personal Services and Employee Benefits" Appropriation 00100 by \$1,158,301.  
 (To maintain for Adult Protective Services staffing levels.)
- Increase "Personal Services and Employee Benefits" Appropriation 00100 by \$268,592.

**Department of Military Affairs and Public Safety**

*Department of Military Affairs and Public Safety – Office of the Secretary, Fund 0430, Fiscal Year 2021, Org 0601*

(To provide funding for the Narcotics Intelligence Unit.)

- Increase "Fusion Center" Appropriation 46900 by \$1,900,000.

*Adjutant General – State Militia, Fund 0433, Fiscal Year 2021, Org 0603*

(To adjust transfer language.)

- Remove "and the secretary of Military Affairs and Public Safety" from the second paragraph under item number 63 to read, "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."

*West Virginia State Police, Fund 0453, Fiscal Year 2021, Org 0612*

(To adjust the Trooper Retirement Fund appropriation based on the actuarial requirement from the West Virginia Consolidated Public Retirement Board.)

- Decrease "Retirement Systems – Unfunded Liability" Appropriation 77500 by \$372,000.

*Division of Justice and Community Services, Fund 0546, Fiscal Year 2021, Org 0623*

(To separate the Justice Reinvestment Initiative program from the Community Corrections Appropriation.)

- Decrease "Community Corrections" Appropriation 56100 by \$2,332,101.
- Add "Justice Reinvestment Initiative" Appropriation 89501 for \$2,332,101.  
 (To correct appropriation name in reappropriation language.)

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- Revise Law Enforcement Professional Standards – Surplus (fund 0546, appropriation 83899) to “...Law Enforcement Training – Surplus (fund 0546, appropriation 83899)...”

**Department of Transportation**

*Aeronautics Commission, Fund 0582, Fiscal Year 2021, Org 0807*  
 (To fully fund the Aeronautics staff.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$45,000.

**Section 3. Appropriations from other funds.**

**Executive**

*Treasurer’s Office College Prepaid Tuition and Savings Program Administrative Account, Fund 1301, Fiscal Year 2021, Org 1300*

- (To increase spending authority to meeting operating needs.)
- Increase “Current Expenses” Appropriation 13000 by \$278,000.

**Department of Administration**

*Department of Administration – Office of the Secretary – Employee Pension and Health Care Benefit Fund, Fund 2044, Fiscal Year 2021, Org 0201*

- (To adjust spending authority to match the Teachers’ Retirement Realized Savings.)
- Decrease “Current Expenses” Appropriation 13000 by \$9,115,000.

**Department of Commerce**

*West Virginia Development Office – Department of Commerce – Marketing and Communications Operating Fund, Fund 3002, Fiscal Year 2021, Org 0307*

- (To reimburse general revenue for classified exempt positions.)
- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$131,682.
  - Decrease “Current Expenses” Appropriation 13000 by \$131,682.

*Division of Labor – West Virginia Jobs Act Fund, Fund 3176, Fiscal Year 2021, Org 0308*

(Add spending authority for the Jobs Act created through HB 205, passed October 17, 2017, before fund 3186.)

*158a - Division of Labor –*

*West Virginia Jobs Act Fund*

(WV Code Chapter 21)

**Fund 3176 FY 2021 Org 0308**

1	Current Expenses .....	13000	\$	75,000
2	Equipment .....	07000		25,000
3	Total .....		\$	100,000

*Division of Labor – Weights and Measures Fund, Fund 3196, Fiscal Year 2021, Org 0308*

(To realign spending authority to more accurately reflect anticipated revenues.)

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- Decrease/eliminate "Personal Services and Employee Benefits" Appropriation 00100 by \$1,500,000.
- Decrease/eliminate "BRIM Premium" Appropriation 91300 by \$8,500.
- Decrease "Current Expenses" Appropriation 13000 by \$127,000.
- Decrease "Repairs and Alterations" Appropriation 06400 by \$18,000.
- Decrease "Equipment" Appropriation 07000 by \$5,000.
- Add "Unclassified" Appropriation 09900 for \$1,200.

*Division of Miners' Health, Safety and Training – Special Health, Safety and Training Fund, Fund 3355, Fiscal Year 2021, Org 0314*

- (To increase spending authority to allow purchase of a building.)
- Increase "Buildings" Appropriation 25800 by \$2,000,000.

*Department of Commerce – Office of the Secretary – Broadband Enhancement Fund, Fund 3013, Fiscal Year 2021, Org 0327*

- (To realign spending authority to add two new positions for Broadband work.)
- Add "Personal Services and Employee Benefits" Appropriation 00100 for \$131,682.
  - Decrease "Current Expenses" Appropriation 13000 by \$131,682.

**Department of Education**

*State Board of Education – School Construction Fund, Fund 3952, Fiscal Year 2021, Org 0404*  
 (To clarify fund name.)

*State Board of Education –  
 School Building Authority –  
 School Construction Fund*

(WV Code Chapters 18 and 18a)  
 Fund 3952 FY 2021 Org 0404

**Department of Health and Human Resources**

*Division of Health – West Virginia Birth-to-Three Fund, Fund 5214, Fiscal Year 2021, Org 0506*  
 (To increase spending authority due to increased costs.)

- Increase "Current Expenses" Appropriation 13000 by \$2,080,851.

**Department of Military Affairs and Public Safety**

*State Armory Board – General Armory Fund, Fund 6057, Fiscal Year 2021, Org 0603*  
 (To adjust spending authority to meet anticipated expenditures.)

- Decrease "Buildings" Appropriation 25800 by \$250,000.
- Increase "Other Assets" Appropriation 69000 by \$250,000.

*Division of Administrative Services – Second Chance Driver's License Program Account, Fund 6810, Fiscal Year 2021, Org 0623*

- (To increase spending authority to properly administer program.)
- Increase "Current Expenses" Appropriation 13000 by \$100,000.

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**Department of Transportation**

*Division of Highways – A. James Manchin Fund, Fund 8319, Fiscal Year 2021, Org 0803*

- (To increase spending authority due to increased costs for waste tire removal.)
- Increase “Current Expenses” Appropriation 13000 by \$850,000.

*State Rail Authority – West Virginia Commuter Rail Access Fund, Fund 8402, Fiscal Year 2021, Org 0804*  
 (Add spending authority with fund and item of appropriation appearing before “Department of Veterans’ Assistance” for transfer of General Revenue.)

266a - State Rail Authority –

*West Virginia Commuter Rail Access Fund*

(WV Code Chapter 29)

Fund 8402 FY 2021 Org 0804

1	Current Expenses.....	13000	\$	2,800,000
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**Miscellaneous Boards and Commissions**

*Board of Barbers and Cosmetologists – Barbers and Beauticians Special Fund, Fund 5425, Fiscal Year 2021, Org 0505*

- (To adjust spending authority to meet anticipated expenditures.)
- Decrease “Current Expenses” Appropriation 13000 by \$5,000.
  - Add “Repairs and Alterations” Appropriation 06400 for \$5,000.

*Public Service Commission – Consumer Advocate Fund, Fund 8627, Fiscal Year 2021, Org 0926*

- (To adjust spending authority for increased expenses and a new position due to federal legislation.)
- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$104,000.
  - Increase “Current Expenses” Appropriation 13000 by \$110,000.

**Section 4. Appropriations from lottery net profits.**

**Department of Education**

*State Department of Education – School Building Authority – Debt Service Fund, Fund 3963, Fiscal Year 2021, Org 0404*

(To bring School Building Authority Lottery bond debt service into compliance with bond indentures.)

- Add the following directive language below the items of appropriation as follows:  
 “The above appropriation for Directed Transfer (fund 3963, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.”

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**Section 5. Appropriations from state excess lottery revenue.**

*State Department of Education – School Building Authority, Fund 3514, Fiscal Year 2021, Org 0404*  
 (To bring School Building Authority Excess Lottery bond debt service into compliance with bond indentures.)

- Decrease “Debt Service - Total” Appropriation 31000 by \$100.
- Add “Direct Transfer” Appropriation 70000 for \$100.
- Add Total line for the fund.
- Add the following directive language below the items of appropriation as follows:  
 “The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18a.  
 The above appropriation for Directed Transfer (fund 3514, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.”

**Section 6. Appropriations of federal funds.****Department of Commerce**

*West Virginia Development Office, Fund 8705, Fiscal Year 2021, Org 0307*

- (To increase federal spending authority for the Apprenticeship Grant federal positions.)
- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$250,000.

*Division of Natural Resources, Fund 8707, Fiscal Year 2021, Org 0310*

- (To increase federal spending authority to enable expenditure of funds from federal grant and cooperative agreement programs.)
- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$1,826,933.

**Department of Education**

*State Board of Education – Vocational Division, Fund 8714, Fiscal Year 2021, Org 0402*

- (To increase federal spending authority due to gradually increasing federal appropriations.)
- Increase “Current Expenses” Appropriation 13000 by \$1,000,000.

*State Board of Education – Aid for Exceptional Children, Fund 8715, Fiscal Year 2021, Org 0402*

- (To increase federal spending authority due to gradually increasing federal appropriations.)
- Increase “Current Expenses” Appropriation 13000 by \$10,000,000.

**Department of Military Affairs and Public Safety**

*Adjutant General – State Militia, Fund 8726, Fiscal Year 2021, Org 0603*

(To adjust federal spending authority to hire additional staff for Mountaineer ChalleNGe Academy.)

- Decrease “Military Authority” Appropriation 74800 by \$2,221,320.
- Increase “Mountaineer ChalleNGe Academy” Appropriation 70900 by \$2,221,320.

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*Adjutant General – West Virginia National Guard Counterdrug Forfeiture Fund, Fund 8785, Fiscal Year 2021, Org 0603*

(To adjust federal spending authority to have flexibility to use federal funds.)

- Decrease “Current Expenses” Appropriation 13000 by \$150,000.
- Add “Repairs and Alterations” Appropriation 06400 for \$50,000.
- Decrease “Equipment” Appropriation 07000 by \$150,000.
- Add “Buildings” Appropriation 25800 for \$100,000.
- Add “Other Assets” Appropriation 69000 for \$100,000.
- Add “Land” Appropriation 73000 for \$50,000.

*Division of Administrative Services, Fund 8803, Fiscal Year 2021, Org 0623*

(To correct a drafting error.)

- Decrease “Unclassified” Appropriation 09900 by \$25,356,788.
- Increase “Current Expenses” Appropriation 13000 by \$25,380,223.
- Decrease “Repairs and Alterations” Appropriation 06400 by \$23,435.

**Department of Transportation**

*Division of Motor Vehicles, Fund 8787, Fiscal Year 2021, Org 0802*

(To adjust federal spending authority to allow the across-the-board increase provided in July 2019 to be charged to federal funding.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$50,000.
- Decrease “Current Expenses” Appropriation 13000 by \$50,000.

*Aeronautics Commission, Fund 8831, Fiscal Year 2021, Org 0807*

(Add federal spending authority for an Aviation Impact Study awarded from Federal Aviation Administration with fund and items of appropriation appearing before “Department of Veterans’ Assistance”.)

364a – Aeronautics Commission–

(WV Code Chapter 29)

Fund 8831 FY 2021 Org 0807

1	Current Expenses .....	13000	\$	400,000
2	Other Assets .....	69000		100
3	Total .....		\$	400,100

**Miscellaneous Boards and Commissions**

*Public Service Commission – Motor Carrier Division, Fund 8743, Fiscal Year 2021, Org 0926*

(To increase federal spending authority for installation of Smart Roadside Inspection System and purchase of License Plate Readers through a grant.)

- Increase “Equipment” Appropriation 07000 by \$934,500.

**Section 7. Appropriations from federal block grants.**

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The Honorable Roger Hanshaw, Speaker  
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**Department of Health and Human Resources**

*Division of Human Services – Energy Assistance, Fund 8755, Fiscal Year 2021, Org 0511*  
(To increase spending authority for complete spending of federal grant.)

- Increase “Current Expenses” Appropriation 13000 by \$5,000,000.

**Section 9. Appropriations from lottery net profits surplus accrued.**

To correct drafting error in sequential fund item numbering, renumber budget bill items to include item number 382.

**Other Items for Consideration:**

Since introduction of the FY 2021 Budget Bill and subsequent passage of the Senate Committee Substitute and House Committee Substitute for the budget bill, please consider the following:

*Public Defender Services, Fund 0226, Fiscal Year 2021, Org 0221*

(To adjust funding for the hiring of two attorneys for the Habeas Corpus Division implemented through supplemental Senate Bill 571 which completed legislation.)

- Increase “Personal Services and Employee Benefits” Appropriation 13000 by \$188,402.
- Decrease “Appointed Counsel Fees” Appropriation 78800 by \$188,402.

*Department of Transportation, State Rail Authority, Fund 0506, Fiscal Year 2021, Org 0804*

As introduced, my budget included \$2.8 million in the General Revenue Fund, State Rail Authority to be transferred to the Commuter Rail Access Fund. I would ask that you reconsider your position and restore my requested recommendation by:

- Increasing “Current Expenses” Appropriation 13000 by \$1,800,000 to \$3,087,707 as per my original recommendation.
- Updating the directive language to indicate \$2,800,00 be transferred.

Another item for consideration, as Senate Bill 586 has completed Legislative action and in order to account for the changes resulting from the passage of the bill for inclusion in the FY 2021 Budget Bill, please consider the following:

(To more accurately account for the Adjutant General, General Revenue funds.)

- Add a “Miscellaneous Boards and Commissions” to Section 1, “Appropriations from General Revenue”, immediately following the item for West Virginia State University, Fund 0373, Fiscal Year 2021, Org 0490 and before the total of TITLE II, Section 1 – General Revenue.
- Following the addition of the section above, move in its entirety Adjutant General – State Militia, Fund 0433, Org 0603 and Adjutant General – Military Fund, Fund 0605, Org 0603 from under Military Affairs and Public Safety to Miscellaneous Board and Commissions.

(To more accurately account for the Adjutant General, Special Revenue funds.)

- In Section 3 “Appropriations from Other Funds”, “Miscellaneous Boards and Commissions”, immediately following the item for Hospital Finance Authority – Hospital Finance Authority Fund, Fund 5475, Fiscal Year 2021, Org 0509 move in its entirety State Armory Board –

## OFFICE OF THE GOVERNOR

The Honorable Mitch Carmichael, President  
The Honorable Roger Hanshaw, Speaker  
March 6, 2020  
Page 9

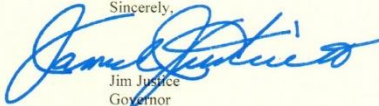
General Amory Fund, Fund 6057, Org 0603 from under Military Affairs and Public Safety to Miscellaneous Boards and Commissions.

(To more accurately account for the Adjutant General, Federal Revenue funds.)

- In Section 6 "Appropriations of Federal Funds", "Miscellaneous Boards and Commissions", as the first item under Miscellaneous Boards and Commissions, move in its entirety Adjutant General – State Militia, Fund 8726, Org 0603 and Adjutant General – West Virginia National Guard Counterdrug Forfeiture Fund, Fund 8785, Org 0603 from under Military Affairs and Public Safety to Miscellaneous Boards and Commissions.

Thank you for your prompt attention of this matter. Your cooperation is always appreciated. Should you have any questions or require additional information, please call me at any time.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Justice", with a stylized flourish at the end.

Jim Justice  
Governor

cc: The Honorable Craig Blair, Chairman  
The Honorable Eric Householder, Chairman  
State Budget Office



Which communication was received and referred to the Committee on Finance.

Senator Carmichael (Mr. President) then laid before the Senate the following communication from His Excellency, the Governor, regarding annual reports, which communication was received and filed with the Clerk:



*Jim Justice*  
Governor of West Virginia

March 6, 2020

**Executive Message 3**  
**2020 Regular Session**

The Honorable Mitch Carmichael  
President, West Virginia State Senate  
State Capitol, Rm 229M  
Charleston, WV 25305

Dear Mr. President:

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

Accountancy, West Virginia Board of; Annual Report for June 30, 2018-June 30, 2019  
Administration, West Virginia Department of; West Virginia Public Land Corporation Annual Report  
Administration, West Virginia Department of; Shared Services Section- Finance Division- Annual Report  
Administration, West Virginia Department of; Real Estate Division 2019 Real Property and Lease Report  
Administration, West Virginia Department of; State Vehicle Fleet Annual Report for FY 2019  
Aeronautics Commission, West Virginia Department of Transportation; Aeronautics Commission Annual Report September 1, 2018- June 30, 2019  
Agricultural Land Protection Authority, West Virginia; Conservation Easements Recorded in West Virginia by County Farmland Protection Boards or other land trust organizations  
Architects, West Virginia Board of; Annual Report FY 2018 & FY 2019

## OFFICE OF THE GOVERNOR

Attorney General, State of West Virginia; Annual Report 2019

Attorney General, State of West Virginia; 2019 Annual Report on the Activities of the Consumer Protection and Antitrust Division

Auditor's Office, West Virginia State; 2019 Annual Report

Board of Risk and Insurance Management, State of West Virginia Department of Administration; 2019 Annual Report

Bureau of Senior Services, State of West Virginia; FY 2019 Annual Report

Chiropractic Examiners, State of West Virginia Board of; Biennium Report July 1, 2017-June 30, 2019

Coal Mine Health and Safety, State of West Virginia Board of; 2019 Annual Report

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; 2019 Annual Report

Consolidated Public Retirement Board's, West Virginia; 2019 Annual Report on the Disability Retirement Experience for the West Virginia Death, Disability, and Retirement Fund (Plan A) and the West Virginia State Police Retirement System (Plan B)

Consumer Advocate Offices of the WV Insurance Commissioner, West Virginia Office of; Annual Report

Consumer Advocate Division, State of West Virginia (Public Service Commission); 2019 Annual Report

Counseling, West Virginia Board of; 2017-2019 Annual Report

Department of Health and Human Resources, State of West Virginia; Office of the Inspector General Olmstead Office Plan "Building Inclusive Communities: Keeping the Promise" Annual Report for State Fiscal Year 2019

Development Office, West Virginia; West Virginia Office of Energy Annual Report

Development Office, West Virginia; FY20 Tax Increment Financing Annual Report

Health and Human Resources, State of West Virginia Department of; Critical Incident Annual Report

Health and Human Resources, State of West Virginia Department of; Sanctions Relating to TANF

Health and Human Resources, State of West Virginia Department of; 2019 WV Chip Annual Report

Education, West Virginia Department and Board of; Fall Listening Tour Final Report December 2019

Environmental Protection, West Virginia Department of; Report for Special Reclamation Fund and the Special Reclamation Water Trust Fund

## OFFICE OF THE GOVERNOR

Equal Employment Opportunity Office, West Virginia; 2018 Annual Report  
Equal Employment Opportunity Office, West Virginia; 2019 Annual Report  
Fire Commission, West Virginia State; FY 2019 Annual Report  
Forward, West Virginia, 2018 Annual Report  
Greater Kanawha Valley Foundation, The; 2018 Annual Report  
Infrastructure and Jobs Development Council, West Virginia; Annual Report  
Insurance Commissioner, West Virginia Office of the; Annual Report for the Calendar Year 2018  
Insurance Commissioner, State of West Virginia Offices; Annual Report Office of the Consumer Advocate at the WV Insurance Commission for Calendar Year 2018  
Insurance Commissioner, State of West Virginia Offices; 2019 Annual Medical Malpractice Report  
Regional Intergovernmental Council, Boone Clay Kanawha Putnam; 2018 Annual Report  
Interstate Insurance Product Regulation Commission (Insurance Compact); 2018 Annual Report  
Interstate Commission on the Potomac Basin; Seventy-Eighth Financial Statements and Independent Auditor's Report for the Year Ended September 30, 2018  
Judicial Compensation Commission, West Virginia; 2019 Report  
Justice and Community Services, West Virginia Division of; Juvenile Justice Subcommittee September 1, 2017- August 31, 2018 Annual Report  
Justice and Community Services, West Virginia Division of; Law Enforcement Professional Standards (LEPS) Subcommittee/Program July 1, 2018- June 30, 2019 Annual Report  
Justice and Community Services, West Virginia Division of; Sexual Assault Forensic Examination (Safe) Commission September 1, 2018- August 31, 2019 Annual Report  
Justice and Community Services, West Virginia Division of; West Virginia Community Corrections Act July 1, 2018-June 30, 2019 Annual Report  
Labor, West Virginia Division of; FY 2019 Jobs Act Annual Report  
Legislative Claims Commission, West Virginia; Reports of the Legislative Claims Commission for November 2019  
Legislative Claims Commission, West Virginia; Supplemental Reports of the Legislative Claims Commission  
Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending January 31, 2019  
Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 28, 2019  
Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending March 31, 2019

## OFFICE OF THE GOVERNOR

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending April 30, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending May 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending June 30, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending July 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending August 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending September 30, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending October 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending November 30, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending December 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending January 31, 2020

Medicaid and Chip Payment and Access Commission; June 2019 Report

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; FY 2019 Annual Report

Medicine, West Virginia Board of; Annual Report for the Biennium of July 1, 2016- June 30, 2018

Military Affairs and Public Safety, West Virginia Department of; Executive Summary and Report

Miners' Health, Safety and Training, West Virginia Office of; 2018 Statistical Report and Directory of Mines (Department of Commerce)

Municipal Bond Commission, West Virginia; Annual Summary of Receipts and Disbursements July 1, 2018- June 30, 2019

National Guard, West Virginia; Annual Report 2019

Natural Resources, West Virginia Division of; 2018-2019 Annual Report

Occupational Therapy, West Virginia Board of; Annual Report for Fiscal Year 2018-2019

Osteopathic Medicine, West Virginia School of; 2018-2019 Annual Report

Board of Pharmacy, West Virginia; West Virginia Controlled Substances Monitoring Program to the Legislative Oversight Commission on Health and Human Resources Accountability

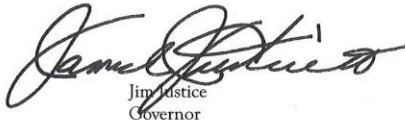
Public Defender Services, West Virginia; Annual Report, Fiscal Year 2018

Public Employees Grievance Board; 2019 Annual Report

## OFFICE OF THE GOVERNOR

Professional Engineers, West Virginia State Board of Registered; Annual Report FY2019  
Psychologists, State of West Virginia Board of Examiners of; Annual Report for Fiscal Year 2018-2019  
Board of Sanitarians, West Virginia State; 2018 Annual Report  
Tax Department, West Virginia State; Manufacturing Property Tax Adjustment Credit Report  
Tax Department, West Virginia State; 2019 Tax Year  
Tax Department, West Virginia State; Fifty-Third Biennial Report of the Tax Commissioner  
Tax Department, West Virginia State; Report on Adjustments to the Allocated State Aid Share to Schools  
Tax Department, West Virginia State; Calculation of Regular School Levy Rates for Tax Year 2020 and the Effects on Projected County School Revenues  
Treasury Investments, West Virginia Board of; Audited Financial Statements with other Financial Information Year ended June 30, 2019  
Treasury Investments, West Virginia Board of; Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019  
Veterinary Medicine, West Virginia Board of; Biennium Report 2018 and 2019  
Water Development Authority, West Virginia; Fiscal Year 2019 Annual Report

Sincerely,



Jim Justice  
Governor

cc: Lee Cassis, Clerk, West Virginia State Senate  
Division of Culture and History

Senator Carmichael (Mr. President) next laid before the Senate the following communication from His Excellency, the Governor, submitting the annual probation and parole report, which was received:



*Jim Justice*  
Governor of West Virginia

March 6, 2020

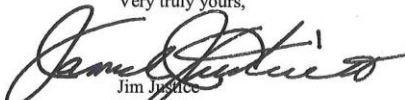
**EXECUTIVE MESSAGE NO. 4**  
**2020 REGULAR SESSION**

The Honorable Mitch Carmichael  
President, Senate of West Virginia  
State Capitol, Rm 228M  
Charleston, West Virginia 25305

Dear Mr. President:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of March 7, 2019 through March 6, 2020.

Very truly yours,

  
Jim Justice  
Governor

cc: Lee Cassis, Senate of West Virginia  
Division of Archives and History

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

On motion of Senator Takubo, at 11:47 a.m., the Senate recessed until 12:30 p.m. today.

The Senate reconvened at 1:14 p.m. and, at the request of Senator Takubo, and by unanimous consent, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill 4388**, Limiting the Alcohol Beverage Control Commissioner's authority to restrict advertising.

On motion of Senator Takubo, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Takubo, Rucker, and Romano.

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

### **Executive Communications**

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 7, 2020, he had approved **Enr. House Bill 4149**, **Enr. House Bill 4359**, and **Enr. House Bill 4501**.

Senator Takubo announced that in the meeting of the Committee on Rules previously held, the committee, in accordance with Rule 17 of the Rules of the Senate, had removed from the Senate third reading calendar **Eng. Com. Sub. for House Bill 2961**, **Eng. Com. Sub. for House Bill 4155**, **Eng. Com. Sub. for**

**House Bill 4398, Eng. Com. Sub. for House Bill 4535, and Eng. House Bill 4960.**

At the request of Senator Takubo, unanimous consent being granted, the Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for House Bill 2419**, Relating to the authorization to release a defendant or a person arrested upon his or her own recognizance.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on Thursday, March 5, 2020, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Trump, and by unanimous consent, further consideration of the bill and the pending unreported Judiciary committee amendment was deferred until the conclusion of bills on today's third reading calendar.

**Eng. Com. Sub. for House Bill 2478**, Modifying the Fair Trade Practices Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senator Tarr requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senator Tarr would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.



The nays were: Tarr—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2478) passed.

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

**Eng. Com. Sub. for House Bill 2478**—A Bill to amend and reenact §47-11A-2, §47-11A-6, and §47-11A-9 of the Code of West Virginia, 1931, as amended, all relating to unfair trade practices; generally providing for invoice cost of each separate or distinct product or item of merchandise to retailer in calculation of cost to business of retailer; including applicable taxes in invoice cost in calculation of cost to business of retailer; clarifying application of misdemeanor offenses under the act; eliminating markup in calculation of cost to business of retailer; authorizing court to award treble damages, court costs, litigation costs, and attorney fees for violation; and making technical changes.

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

**Eng. Com. Sub. for House Bill 2961**, Permitting the commissioner to require a water supply system be equipped with a backflow prevention assembly.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 2967**, Permitting a county to retain the excise taxes for the privilege of transferring title of real estate.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2967) passed with its title.

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

**Eng. Com. Sub. for House Bill 4015**, Relating to Broadband Enhancement and Expansion.

On third reading, coming up in regular order, with the Government Organization committee amendment to the bill pending, and with the right having been granted on yesterday, Friday, March 6, 2020, for further amendments to be received on third reading, was reported by the Clerk.

The question being on the adoption of the Government Organization committee amendment to the bill (*shown in the Senate Journal of yesterday, Friday, March 6, 2020, pages 2664 to 2667, inclusive*).

On motion of Senator Plymale, the following amendment to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 4015) was reported by the Clerk:

On page one before the article heading by inserting the following:

**ARTICLE 1. BROADBAND ENHANCEMENT COUNCIL.**

**§31G-1-3. Broadband Enhancement Council; members of council; administrative support.**

(a) The Broadband Enhancement Council is hereby established and continued. The current members, funds, and personnel shall continue in effect and be wholly transferred; except as may be hereinafter provided. With regard to the terms of the public members appointed under subdivision five, ~~of~~ subsection (d) of this section, at the next regular meeting of the council following July 1, 2017, the currently serving public members shall draw by lot for the length of their terms, three members to serve for one additional year, three members to serve for two additional years and the last three members to serve for three additional years, with all public members in future to serve for the duration of the term described below.

(b) The council is a governmental instrumentality of the State. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties are considered and held to be, and are hereby determined to be, essential governmental functions and for a public purpose. The council is created under the Department of Commerce for administrative, personnel, and technical support services only.

(c) The council shall consist of ~~thirteen~~ 13 voting members, designated as follows:

(1) The Secretary of Commerce or his or her designee;

(2) The Chief Technology Officer or his or her designee;

(3) The Vice Chancellor for Administration of the Higher Education Policy Commission or his or her designee;

(4) The State Superintendent of Schools or his or her designee;  
~~and~~

(5) Nine public members that shall serve no more than three consecutive three-year terms from the date of their appointment and are appointed by and serve at the will and pleasure of the Governor with the advice and consent of the Senate, as follows:

(i) One member representing users of large amounts of broadband services in this state;

(ii) One member from each congressional district representing rural business users in this state;

(iii) One member from each congressional district representing rural residential users in this state;

(iv) One member representing urban business users in this state; and

(v) One member representing urban residential users in this state; and

(6) ~~In addition to the thirteen voting members of the council~~ Additionally, the President of the Senate shall name two Senators from the West Virginia Senate, one from each party, and the Speaker of the House shall name two Delegates from the West Virginia House of Delegates, one from each party, each to serve in the capacity of ~~an~~ ex officio, nonvoting advisory members of the council.

(d) The Secretary of Commerce shall chair the first meeting at which time a chair and vice chair shall be elected from the members of the council for a term of two years: *Provided, That a chair or vice-chair may not serve more than two consecutive full or partial terms in that capacity.* In the absence of the chair, the vice chair shall serve as chair. The council shall appoint a secretary-treasurer who need not be a member of the council and who, among other tasks or functions designated by the council, shall keep records of its proceedings.

(e) The council may appoint committees or subcommittees to investigate and make recommendations to the full council. Members of these committees or subcommittees need not be members of the council.

(f) Seven voting members of the council constitute a quorum and the affirmative vote of a simple majority of those members present is necessary for any action taken by vote of the council.

(g) The gubernatorial appointed members shall be deemed part-time public officials, and may pursue and engage in another business or occupation or gainful employment. Any person employed by, owning an interest in, or otherwise associated with a broadband deployment project, project sponsor, or project participant may serve as a council member and is not disqualified from serving as a council member because of a conflict of interest prohibited under §6B-2-5 of this code and is not subject to prosecution for violation of ~~said~~ that section when the violation is created solely as a result of his or her relationship with the broadband deployment project, project sponsor, or project participant so long as the member recuses himself or herself from board participation regarding the conflicting issue in the manner set forth in §6B-2-5 of this code and the legislative rules promulgated by the West Virginia Ethics Commission.

(h) No member of the council who serves by virtue of his or her office may receive any compensation or reimbursement of expenses for serving as a member. The public members and members of any committees or subcommittees are entitled to be reimbursed for actual and necessary expenses incurred for each day or portion thereof engaged in the discharge of his or her official duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(i) No person is subject to antitrust or unfair competition liability based on membership or participation in the council, which provides an essential governmental function and enjoys state action immunity.

Following discussion,

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

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

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4015), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4015) passed.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub. for House Bill 4015**—A Bill to amend and reenact §31G-1-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §31G-5-1, §31G-5-2, §31G-5-3, and §31G-5-4, all relating telecommunications and broadband; limiting the consecutive terms of the public members of the Broadband Enhancement Council; limiting the consecutive terms of the chair and vice-chair of the Broadband Enhancement Council; enacting the Vertical Real Estate Management and Availability Act; requiring the Department of Administration to coordinate with the Governor to seek proposals to manage state-owned vertical real estate; establishing how the vertical real estate is to be managed; defining “vertical real estate” as any structure that is suitable for the mounting of communications equipment and associated ground facilities;

providing for a distribution of funds from leasing state-owned vertical real estate; and setting forth certain exceptions to the availability for management of state-owned vertical real estate.

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

**Eng. Com. Sub. for House Bill 4061**, Health Benefit Plan Network Access and Adequacy Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4061) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub. for House Bill 4061**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §33-15-4u and §33-15-22; to amend said code by adding thereto two new sections, designated §33-16-3ff

and §33-16-18, to amend said code by adding thereto two new sections, designated §33-24-7u and §33-24-45; to amend said code by adding thereto two new sections, designated §33-25-8r and §33-25-22; to amend said code by adding thereto two new sections, designated §33-25A-8u and §33-25A-36, to amend said code by adding thereto a new article, designated §33-53-1, §33-53-2, §33-53-3, §33-53-4, §33-53-5, §33-53-6, §33-53-7, §33-53-8, §33-53-9, §33-53-10, §33-53-11, §33-53-12, and §33-53-13, all relating to health plan benefits and benefit networks; creating the Health Benefit Plan Network Access and Adequacy Act; incorporating references to the act into the insurance code; requiring honoring of the optional assignment of certain benefits in dental care insurance programs; detailing revocation and reimbursement requirements; and excluding Medicaid, CHIP, and contracts approved by the Department of Health and Human Resources Bureau for Medical Services.

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

**Eng. Com. Sub. for House Bill 4069**, West Virginia Student Religious Liberties Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4069 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Palumbo—1.

Absent: None.



So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4069) passed.

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

**Eng. Com. Sub. for House Bill 4069**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-33-1, §18-33-2, §18-33-3, §18-33-4, §18-33-5, §18-33-6, §18-33-7, and §18-33-8, all relating to creating the West Virginia Student Religious Liberties Act; providing that public school district shall not discriminate against students or parents on the basis of a religious viewpoint or religious expression; providing that students may express their beliefs about religion in homework, artwork and other written assignments without being penalized or rewarded; providing that students in public schools may pray or engage in religious activities or religious expression before, during or after the school day; setting forth how a school district is to treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject; allowing students to express their beliefs about religion in assignments free from discrimination based on the religious content; allowing students to organize prayer groups, religious clubs, and religious gatherings to the same extent that students are permitted to organize other noncurricular student activities and groups; allowing public school students to wear certain items that display religious messages or religious symbols in the same manner and to the same extent that other types of those items that display messages or symbols are permitted; providing that the act may not require participation in religious activity or violate a person's constitutional rights; ensuring that public schools may still maintain order and discipline, protect the safety of students, employees, and visitors of the public school, and adopt and enforce policies and procedures; and providing an effective date.

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

**Eng. Com. Sub. for House Bill 4155**, Relating generally to the regulation of plumbers.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4159**, Relating to the manufacture and sale of hard cider.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Trump, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motion of Senator Trump, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page twelve, section three, after line one hundred twenty-two, by inserting a new subdivision, designated subdivision (7), to read as follows:

“(7) An unlicensed winery temporarily licensed and meeting the requirements set forth in subsection (q) of this section may conduct the same sampling and sales set forth in subsection (q) of this section at a licensed fair and festival upon approval of the licensee holding the fair and festival license and temporary and limited licensure by the commissioner. An unlicensed winery shall be subject to the same limits, fees, requirements, restrictions and penalties set forth in subsection (q) of this section: Provided, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders as the circumstances of each festival or fair may require, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code: Provided, however, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception be granted with respect to those subsections.”;

On page sixteen, section three, after line two hundred twenty-one, by inserting a new subsection, designated subsection (q), to read as follows:

“(q) (1) In addition to the authorization granted to licensed wineries and farm wineries in subsections (h) and (p), an unlicensed winery, regardless of its designation in another state, but that is duly licensed in its domicile state, may pay a \$150 nonrefundable and nonprorated fee and submit an application for temporary licensure on a one-day basis for temporary sampling and sale of wine in sealed containers for off-premises consumption at a special one-day license nonprofit event.

(2) The application shall include, but is not limited to, the person or entity’s name, address, taxpayer identification number, and location; a copy of its licensure in its domicile state; a signed and notarized verification that it produces 50,000 gallons or less of wine per year; a signed and notarized verification that it is in good standing with its domicile state; copies of its federal certificate of label approvals and certified lab alcohol analysis for the wines it desires to temporarily provide samples and temporarily sell wine in sealed containers for off-premises consumption at a special one-day license for a nonprofit event issued under sub-section (p); and such other information as the commissioner may reasonably require.

(3) The applicant winery shall include a list of all wines proposed to be temporarily sampled and temporarily sold in sealed containers at a special one-day license for a nonprofit event so that the wines may be reviewed in the interest of public health and safety. Once approved, the submitted wine list will create a temporary wine brand registration for up to two special one-day license for a nonprofit event for no additional fee.

(4) An applicant winery that receives this temporary special one-day license for a nonprofit event will provide a signed and notarized agreement where the applicant winery agrees to pay all municipal, local, and sales taxes applicable to the sale of wine in West Virginia.

(5) An application must be submitted per special one-day license for a nonprofit event the applicant winery desires to attend, and the license fee shall cover up to two special one-day license for nonprofit events before an additional fee would be paid. In no circumstance would such a winery be permitted to attend more than four special one-day license for nonprofit events per year. Any such applicant or unlicensed winery desiring to attend more than four special one-day license for nonprofit events per year or otherwise operate in West Virginia would need to seek appropriate licensure as a winery or a farm winery in this state.

(6) Notwithstanding the provisions of this article and requirements for licensure, wine brand registration, payment of wine liter tax, and the winery's appointment of suppliers and distributors, this temporary special one-day license for a nonprofit event, once granted, permits such a winery to operate in this limited capacity only at the approved specific, special one-day license for a nonprofit event subject to the limitations noted in this section.

(7) The applicant winery will need to further apply for and receive a transportation permit in order to legally transport wine in the state per §60-6-12 of this code.

(8) The applicant winery is subject to all applicable violations and/or penalties under this article and the legislative rules that is not otherwise excepted by this sub-section: Provided, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders as the circumstances of each festival or fair may require, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing.”;

And,

By relettering the remaining subsections.

Having been engrossed, the bill (Eng. H. B. 4159), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Roberts, Smith, and Tarr—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4159) passed.

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

**Eng. House Bill 4159**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections designated §19-2-12, and §19-2-13; to amend and reenact §60-1-5a of said code; to amend and reenact §60-8-2, §60-8-3, and §60-8-4 of said code; and to add a new article to said code designated §60-8A-1, §60-8A-2, §60-8A-3, §60-8A-4, §60-8A-5, §60-8A-6, and §60-8A-7; all relating to the manufacture and sale of hard cider; establishing the Agriculture Development Fund; establishing permitted expenditures from the fund; creating a new program to develop hard cider; providing for definitions; providing that there is no separate license required to manufacture and sell hard cider under certain conditions; providing for a hard cider distributor's license; providing for hard cider exemptions to the wine liter tax; establishing a hard cider gallon tax; providing for applicability of other laws; requiring regular reports to the Tax Commissioner; providing for applications to import products necessary to manufacture hard cider under certain conditions; providing for hard cider sales for consumption; providing for complementary samples to be given; establishing requirements for complementary samples; permitting the sale of growlers; establishing growler labeling requirements; establishing growler sanitation requirements; providing for fees for the privilege to sell growlers; providing for rule-making authority; to unlicensed wineries not currently licensed or located in West Virginia temporarily authorizing

limited sampling and temporarily authorizing the limited sale of wine for off-premises consumption at certain fairs and festivals and at certain one-day special licensed nonprofit events in a very limited capacity, per event, per year, in hopes that such wineries would eventually obtain a permanent winery or farm winery license in West Virginia.

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

**Eng. House Bill 4161**, Making it illegal to scleral tattoo a person.

On third reading, having been amended by the Committee on Health and Human Resources on March 2, 2020, and now coming up in regular order, was read a third time.

At the request of Senator Maroney, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 2419, already placed in that position.

**Eng. Com. Sub. for House Bill 4176**, West Virginia Intelligence/Fusion Center Act.

On third reading, coming up in regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on Thursday, March 5, 2020, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill and the pending Government Organization committee amendment was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed House Bill 4161, already placed in that position.

**Eng. Com. Sub. for House Bill 4398**, Relating to required courses of instruction.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. Com. Sub. for House Bill 4422**, The Patient Brokering Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4422 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4422) passed.

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

**Eng. Com. Sub. for House Bill 4422**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-60-1, §16-60-2, and §16-60-3, all relating to prohibiting patient brokering; defining terms; prohibiting causing or participating in acts that are intended to derive any benefit or profit from referral of a patient to a health care provider or health care facility; prohibiting patient brokering related to a recovery residence; establishing criminal penalties for persons and

business entities engaged in unlawful patient brokering; and providing exceptions.

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

**Eng. Com. Sub. for House Bill 4433**, Relating to deeds of trust.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4433 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4433) passed.

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

**Eng. Com. Sub. for House Bill 4433**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §38-1-2a, all relating to deeds of trust to secure debts or indemnify sureties; how deeds of trust to secure debts or indemnify sureties are construed; and the duties, rights, and



obligations of parties to a deed of trust to secure debts or indemnify sureties.

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

**Eng. Com. Sub. for House Bill 4444**, Establishing Medals of Valor and Medals for Bravery for emergency medical services, firefighters, and law-enforcement officers.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4444 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4444) passed.

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

**Eng. Com. Sub. for House Bill 4444**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-32-1, §29-32-2, §29-32-3, §29-32-4, and §29-32-5, all relating to establishing Medals of Valor for emergency medical service members, firefighters, and law-

enforcement officers; establishing the Medal of Valor; establishing criteria for awarding the Medal of Valor; prohibiting awarding of Medal of Valor in any manner than otherwise set forth in this article; establishing the Firefighters Honors Board to recommend persons to receive the Medal of Valor; establishing the Law-Enforcement Honor Board to recommend persons to receive the Medal of Valor; establishing the Emergency Medical Services Honor Board to recommend persons to receive the Medal of Valor; providing duties and purpose of each board; setting forth the membership of each board, the manner of membership selection, and the terms and conditions of service; setting forth process for identifying candidates to receive Medal of Valor; setting forth process for considering candidates to receive Medal of Valor; providing for submission of nominated persons to Speaker of the House of Delegates and President of the Senate; directing Governor to issue Medal of Valor to nominee upon adoption of concurrent resolution by Legislature; and directing the Department of Arts, Culture and History create design for Medal of Valor.

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

**Eng. Com. Sub. for House Bill 4474**, Relating to peer-to-peer car sharing programs.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 6, 2020, for further amendments to be received on third reading, was reported by the Clerk.

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

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

**ARTICLE 6F. PEER-TO-PEER CAR SHARING PROGRAMS.**

**§17A-6F-1. Scope.**

This article is intended to govern the intersection of peer-to-peer car services, the state-regulated business of insurance, state and local taxation of the business transaction, and the airport and airport authorities authority to regulate peer-to-peer car services provided to airport customers. This article does not void, abrogate, restrict, or affect any requirements of §17A-6D-1 *et seq.* relating to daily passenger rental car business or §17A-6A-1 *et seq.* of this code relating to motor vehicle dealers, distributors, wholesalers, and manufacturers.

### **§17A-6F-2. Definitions.**

As used in this article:

“Peer-to-peer car sharing” means the authorized use of a vehicle by an individual other than the vehicle’s owner through a peer-to-peer car sharing program. “Peer-to-peer car sharing” is not a “daily passenger rental car business” as licensed by the provisions of §17A-6D-1 *et seq.* of this code.

“Peer-to-peer car sharing program” means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. “Peer-to-peer car sharing program” does not mean a service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle. For purposes of this section, “hardware” does not mean a motor vehicle as defined by the provisions of §17A-1-1(b). “Peer-to-peer car sharing program” does not mean a “daily passenger rental car business” as licensed by the provisions of §17A-6D-1 *et seq.* of this code. “Peer-to-peer car sharing program” does not include a program provided to a business’s own employees.

“Car sharing program agreement” means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program.

“Shared vehicle” means a vehicle that is available for sharing through a peer-to-peer car sharing program. “Shared vehicle” does

not mean a rental car or a rental vehicle as used in a “daily passenger rental car business” licensed by the provisions of §17A-6D-1 et seq. of this code.

“Shared vehicle driver” means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement.

“Shared vehicle owner” means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

“Car sharing delivery period” means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement.

“Car sharing period” means the period of time that commences with the car sharing delivery period or, if there is no car sharing delivery period, that commences with the car sharing start time, and in either case ends at the car sharing termination time.

“Car sharing start time” means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program.

“Car sharing termination time” means the earliest of the following events:

The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program; or

When the shared vehicle owner or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle.

**§17A-6F-3. Insurance coverage during car sharing period; limited license for automobile rental coverage required.**

(a) A peer-to-peer car sharing program shall assume primary liability of a shared vehicle owner for bodily injury or property damage to third parties and uninsured and underinsured motorist and personal injury protection losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement which amounts may not be less than \$750,000.

(b) Notwithstanding the definition of "car sharing termination time" as defined in this article, the assumption of liability under subsection (a) of this section does not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the loss occurred, or

(2) Acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(c) Notwithstanding the definition of "car sharing termination time" as defined in this article, the assumption of liability under subsection (a) of this section would apply to bodily injury, property damage, uninsured and underinsured motorist, or personal injury protection losses by damaged third parties in the same manner required by §17D-4-2 and §33-6-31 of this code.

(d) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage which amounts may not be less than the minimum amounts required in §17D-4-2 and §33-6-31 of this code, and:

(1) Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or

(2) Does not exclude use of a shared vehicle by a shared vehicle driver.

(e) The insurance described under subsection (d) of this section may be satisfied by motor vehicle liability insurance maintained by:

(1) A shared vehicle owner;

(2) A shared vehicle driver;

(3) A peer-to-peer car sharing program; or

(4) A combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car sharing program.

(f) The insurance described in subsection (e) of this section that is satisfying the insurance requirement of subsection (d) of this section shall be the primary insurance during each car sharing period.

(g) The peer-to-peer car sharing program shall assume primary liability for a claim when it is, in whole or in part, providing the insurance required under subsections (d) and (e) of this section and:

(1) A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and

(2) The peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by this article.

(3) A peer-to-peer car sharing program may seek indemnity from a shared vehicle owner if the shared vehicle owner is determined to have been the operator of the shared vehicle at the time of the loss.

(h) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) of this section has lapsed or does not provide the required coverage, insurance maintained by a peer-to-peer car sharing program shall provide the coverage required by subsection (d) of this section beginning with the first dollar of a claim and have the duty to defend such claim except under circumstances as set forth in this section.

(i) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program shall not be dependent on another automobile insurer first denying a claim nor shall another automobile insurance policy be required to first deny a claim.

(j) Nothing in this article may be interpreted as either limiting or restricting:

(1) The liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program; or

(2) The ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

(k) If a dispute arises as to whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has occurred, the peer-to-peer car sharing program shall extend primary coverage for the loss. If during the investigation of the claim it becomes apparent that one of the parties to the car sharing program agreement was negligent, engaged in misrepresentation, or is otherwise responsible for the loss, the car sharing program may seek recovery from one or both parties directly through subrogation.

**§17A-6F-4. Notification of implications of lien.**

At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program, and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

**§17A-6F-5. Exclusions for personal vehicle liability insurance policy.**

(a) A motor vehicle insurer that writes motor vehicle liability insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

- (1) Liability coverage for bodily injury and property damage;
- (2) Personal injury protection coverage;
- (3) Uninsured and underinsured motorist coverage;
- (4) Medical payments coverage;
- (5) Comprehensive physical damage coverage; and
- (6) Collision physical damage coverage.

(b) Nothing in this article shall be construed as invalidating or limiting an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire, or for any business use.

(c) Nothing in this article may be interpreted as either limiting or restricting an insurer's ability to exclude insurance coverage



from any insurance policy or an insurer's ability to underwrite any insurance policy pursuant to § 33-6A-1 et seq. of this code.

**§17A-6F-6. Recordkeeping; use of vehicle in car sharing.**

(a) A peer-to-peer car sharing program shall collect and verify records pertaining to the use of a vehicle, including, but not limited to, times used, car sharing period pickup and drop-off locations, fees paid by the shared vehicle driver, and revenues received by the shared vehicle owner and provide that information upon request to the shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation, settlement, negotiation, or litigation.

(b) The peer-to-peer car sharing program shall retain the records for a time period not less than the applicable personal injury statute of limitations.

**§17A-6F-7. Exemption; vicarious liability.**

A peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability in accordance with 49 U.S.C. § 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

**§17A-6F-8. Contribution against indemnification.**

A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy has the right to seek contribution against the motor vehicle insurer of the peer-to-peer car sharing program if the claim is:

(1) Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car sharing period; and

(2) Excluded under the terms of its policy.

**§17A-6F-9. Insurable interest.**

(a) Notwithstanding any other law, statute, rule, or regulation to the contrary, a peer-to-peer car sharing program has an insurable interest in a shared vehicle during the car sharing period.

(b) Nothing in this section creates liability on a peer-to-peer car sharing program to maintain the coverage mandated by this article.

(c) A peer-to-peer car sharing program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provides coverage for:

(1) Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement;

(2) Any liability of the shared vehicle owner;

(3) Damage or loss to the shared motor vehicle; or

(4) Any liability of the shared vehicle driver.

**§17A-6F-10. Consumer protections for car sharing programs.**

Each car sharing program agreement made in this state shall disclose to the shared vehicle owner and the shared vehicle driver, at a minimum:

(1) Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement;

(2) That a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program;

(3) That the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

(4) The daily rate, fees, and if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;

(5) That the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle;

(6) An emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries; and

(7) If there are conditions under which a shared vehicle driver must maintain a personal automobile insurance policy with certain applicable coverage limits on a primary basis in order to book a shared motor vehicle.

**§17A-6F-11. Driver's license verification and data retention.**

(a) A peer-to-peer car sharing program may not enter into a peer-to-peer car sharing program agreement with a driver unless the driver who will operate the shared vehicle:

(1) Holds a driver's license issued pursuant to the provisions of §17B-2-1 *et seq.* of this code, which authorizes the driver to operate a motor vehicle of the class of the shared vehicle; or

(2) Is a nonresident who:

(A) Has a driver's license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive a motor vehicle of the class of the shared vehicle; and

(B) Is at least the same age as that required of a resident of this state to operate a motor vehicle of the class of the shared vehicle; or

(3) Otherwise is specifically authorized by the applicable provisions of §17B-2-1 *et seq.* of this code to operate a motor vehicle of the class of the shared vehicle.

(b) A peer-to-peer car sharing program shall keep a record of:

(1) The name and address of the shared vehicle driver;

(2) The number of the driver's license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

(3) The place of issuance of the driver's license.

**§17A-6F-12. Responsibility for equipment of a shared vehicle.**

A peer-to-peer car sharing program has sole responsibility for any equipment, such as a GPS system or other special equipment that is put in or on the vehicle to monitor or facilitate the car sharing transaction, and shall agree to indemnify and hold harmless the vehicle owner for any damage to or theft of the equipment during the sharing period not caused by the vehicle owner. The peer-to-peer car sharing program may seek indemnity from the shared vehicle driver for any loss or damage to the equipment that occurs during the sharing period.

**§17A-6F-13. Registration, notification, and automobile safety recalls.**

(a) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(1) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made;

(2) Notify the shared vehicle owner of the requirements of this section; and

(3) Notify the shared vehicle owner that the shared vehicle owner's personal insurance may exclude peer-to-peer car sharing activity.

(b)(1) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, a shared vehicle owner may not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, the shared vehicle owner shall remove the shared vehicle as available on the peer-to-peer car sharing program, as soon as practicably possible after receiving the notice of the safety recall and until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

**§17A-6F-14. Regulation of peer-to-peer car sharing programs at airports and airport facilities.**

(a) Airports or the airport authority in this state may regulate peer-to-peer vehicle rental activity provided to airport customers as set forth in this section.

(b) A peer-to-peer car sharing program shall, upon request of an airport or airport authority in this state, enter into an agreement with the airport or airport authority, which agreement may be a concession agreement, prior to:

(1) Listing shared vehicles parked on airport property or at airport facilities;

(2) Facilitating the use of shared vehicles to transport airport customers to or from airport property or airport facilities, regardless of whether that use is to be initiated or has a car sharing start time which occurs on or off of airport property or airport facilities; or

(3) Promoting or marketing shared vehicles to transport airport customers to or from airport property or airport facilities, regardless of whether that transportation is to be initiated or has a

car sharing start time which occurs on or off of airport property or airport facilities.

(c) The agreement required in subsection (a) of this section shall set forth reasonable standards, regulations, procedures, and fees applicable to a peer-to-peer car sharing program that govern the activity of peer-to-peer car sharing on airport property or airport facilities.

**§17A-6F-15. Controlling authority; taxation and other requirements of a peer-to-peer car sharing program.**

(a) Licensure, registration and qualification. A municipality, county or other local governmental entity, or special district may not require a peer-to-peer car sharing program to obtain a business license or any other similar authorization to operate within the jurisdiction, or subject a peer-to-peer car sharing program or a shared vehicle owner to any licensure requirement, fee, entry requirement, registration requirement, operating or operational requirement, or any other requirement.

(b) Duty to collect tax. A peer-to-peer car sharing program operating in this state pursuant to the provisions of this article shall collect and remit all state and municipal consumer sales and service and use taxes on all taxable sales of services to purchasers in this state. For the purposes of collection of tax required under §11-15A-6 and §11-15A-6b of this code, a “peer-to-peer car sharing program” is a remote seller, marketplace facilitator, or referrer that meets the requirements of §11-15A-1(b) of this code.

(c) A peer-to-peer car sharing program operating in this state pursuant to the provisions of this article is not subject to the collection and remittance requirements of the daily rental car passenger tax in §17A-6D-2 of this code.

(d) A peer-to-peer car sharing program operating in this state pursuant to the provisions of this article may collect the vehicle license cost recovery fee authorized by §17A-6D-16 of this code in the same manner as a daily passenger car rental business.

(e) Limitations and interpretation.

(1) No provision of this section or this article may be interpreted to void, abrogate, restrict, or affect imposition of the ad valorem property tax on tangible personal property of a peer-to-peer car sharing program or of a shared vehicle owner by any levying body.

(2) No provision of this section or this article may be interpreted to void, abrogate, restrict, or affect imposition of the state personal income tax or state corporation net income tax on a peer-to-peer car sharing program or a shared vehicle owner.

(3) No provision of this section or this article may be interpreted to void, abrogate, restrict, or affect imposition of the motor fuel excise tax on any taxable motor fuel or alternative fuel purchased by any peer-to-peer car sharing program, shared vehicle owner, or shared vehicle driver.

(4) No provision of this section or this article may be interpreted to void, abrogate, restrict, or affect the requirements of chapter 11 of this code for issuance of a business registration certificate for a peer-to-peer car sharing program.

(5) No provision of this section or this article may be interpreted to void, abrogate, restrict, or affect any requirement of state law with relation to licensure of drivers of motor vehicles.

(6) Shared vehicle owners may not assert the exemption from the consumer sales and service tax and use tax, for purchases of tangible personal property and services directly used in the provision of services in §11-15-9 of this code.

On motions of Senators Clements and Jeffries, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4474) was reported by the Clerk:

On pages three through five, by striking out all of section three and inserting in lieu thereof a new section, designated section three, to read as follows:

**§17A-6F-3. Insurance coverage during car sharing period.**

(a) A peer-to-peer car sharing program shall assume liability, except as provided in subsection (b) of this section, of a shared vehicle owner for bodily injury or property damage to third parties and uninsured and underinsured motorist and personal injury protection losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement which amounts may not be less than \$750,000.

(b) Notwithstanding the definition of “car sharing termination time” as defined in this article, the assumption of liability under subsection (a) of this section does not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the loss occurred, or

(2) Acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(c) Notwithstanding the definition of “car sharing termination time” as defined in this article, the assumption of liability under subsection (a) of this section would apply to bodily injury, property damage, uninsured and underinsured motorist, or personal injury protection losses by damaged third parties in the same manner required by §17D-4-2 and §33-6-31 of this code.

(d) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage which amounts may not be less than the amounts set forth in subsection (a), and:

(1) Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or



(2) Does not exclude use of a shared vehicle by a shared vehicle driver.

(e) The insurance described under subsection (d) of this section may be satisfied by motor vehicle liability insurance maintained by:

(1) A shared vehicle owner;

(2) A shared vehicle driver;

(3) A peer-to-peer car sharing program; or

(4) A combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car sharing program.

(f) The insurance described in subsection (d) of this section shall be the primary insurance during each car sharing period.

(g) The peer-to-peer car sharing program shall assume primary liability for a claim when it is, in whole or in part, providing the insurance required under subsections (d) and (e) of this section and:

(1) A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and

(2) The peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by this article.

(3) A peer-to-peer car sharing program may seek indemnity from a shared vehicle owner if the shared vehicle owner is determined to have been the operator of the shared vehicle at the time of the loss.

(h) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) of this section has lapsed or does not provide the required coverage, insurance maintained by a peer-to-peer car sharing program shall provide the coverage required by subsection (d) of this section beginning with the first dollar of a claim and have the duty to defend such claim except under circumstances as set forth in this section.

(i) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program shall not be dependent on another automobile insurer first denying a claim nor shall another automobile insurance policy be required to first deny a claim.

(j) Nothing in this article may be interpreted as either limiting or restricting:

(1) The liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program; or

(2) The ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

(k) If a dispute arises as to whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has occurred, the peer-to-peer car sharing program shall extend primary coverage for the loss. If during the investigation of the claim it becomes apparent that one of the parties to the car sharing program agreement was negligent, engaged in misrepresentation, or is otherwise responsible for the loss, the car sharing program may seek recovery from one or both parties directly through subrogation.

Following discussion,

The question being on the adoption of the amendment offered by Senators Clements and Jeffries to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4474), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4474 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Beach and Tarr—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4474) passed.

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

**Eng. Com. Sub. for House Bill 4474**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-6F-1, §17A-6F-2, §17A-6F-3, §17A-6F-4, §17A-6F-5, §17A-6F-6, §17A-6F-7, §17A-6F-8, §17A-6F-9, §17A-6F-10, §17A-6F-11, §17A-6F-12, §17A-6F-13, §17A-6F-14, and §17A-6F-15, all relating to peer-to-peer car sharing programs; defining the scope of this article; defining terms; imposing insurance requirements; requiring notification of implications of a lien on the shared vehicle; providing for certain exclusions from motor vehicle insurance policies; requiring peer-to-peer car sharing programs to maintain certain records; exempting the peer-to-peer car sharing program and the shared vehicle owner from vicarious liability; authorizing a motor vehicle

insurer of the shared vehicle to seek contribution against the motor vehicle insurer of the peer-to-peer car sharing program in certain circumstances; requiring peer-to-peer car sharing programs to obtain an insurable interest in a shared vehicle during the car sharing period; requiring driver's license verification and data retention; requiring the peer-to-peer car sharing program to have responsibility for the equipment put in or on the vehicle to facilitate the car sharing transaction; establishing registration, notification, and benchmarks for safety for automobiles used in peer-to-peer car sharing programs; establishing the authority to regulate peer-to-peer car sharing programs at airports; and providing for the collection of taxes.

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

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

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for Senate Bill 529**, Establishing limitations on claims and benefits against state.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Capito, Steele, and Robinson.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Weld, Clements, and Woelfel.

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

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendment to the Senate amendments to, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for House Bill 4083**, Requiring the West Virginia Parkways Authority to accept the use of credit and debit cards for paying tolls.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Jeffries, D. Hanna, and Staggers.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Swope, Roberts, and Jeffries.

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

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 4497**, Requiring an external defibrillator device at any secondary school athlete event.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Rucker, unanimous consent was granted to offer an amendment to the bill on third reading.

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

On page one, by striking out the section caption and inserting in lieu thereof a new section caption, to read as follows:

**§18-2-25c. Defibrillator required at certain events.**

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4497), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4497 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4497) passed.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub. for House Bill 4497**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25c, relating to requiring the West

Virginia Secondary School Activities Commission to require that an automated external defibrillator device, as well as a posted emergency action plan, be present on the school or event grounds during the duration of all athletic events and practices under the control, supervision and regulation of the commission, and that appropriate school sports personnel be trained in the use of the device; requiring that rules be proposed for promulgation by the state board of education; providing that no individual or entity be held liable for civil damages when the individual or entity in good faith attempted to comply with certain requirements; and naming the law The Alex Miller Law.

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

**Eng. House Bill 4523**, Removing the limitation of number of apprentice hunting and trapping licenses a person may purchase.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4523) passed with its title.

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

**Eng. Com. Sub. for House Bill 4535**, Relating to student aide class titles.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

**Eng. House Bill 4585**, Providing immunity from civil or criminal liability for making good faith reports of suspected or known instances of child abuse or neglect.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4585) passed with its title.

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

**Eng. Com. Sub. for House Bill 4587**, Modernizing the Public Service Commission's regulation of solid waste motor carriers and solid waste facilities.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.



The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4587) passed.

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

**Eng. Com. Sub. for House Bill 4587**—A Bill to amend and reenact §24A-2-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §24A-2-5 of said code; to amend said code by adding thereto two new sections, designated §24A-5-2a and §24A-5-2b; all relating to the regulation of the collection, hauling, and disposal of solid waste by motor carriers; authorizing indexed automatic rate increases for solid waste collection and hauling; setting procedures for the approval of rates; authorizing the Public Service Commission to approve alternative pick-up due to adverse conditions; and authorizing the Public Service Commission to promulgate rules.

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

**Eng. House Bill 4606**, Listing contractor classifications on a contractor license.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 4606 pass?”

On this question, the yeas were: Azinger, Blair, Boley, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Trump, and Carmichael (Mr. President)—  
15.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Stollings, Tarr, Unger, Weld, and Woelfel—19.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. H. B. 4606) rejected.

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

**Eng. House Bill 4607**, Authorizing the operation of mobile shops for hair, nail, cosmetology, and aesthetics services.

On third reading, coming up in regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Friday, March 6, 2020, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to the bill was withdrawn.

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

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

**ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.**

**§30-27-3. Definitions.**

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(a) “Aesthetics” or “esthetics” means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

(1) Administering cosmetic treatments to enhance or improve the appearance of the skin, including cleansing, toning, performing effleurage or other related movements, stimulating, exfoliating, or performing any other similar procedure on the skin of the human body or scalp;

(2) Applying, by hand or with a mechanical or electrical apparatus, any cosmetics, makeups, oils, powders, clays, antiseptics, tonics, lotions, creams, or chemical preparations necessary for the practice of aesthetics to another person’s face, neck, back, shoulders, hands, elbows and feet up to and including the knee;

(3) The rubbing, cleansing, exercising, beautifying, or grooming of another person’s face, neck, back, shoulders, hands, elbows, and feet, up to and including the knee;

(4) The waxing and tweezing of hair on another person’s body;

(5) The wrapping of another person’s body in a body wrap;

(6) Applying artificial eyelashes and eyebrows; and

(7) The lightening of hair on the body except the scalp.

(b) “Aesthetician” or “esthetician” means a person licensed under the provisions of this article who engages in the practice of aesthetics and has completed 600 clock hours of training.

(c) “Applicant” means a person making application for a professional license, license, certificate, registration, permit, or renewal under the provisions of this article.

(d) “Barber” means a person licensed under the provisions of this article who engages in the practice of barbering and has completed a 1,200 clock-hour barber training program without chemical services, or a 1,500 clock-hour barber training program

with chemical services, or has successfully completed the barber apprenticeship program.

(e) “Barbering” means any one or any combination of the following acts when done on the head and neck for compensation and not for the treatment of disease:

(1) Shaving, shaping, and trimming the beard, or both;

(2) Cutting, singeing, ~~shampooing~~, arranging, dressing, tinting, bleaching, or applying lotions or tonics on human hair, or a wig or hairpiece; and

(3) Applications, treatments, or rubs of the scalp, face, or neck with oils, creams, lotions, cosmetics, antiseptics, powders, or other preparations in connection with the shaving, cutting, or trimming of the hair or beard.

(f) “Barber crossover” is a person who has completed 1,200 or 1,500 clock hours of training, is licensed as a barber, and completed additional hours of training in nails, aesthetics, and/or chemical services, to the total amount of 2,100 hours, to perform cosmetology.

(g) “Barber permanent waving” means the following acts performed on the head and neck for compensation and not for the treatment of disease:

(1) The bleaching or tinting of hair; and

(2) The permanent waving of hair.

(h) “Barber permanent wavist” means a person who has completed 2,000 clock hours of training and was licensed to perform barbering and barber permanent waving enrolled by August 28, 2012.

(i) “Board” means the West Virginia Board of Barbers and Cosmetologists.

(j) “Certificate” means an instructor certificate to teach in a school under the provisions of this article or a document issued by

the board for certification obtained pursuant to §30-27-8b of this code.

(k) “Certificate holder” means a person certified as an instructor to teach in a school under the provisions of this article, or who has obtained a certification pursuant to §30-27-8b of this code.

(l) “Cosmetologist” means a person licensed under the provisions of this article who engages in the practice of cosmetology and who has completed 1,800 clock hours of training.

(m) “Cosmetology” means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

(1) Cutting, styling, shaping, arranging, braiding, weaving, dressing, adding extensions, curling, waving, permanent waving, relaxing, straightening, ~~shampooing~~, cleansing, singeing, bleaching, tinting, coloring, waxing, tweezing, or similarly, work on human hair, or a wig or hairpiece, by any means, including hands, mechanical, or electrical devices or appliances;

(2) Nail care;

(3) Applying by hand or with a mechanical or electrical device or appliance, any cosmetics, makeups, oils, powders, clays, antiseptics, tonics, lotions, creams or chemical preparations necessary for the practice of aesthetics to another person’s face, neck, shoulders, hands, elbows, and feet, up to and including the knee;

(4) The rubbing, cleansing, exercising, beautifying, or grooming of another person’s face, neck, shoulders, hands, elbows, and feet, up to and including the knee;

(5) The wrapping of another person’s body in a body wrap; and

(6) Performing aesthetics.

(n) “Cosmetology crossover” is a person who has completed 1,800 clock hours of training, is licensed as a cosmetologist, and completes an additional 300 hours of training in clipper cuts and face shaving to perform barbering, for a total of 2,100 hours.

(o) “General supervision” means:

(1) For schools, a master or certified instructor is on the premises and is quickly and easily available; or

(2) For salons, a professional licensee is on the premises and is quickly and easily available.

(p) “Hair styling” means any one or any combination of the following acts when done on the head and neck for compensation and not for the treatment of disease:

Cutting, styling, shaping, arranging, braiding, weaving, dressing, adding extensions, curling, facial hair trimming, scalp treatments, waving, permanent waving, relaxing, straightening, ~~shampooing~~, singeing, bleaching, tinting, coloring, or similar, work on human hair, or a wig or hairpiece, by any means, including hands, mechanical or electrical devices, or appliances.

(q) “Hair stylist” means a person licensed under the provisions of this article who engages in the practice of hair styling and who has completed 1,000 clock hours of training, effective July 1, 2016.

(r) “License” means a professional license, a salon license, or a school license.

(s) “Licensed school” means a facility which has been approved by the West Virginia Council for Community and Technical College Education (CCTCE), Department of Education in conjunction with CCTCE, or Department of Education in conjunction with the Department of Corrections pursuant to §18B-2B-9 of this code to educate persons to be licensed or issued certain permits under the provisions of this article.

(t) “Licensee” means a person, corporation, or firm holding a license issued under the provisions of this article.

(u) “Mobile shop” means any self-contained, self-supporting, enclosed unit which is constructed in either a motorized vehicle or a towable trailer as a portable facility for providing any of the professional services set forth in this article to the public.

~~(u)~~ (v) “Nail care” means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

- (1) The cleansing, dressing, or polishing of nails of a person;
- (2) Performing artificial nail service; and
- (3) The cosmetic treatment of the feet up to the knee and the hands up to the elbow.

~~(v)~~ (w) “Nail technician” or “manicurist” means a person licensed under the provisions of this article who engages in the practice of nail care and has completed 400 clock hours of training.

~~(w)~~ (x) “Permit” means a work permit.

~~(x)~~ (y) “Permittee” means a person holding a work permit.

~~(y)~~ (z) “Professional license” means a license to practice as an aesthetician, barber, barber crossover, barber permanent wavist, cosmetologist, cosmetologist crossover, hairstylist, or nail technician.

~~(z)~~ (aa) “Registration” means a registration issued by the board to a person who rents or leases a booth or chair from a licensed salon owner and operator, or both, or a registration issued by the board to a person who is a student in a school.

~~(aa)~~ (bb) “Registrant” means a person who holds a registration under the provisions of this article.

~~(bb)~~ (cc) “Salon” means a shop or other facility where a person practices under a professional license.

~~(cc)~~ (dd) “Salon license” means a license to own and operate a salon.

~~(dd)~~ (ee) “Student registration” means a registration issued by the board to a student to study at a school licensed under the provisions of this article.

(ee) (ff) “Waxing specialist” means a person certified under the provisions of this article who engages in the practice of waxing and tweezing of hair on another person’s body.

~~(ff) (gg) “Shampoo assistant” means a person certified under the provisions of this article who engages in the practice of shampooing and rinsing hair; removing rollers or permanent rods and cleansing or other sink-related functions not requiring the skill of a license. They must work at all times under the direct supervision of a licensed barber, hairstylist or cosmetologist.~~

~~(gg) (hh) (gg) Hair braiding, threading, and any other item not spelled out are not regulated by the West Virginia Board of Barbers and Cosmetologists.~~

### **§30-27-17a. Mobile shops.**

(a) Every mobile shop in this state offering services set forth in this article shall be operated under the supervision and management of a professional licensee or certificate holder licensed under this article.

(b) Prior to opening a mobile shop, any person, firm, or corporation owning and/or operating the mobile shop shall meet the following requirements to acquire a mobile shop license to do business:

(1) Provide to the board a physical description and photographs of the exterior of the mobile shop and, if applicable, its vehicle registration number to facilitate ready identification of the mobile shop;

(2) Meet all board requirements and qualifications for a place of business, not incompatible with a mobile facility, as are required by this article;



(3) Notify the board, in writing, at least 20 days before the proposed opening date, so there can be an inspection of the mobile shop: *Provided*, That if an inspection is not made within 10 days of the opening of the mobile shop, or a mobile shop license to open has not been granted or refused, then the mobile shop may open provisionally subject to a later inspection and to all other provisions and rules provided in this article; and

(4) Pay all applicable fees.

(c) Every mobile shop shall be equipped with an electronic device, approved by the board, capable of transmitting its location, as well as an identifying label or call sign, to the board at all times. This device shall be in operation at all times that the mobile shop is open and at additional times specified by the board.

(d) If the mobile shop visits identified locations on a regular schedule, the managing licensee shall provide a copy of the schedule to the board and shall notify the board in writing of any changes to the regular schedule within five days of changing the schedule.

(e) Each mobile unit shall, at a minimum, be equipped with each of the following functioning systems:

(1) A self-contained, potable water supply of not less than 100 gallons, and waste water collection tanks shall be of adequate capacity;

(2) Continuous, on-demand hot water tanks which shall have not less than a six-gallon capacity; and

(3) A cooling and heating system sufficient to maintain a comfortable room temperature in the mobile shop during all hours of operation.

(f) All mobile shop licenses must be renewed annually on or before July 1 and pay a renewal fee.

(g) The mobile shop license shall be permanently displayed in the mobile shop, and a suitable sign shall be displayed at the

entrance of the mobile shop which shall plainly indicate the business conducted therein.

There being no further amendments offered,

Having been engrossed, the bill (Eng. H. B. 4607), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Clements, Cline, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Hamilton, Hardesty, Mann, Tarr, and Weld—5.

Absent: Blair and Facemire—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4607) passed.

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

**Eng. House Bill 4607**—A Bill to amend and reenact §30-27-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact said code by adding thereto a new section, designated §30-27-17a, all relating to authorizing the operation of mobile shops for hair, nail, cosmetology, and aesthetics services; defining “mobile shop”; establishing prerequisites for operation of a mobile shop; removing antiquated language; specifying mandatory features and systems; setting the term of licenses; and requiring shop identification and display of license.

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

**Eng. Com. Sub. for House Bill 4615**, West Virginia Critical Infrastructure Protection Act.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 6, 2020, for further amendments to be received on third reading, was reported by the Clerk.

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

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

**ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.**

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

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

(b) For purposes of this section:

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

“Critical infrastructure facility” means one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property that are reasonably

likely to come to the attention of intruders and indicate that entry is forbidden without site authorization:

(1) A petroleum or alumina refinery;

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

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

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

(5) A natural gas compressor station;

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

(7) A 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

pipng 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, or other physical barrier, or is clearly marked with signs prohibiting trespassing that are obviously designed to exclude intruders; or

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

(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 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) Any person who willfully damages, destroys, vandalizes, defaces, or tampers with equipment in a critical infrastructure facility is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000, or imprisoned in a state correctional facility for a term of not less than one year nor more than five years, or both fined and imprisoned.

(3) Any person or organization who conspires with any person or organization to commit the offense of trespass against a critical infrastructure facility in violation of subdivision (1) of subsection (c) of this section and the trespass actually occurs is guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than \$2,500 nor more than \$10,000. Any person or organization who conspires with any person or organization to willfully damage, destroy, vandalize, deface, or tamper with equipment in a critical infrastructure facility and the damage, destruction, vandalism, defacing or tampering actually occurs is guilty of a felony and, shall, upon conviction thereof, be fined not less than \$5,000 nor more than \$20,000.

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

(1) Any person or organization:

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

(B) 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;

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

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

(3) 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.

On motion of Senator Lindsay, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4615) were reported by the Clerk and considered simultaneously:

On page three, section thirty-four, subsection (c), subdivision (2), after the words "equipment in a critical infrastructure facility" by inserting the words "causing damage in excess of \$2,500";

And,

On page three, section thirty-four, subsection (c), subdivision (3), by striking out the words "defacing or tampering actually occurs" and inserting in lieu thereof the following words "defacing or tampering causes damage in excess of \$2,500".

Following discussion,

The question being on the adoption of Senator Lindsay's amendments to the Judiciary committee amendment to the bill, the same was put and prevailed.

On motion of Senator Weld, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4615) were next reported by the Clerk and considered simultaneously:

On page three, section thirty-four, subsection (c), subdivision (3), by striking out the words “Any person or organization who conspires with any person or organization to commit the offense of trespass” and inserting in lieu thereof the words “Any person who conspires with any person to commit the offense of trespass”;

And,

On page three, section thirty-four, subsection (c), subdivision (3), by striking out the words “or organization who conspires with any person or organization to willfully damage” and inserting in lieu thereof the words “who conspires with any person to willfully damage”.

Following discussion,

The question being on the adoption of Senator Weld’s amendments to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4615), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Hardesty, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—21.

The nays were: Baldwin, Beach, Facemire, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, and Unger—13.



Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4615) passed.

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

**Eng. Com. Sub. for House Bill 4615**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-10-34, relating to establishing the West Virginia Critical Infrastructure Protection Act; defining terms; creating criminal offenses of trespass upon property containing a critical infrastructure facility, trespassing upon property containing a critical infrastructure facility with intent to interrupt the lawful operations of the facility, and for trespass with the intent to willfully cause damage to a critical infrastructure facility; defining elements of offenses; establishing criminal offense of conspiracy to commit various trespass; establishing criminal penalties; creating exceptions and defenses; providing for civil liability; and providing nothing in this section will be construed to prevent lawful assembly and petition for redress of grievances.

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

**Eng. Com. Sub. for House Bill 4645**, Establishing the Office of Regulatory and Fiscal Affairs under the Joint Committee on Government and Finance.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4645) passed.

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

**Eng. Com. Sub. for House Bill 4645**—A Bill to amend and reenact §4-2-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §4-2-6a; and to amend and reenact §4-3-3c of said code, all relating to the establishment of the Division of Regulatory and Fiscal Affairs under the Joint Committee on Government and Finance; clarifying the duties of the Legislative Auditor; creating the Division of Regulatory and Fiscal Affairs as an advisory body to the Legislature; establishing processes for the formulation of fiscal notes and economic impact analyses; requiring state agencies to provide information to the Division of Regulatory and Fiscal Affairs upon request; authorizing certain members of the Legislature to request an economic impact analysis of the rules of the state; permitting the Chairs of the Joint Committee on Government and Finance to request certain performance reviews and analysis of existing or proposed statutes; and clarifying the organization of joint legislative agencies.

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

On motion of Senator Takubo, at 2:47 p.m., the Senate recessed until 3:15 p.m. today.

The Senate reconvened at 3:35 p.m. and, without objection, returned to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had agreed to the appointment of a

committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. House Bill 4524**, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Westfall, Capito, and Hartman.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 4648**, The Parenting Fairness Act of 2020.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 6, 2020, for further amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Trump, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page two, section one hundred two, subsection (a), subdivision (8), by inserting a new subsection, designated subsection (b), to read as follows:

“(b) A secondary objective of this article is to achieve fairness between the parties.”;

And,

By relettering the remaining subsection.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4648), as amended on yesterday, Friday, March 6, 2020, and as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Hamilton, Jeffries, Mann, Maroney, Maynard, Pitsenbarger, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—21.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4648) passed.

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

**Eng. Com. Sub. for House Bill 4648**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §48-1-239a and §48-1-239b; and to amend and reenact §48-9-102, all relating to defining “shared legal custody” and “shared physical custody”; and creating a rebuttable presumption that shared physical custody is in a child’s best interest.

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

At the request of Senator Azinger, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate proceeded to the fifth order of business.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 3:44 p.m. today:

**Eng. House Bill 4524**, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. House Bill 4665**, Reducing the amount of rebate going to the Purchasing Improvement Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4665) passed with its title.

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

**Eng. House Bill 4697**, Removing the restriction that a mini-distillery use raw agricultural products originating on the same premises.

On third reading, coming up in regular order, with the Judiciary committee amendment pending, and with the right having been granted on yesterday, Friday, March 6, 2020, for further amendments to be received on third reading, was reported by the Clerk.

The question being on the adoption of the Judiciary committee amendment to the bill (*shown in the Senate Journal of yesterday, Friday, March 6, 2020, pages 2758 to 2763, inclusive*).

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 4697) was reported by the Clerk and adopted:

On page one, section five-b, after the word “article” by striking out the colon and the words “*Provided, however, That a distillery licensed and operating as of the effective date of this section that applies for designation by the Commissioner as a mini-distillery is eligible to be licensed as a mini-distillery without compliance with the requirements for the percentage use of on-premises grown and in-state raw agricultural products*”.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Having been engrossed, the bill (Eng. H. B. 4697), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Hamilton, Hardesty, Pitsenbarger, Plymale, and Roberts—5.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4697) passed.

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

**Eng. House Bill 4697**—A Bill to amend and reenact §60-1-5b of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §60-1-5d; to amend and reenact §60-4-3, §60-4-3a, and §60-4-15 of said code; and to amend and reenact §60-6-1 and §60-6-2 of said code, all relating to distilleries generally and micro-distilleries particularly; defining micro-distillery; establishing a production limit for a micro-distillery; establishing limits on sales of alcoholic liquors manufactured by a micro-distillery; establishing a license fee for micro-distilleries; subjecting micro-distilleries to the same requirements and restrictions applicable to distilleries and mini-distilleries; and correcting an incorrect gallonage limit for mini-distilleries.

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

**Eng. House Bill 4737**, Clarifying student eligibility for state-sponsored financial aid.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4737) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4737) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 4747**, Extending electronic submission of various applications and forms for nonprofit and charitable organizations, professionals and licensees.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Mann, Smith, Tarr, and Weld—4.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4747) passed with its title.

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



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

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 291**, Requiring PEIA and health insurance providers provide mental health parity.

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

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

On page eleven, section seven, after line two hundred sixty-seven, by inserting a new subdivision, designated subdivision (6), to read as follows:

(6) After the initial report required by this subsection, annual reports are only required for any year thereafter during which the Public Employees Insurance Agency makes significant changes to how it designs and applies medical management protocols.;

On page seventeen, section four-u, line one hundred twenty-one, after “2021.” by inserting the following: The rules shall require that each carrier first submit the report to the Insurance Commissioner no earlier than one year after the rules are promulgated, and any year thereafter during which the carrier makes significant changes to how it designs and applies medical management protocols.;

On page twenty-two, section three-a, line one hundred twenty, after “2021.” by inserting the following: The rules shall require that each carrier first submit the report to the Insurance Commissioner no earlier than one year after the rules are promulgated, and any year thereafter during which the carrier makes significant changes to how it designs and applies medical management protocols.;

On page twenty-nine, section seven-u, line one hundred eighteen, after “2021.” by inserting the following: The rules shall require that each carrier first submit the report to the Insurance Commissioner no earlier than one year after the rules are promulgated, and any year thereafter during which the carrier makes significant changes to how it designs and applies medical management protocols.;

On page thirty-six, section eight-r, line one hundred twenty, after “2021.” by inserting the following: The rules shall require that each carrier first submit the report to the Insurance Commissioner no earlier than one year after the rules are promulgated, and any year thereafter during which the carrier makes significant changes to how it designs and applies medical management protocols.;

On page forty-one, section eight-u, line one hundred twenty, after “2021.” by inserting the following: The rules shall require that each carrier first submit the report to the Insurance Commissioner no earlier than one year after the rules are promulgated, and any year thereafter during which the carrier makes significant changes to how it designs and applies medical management protocols.;

And,

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 291**—A Bill to repeal §33-15-4a of the Code of West Virginia, 1931, as amended; to repeal §33-16-3a of said code; to amend and reenact §5-16-7 of said code; to amend said code by adding thereto a new section, designated §33-15-4u; to amend said code by adding thereto a new section, designated §33-16-3ff; to amend and reenact §33-24-4 of said code; to amend said code by adding thereto a new section, designated §33-24-7u; to amend and reenact §33-25-6 of said code; to amend said code by adding thereto a new section, designated §33-25-8r; and to amend said code by adding thereto a new section, designated §33-25A-8u, all relating to requiring the Public Employees Insurance Agency and other health insurance providers to provide mental health parity between behavioral

health, mental health, substance use disorders, and medical and surgical procedures; providing definitions; providing for mandatory reporting; providing for rulemaking; and setting forth an effective date.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 291, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 291) passed with its House of Delegates amended title.

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

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 4748**, Relating to the increase of fees that private nongovernment notary publics may charge for notarial acts.

On third reading, coming up in regular order, with the right having been granted on yesterday, Friday, March 6, 2020, for

amendments to be received on third reading, was reported by the Clerk.

There being no amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4748) was then read a third time and put upon its passage.

Senators Mann, Unger, Blair, and Maynard, respectively, requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Mann, Unger, Blair, and Maynard, respectively, would be as members of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Mann, Tarr, and Weld—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4748) passed with its title.

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

**Eng. House Bill 4749**, Providing more efficient application processes for private investigators, security guards, and firms.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton,

Hardesty, Lindsay, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Sypolt, Takubo, Trump, Woelfel, and Carmichael (Mr. President)—26.

The nays were: Ihlenfeld, Mann, Tarr, Unger, and Weld—5.

Absent: Jeffries, Roberts, and Swope—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4749) passed.

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

**Eng. House Bill 4749**—A Bill to amend and reenact §30-18-2, §30-18-3, §30-18-5, §30-18-6, §30-18-9, and §30-18-10 of the Code of West Virginia, 1931, as amended, all relating to providing more efficient application processes for private investigators, security guards, and firms; reducing experience necessary for licensure as private investigator; allowing military service to be included as experience that may be used for licensure; removing conviction for crime involving moral turpitude or dishonesty as disqualification for licensure as private investigator; removing unnecessary requirements for each private investigator and security guard applicant to submit fingerprints and photographs of each applicant to the Secretary of State; permitting private investigators, security guards, and private investigator or security guard firms to obtain liability insurance in lieu of a surety bond; increasing the amount of a surety bond; removing conviction for crime involving moral turpitude or dishonesty as disqualification for licensure as security guard; increasing the licensure renewal term of a private investigator, security guard, and private investigator or security guard firms from one to two years; eliminating disparate application fee for foreign individuals and businesses for private investigator, private investigator firm, security guard, and security guard business licensure; and limiting amount of renewal fee.

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

**Eng. House Bill 4777**, Relating to the right of disposition of remains.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senator Mann requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is a funeral director.

The Chair replied that any impact on Senator Mann would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Tarr—1.

Absent: Jeffries, Roberts, and Swope—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4777) passed with its title.

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

**Eng. Com. Sub. for House Bill 4803**, Relating to certification of electrical inspectors.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Maynard, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Maynard, the following amendment to the bill was reported by the Clerk:

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

**ARTICLE 3C. CERTIFICATION OF ELECTRICAL INSPECTORS.**

**§29-3C-5. Denial of license; suspension and revocation of license.**

The State Fire Marshal shall deny certification to any applicant, except those exempt under §29-3C-3 of this code, who:

(1) Fails to establish that he or she holds any other required qualifications for certification established pursuant to rules promulgated pursuant to section four of this article; or

(2) Is not a licensed ~~master~~ journeyman or master electrician in accordance with rules promulgated pursuant to section four of this article.

Following discussion,

The question being on the adoption of Senator Maynard's amendment to the bill, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4803), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Cline, Facemire, Hardesty, Ihlenfeld, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Sypolt, Takubo, Tarr, Trump, Unger, and Carmichael (Mr. President)—26.

The nays were: Hamilton and Pitsenbarger—2.

Absent: Clements, Jeffries, Roberts, Swope, Weld, and Woelfel—6.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4803) passed.

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

**Eng. Com. Sub. for House Bill 4803**—A Bill to amend and reenact §29-3C-5 of the Code of West Virginia, 1931, as amended, relating to certification of electrical inspectors.

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

**Eng. Com. Sub. for House Bill 4823**, Developing a plan for periodic audits of the expenditure of the fees from the emergency 911 telephone system and wireless enhanced 911.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Sypolt, Takubo, Tarr, Trump, Unger, and Carmichael (Mr. President)—28.

The nays were: None.

Absent: Clements, Jeffries, Roberts, Swope, Weld, and Woelfel—6.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4823) passed with its title.

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



**Eng. House Bill 4960**, Relating to exempting from licensure as an electrician.

Having been removed from the Senate third reading calendar in earlier proceedings today, no further action thereon was taken.

The end of today's third reading calendar having been reached, the Senate returned to the consideration of

**Eng. Com. Sub. for House Bill 2419**, Relating to the authorization to release a defendant or a person arrested upon his or her own recognizance.

On third reading, coming up in deferred order, with the unreported Judiciary committee amendment pending, and with the right having been granted on Thursday, March 5, 2020, for further amendments to be received on third reading, was again reported by the Clerk.

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

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

#### **ARTICLE 1C. BAIL.**

##### **§62-1C-1a. Release upon own recognizance authorized Pretrial release; types of release; conditions for release; considerations as to conditions of release.**

~~(a) Any other provision of this article to the contrary notwithstanding, when from all the circumstances, the court or magistrate is of the opinion that the defendant or person arrested will appear as may be required of him either before or after conviction, such defendant or person arrested may be released upon his own recognizance.~~

(a) Subject to the provisions of §62-1C-1 of this code, when a person charged with a violation or violations of the criminal laws of this state first appears before a judicial officer:

(1) Except for good cause shown, a judicial officer shall release a person charged with a misdemeanor offense on his or her own recognizance unless that person is charged with:

(A) A misdemeanor offense of actual violence or threat of violence against a person;

(B) A misdemeanor offense where the victim was a minor, as defined in §61-8C-1 of this code;

(C) A misdemeanor offense involving the use of a deadly weapon, as defined in §61-7-2 of this code;

(D) A misdemeanor offense of the Uniform Controlled Substances Act as set forth in chapter 60A of this code;

(E) Misdemeanor offenses of sexual abuse;

(F) A serious misdemeanor traffic offense set forth in §17C-5-1 or §17C-5-2 of this code; or

(G) A misdemeanor offense involving auto tampering, petit larceny or possession, transfer or receiving of stolen property when alleged value on the property involved exceeds \$250.

(2) For the misdemeanor offenses specified in subsection (a) of this section and all other offenses which carry a penalty of incarceration, the arrested person is entitled to be admitted to bail subject to the least restrictive condition or combination of conditions that the judicial officer determines reasonably necessary to assure that person will appear as required, and which will not jeopardize the safety of the arrested person, victims, witnesses, or other persons in the community or the safety and maintenance of evidence. Further conditions may include that the person charged shall:

(A) Not violate any criminal law of this state, another state, or the United States;

(B) Remain in the custody of a person designated by the judicial officer, who agrees to assume supervision and to report any

violation of a release condition to the court, if the designated person is reasonably able to assure the judicial officer that the person will appear as required and will not pose a danger to himself or herself or to the safety of any other person or the community;

(C) Participate in home incarceration pursuant to §62-11B-1 et seq. of this code;

(D) Participate in an electronic monitoring program if one is available where the person is charged or will reside.

(E) Maintain employment, or, if unemployed, actively seek employment;

(F) Avoid all contact with an alleged victim of the alleged offense and with potential witnesses and other persons as directed by the court;

(G) Refrain from the use or excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in §60A-1-1 et seq. of this code without a prescription from a licensed medical practitioner;

(H) Execute an agreement to forfeit, upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required. The person charged shall provide the court with proof of ownership, the value of the property, and information regarding existing encumbrances of the property as, in the discretion of the judicial officer, is reasonable and necessary collateral to ensure the subsequent appearance of the person as required;

(I) Post a cash bond, or execute a bail bond with solvent sureties who will execute an agreement to forfeit an amount reasonably necessary to assure appearance of the person as required. If other than an approved surety, the surety shall provide the court with information regarding the value of its assets and liabilities and the nature and extent of encumbrances against the surety's property. The surety shall have a net worth of sufficiently unencumbered value to pay the amount of the bail bond; or

(J) Satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of the arrested person, victims, witnesses, other persons in the community, or the safety and maintenance of evidence.

(3) Proper considerations in determining whether to release the arrested person on an unsecured bond, fixing a reasonable amount of bail, or imposing other reasonable conditions of release are:

(A) The ability of the arrested person to give bail;

(B) The nature, number, and gravity of the offenses;

(C) The potential penalty the arrested person faces;

(D) Whether the alleged acts were violent in nature;

(E) The arrested person's prior record of criminal convictions and delinquency adjudications, if any;

(F) The character, health, residence, and reputation of the arrested person;

(G) The character and strength of the evidence which has been presented to the judicial officer;

(H) Whether the arrested person is currently on probation, extended supervision, or parole;

(I) Whether the arrested person is already on bail or subject to other release conditions in other pending cases;

(J) Whether the arrested person has been bound over for trial after a preliminary examination;

(K) Whether the arrested person has in the past forfeited bail or violated a condition of release or was ever a fugitive from justice; and

(L) The policy against unnecessary incarceration of arrested persons pending trial set forth in this section.

(b) In all misdemeanors, cash bail may not exceed three times the maximum fine provided for the offense. If the person is charged with more than one misdemeanor, cash bail may not exceed three times the highest maximum fine of the charged offenses.

(c) Notwithstanding any provisions of this article to the contrary, whenever a person not subject to the provisions of §62-1C-1 of this code remains incarcerated after his or her initial appearance, due to the inability to meet the requirements of a secured bond, the magistrate or judge who set the secured bond shall hold a hearing within 72 hours of setting the initial bail to determine if there is a condition or combination of conditions which can meet the considerations set forth in subdivision (2), subsection (a) of this section.

(d) A judicial officer may upon notice and hearing modify the conditions of release at any time by imposing additional or different conditions.

(e) A prosecuting attorney and defense counsel, unless expressly waived by the defendant, shall appear at all hearings in which bail or bond conditions are at issue.

(f) No judicial officer may recommend the services of a surety who is his or her relative as that term is defined in §6B-1-3 of this code.

On motions of Senators Weld and Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2419) was reported by the Clerk and adopted:

On page four, section one-a, subsection (e), by striking out the period and adding the following “other than the proceeding at which the conditions of release are initially set.”

On motion of Senator Plymale, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2419) were next reported by the Clerk and considered simultaneously:

On page four, section one-a, by striking out all of subsection (e);

And,

By relettering the remaining subsections.

At the request of Senator Plymale, and by unanimous consent, Senator Plymale's amendments to the Judiciary committee amendment to the bill were withdrawn.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended by Senators Weld and Trump, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2419), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2419 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Cline, Hamilton, Hardesty, Ihlenfeld, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Rucker, Smith, Stollings, Sypolt, Takubo, Trump, Unger, and Carmichael (Mr. President)—25.

The nays were: Facemire, Romano, and Tarr—3.

Absent: Clements, Jeffries, Roberts, Swope, Weld, and Woelfel—6.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2419) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motions of Senators Weld and Trump, the following amendment to the title of bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2419**—A Bill to amend and reenact §62-1C-1a of the Code of West Virginia, 1931, as amended, relating to bail generally; authorizing the release of a person charged with a misdemeanor criminal violation when first appearing before a judicial officer; establishing that a judicial officer shall release a person charged with a misdemeanor offense on his or her own recognizance unless charged with certain offenses; establishes that in certain instances and with certain conditions the arrested person is entitled to the least restrictive bail conditions determined to be reasonably necessary to assure appearance as well as ensure safety of persons in the community and maintenance of evidence; establishing that in certain circumstances the arrested person is entitled to bail under least restrictive further conditions; identifying least restrictive further conditions; establishing considerations to determine whether to release an individual without bail, the reasonable amount of bail, or imposition of other conditions of release; establishing that in all misdemeanor cases, cash bail cannot exceed the maximum fine for the offense; requiring review of bail of an incarcerated person unable to meet the requirements of a secured bond; requiring the presence of a prosecuting attorney and, if not waived, defense counsel at hearings, other than the hearing at which conditions of release are initially set, where bail is at issue; prohibiting judicial officer recommending the services of a surety who is a relative; and, further providing that a judicial officer may modify the conditions of release at any time.

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

Action as to Engrossed Committee Substitute for House Bill 2419 having been concluded, the Senate proceeded to the consideration of

**Eng. House Bill 4161**, Making it illegal to scleral tattoo a person.

Having been read a third time in earlier proceedings today, and now coming up in deferred order, was again reported by the Clerk.

The question being “Shall Engrossed House Bill 4161 pass?”

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Sypolt, Takubo, Tarr, Trump, Unger, and Carmichael (Mr. President)—27.

The nays were: None.

Absent: Azinger, Clements, Jeffries, Roberts, Swope, Weld, and Woelfel—7.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4161) passed with its title.

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

Action as to Engrossed House Bill 4161 having been concluded, the Senate proceeded to the consideration of

**Eng. Com. Sub. for House Bill 4176**, West Virginia Intelligence/Fusion Center Act.

On third reading, coming up in deferred order, with the unreported Government Organization committee amendment pending, and with the right having been granted on Thursday, March 5, 2020, for further amendments to be received on third reading, was again reported by the Clerk.

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

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



**ARTICLE 9. WEST VIRGINIA FUSION CENTER.****§15A-9-1. West Virginia Fusion Center Established.**

(a) The Governor shall establish, organize, equip, staff, and maintain a multiagency information fusion center (“Fusion Center”) to receive, analyze, and disseminate all hazard, crime, and threat information. The Department of Homeland Security shall operate the facility, as directed by the Governor, with oversight auditing and accountability to the select committee of the Legislature as set forth herein, and in collaboration among federal, state, and local agencies, as well as private sector persons, organizations, entities, or agencies, including, but not limited to, those with the primary purposes of homeland security, counter-terrorism, public safety, public protection, and critical infrastructure: *Provided*, That the Fusion Center shall not knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency, when that participation or cooperation involves illegal or improper actions. Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia.

(b) The Fusion Center shall collect, integrate, analyze, disseminate, and maintain such information to support local, state, and federal law-enforcement agencies, other governmental agencies, and private persons, organizations, entities, or agencies in detecting, preventing, investigating, preparing for, responding to, and recovering from any possible or actual criminal or terrorist activity, as well as any hazard, including to the state’s critical infrastructure, in compliance with applicable state and federal laws and regulations, including 28 CFR 23: *Provided*, That as used in this article, “terrorism” shall mean only foreign or international terrorist groups or individuals, or domestic groups or individuals involved in transnational or domestic terrorism as defined in 6 U.S.C. §485: *Provided, however*, That under no circumstance shall the Fusion Center or its officers, directors, agents, or employees

engage in, or be ordered or directed to engage in prohibited non-law enforcement intelligence gathering activities on citizens of the United States as set forth in any federal or state law or in contravention of the Constitution of the United States, nor shall the Fusion Center be solicited for, or cooperate in, any investigation of a public official or candidate for elected office, unless reasonable grounds exist to suspect the subject of the investigation is, or may be, involved in criminal conduct. This provision shall not prohibit the Fusion Center from participating in matters dealing with election fraud, election tampering, or other issues designed to provide the citizens of the state with tamper-free elections, and shall not restrict the Fusion Center from assisting in security matters involving political or dignitary visits to or within the State of West Virginia.

(c) The West Virginia Fusion Center shall be housed within secure facilities in order to access sensitive information, as permitted by state and federal law. Within the secure facilities, the Fusion Center shall house a Homeland Secure Data Network (HSDN) in order to access classified information as permitted by state and federal law and ensure that appropriate security measures are in place for: (1) the secure facilities; (2) data collected or stored at the secure facilities; and (3) personnel working at the secure facilities.

(d) The West Virginia Fusion Center shall do all acts necessary and proper to carry out the powers granted to the board of the State Resiliency Office.

#### **§15A-9-2. Operation of center.**

(a) The West Virginia Department of Homeland Security shall operate the West Virginia Fusion Center under the direction of the Governor, with oversight auditing and accountability to the select committee of the Legislature as set forth herein, and shall cooperate with the United States Department of Homeland Security, local, county, state, or federal government agencies, and private organizations: *Provided*, That the Fusion Center shall not knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency, when that

participation or cooperation involves illegal or improper actions. Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia: *Provided, however, That all Fusion Center operations shall be subject to applicable state and federal laws and regulations, including, but not limited to, 28 CFR Part 23, and shall at all times strictly abide by all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in any federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).*

(b) The West Virginia Fusion Center shall: (1) Be the primary clearinghouse for the State of West Virginia for the collection, analysis, and proper distribution of information and actionable intelligence as defined in this section; (2) generate intelligence analyses critical for homeland security policy and relevant threat warning in order to protect life, liberty, and property in West Virginia; (3) promote and improve intelligence sharing among public safety and public service agencies at the federal, state, and local levels, and with critical infrastructure and key resource entities within the private sector subject to all restrictions and prohibitions recited in this article; (4) receive and integrate intelligence and information related to terrorism and other homeland security threats; (5) collect, analyze, produce, disseminate, and maintain such intelligence and information, as allowed by law, to support local, state, and federal law enforcement agencies, other governmental agencies, and private organizations in: preventing, preparing for, responding to, and recovering from any possible or actual terrorist attack or other homeland security threat; and (6) maximize intelligence and information sharing in strict accordance with all applicable state and federal laws, restrictions, and prohibitions: *Provided, That the Fusion Center shall not knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency, when that participation or cooperation involves illegal or improper*

actions. Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia.

(c) The Governor shall provide facilities, budget, and administrative support for the West Virginia Fusion Center and its employees and participants. The cabinet secretary shall serve as security manager for the West Virginia Fusion Center.

(d) Private sector persons, organizations, entities, or agencies participating in the West Virginia Fusion Center shall not be considered governmental entities, nor shall employees or agents of private sector persons, organizations, entities, or agencies assigned to the West Virginia Fusion Center be considered state employees; however, private sector entities and their employees or agents are subject to the same confidentiality requirements and held to the same standards as an employee of the West Virginia Fusion Center, including, but not limited to, any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d): *Provided*, That the Fusion Center shall not knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency, when that participation or cooperation involves illegal or improper actions. Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia.

(e) The operations of the West Virginia Fusion Center shall be overseen by the cabinet secretary and deputy cabinet secretary of the West Virginia Department of Homeland Security, with oversight auditing and accountability to the select committee of the Legislature as set forth herein.

(f) The cabinet secretary and deputy cabinet secretary shall either have a current, valid federal security clearance at the appropriate level, and training and certifications commensurate with the position, or be eligible for that clearance, and be in the process of obtaining the appropriate clearance.

(g) The cabinet secretary and deputy cabinet secretary may adopt policies and procedures for the operation of the West Virginia Fusion Center. The cabinet secretary and deputy cabinet secretary may adopt rules and regulations as may be necessary to carry out the provisions of this act, including rules and regulations concerning the operations of the West Virginia Fusion Center: *Provided*, That all policies, procedures, rules, and regulations shall be subject to any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including but not limited to, 50 U.S.C. §3036(d).

(h) Subject to appropriations, the West Virginia Fusion Center shall have the following employees, all in the unclassified service of the civil service act:

(1) A director, who shall be appointed by and serve at the pleasure of the cabinet secretary. The director shall either have a current, valid federal security clearance at the appropriate level, and training and certifications commensurate with the position, or be eligible for that clearance, and be in the process of obtaining the appropriate clearance, and shall:

(A) Be responsible for all operations of the West Virginia Fusion Center and shall report to the cabinet secretary or deputy cabinet secretary;

(B) Be responsible for:

(i) Facilitating and implementing applicable federal standards and programs by the West Virginia Fusion Center;

(ii) Ensuring compliance with all applicable laws and federal requirements, including, but not limited to, any and all restrictions

and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d);

(iii) Maintaining proper separation between military and civilian capacities;

(iv) Providing support, as needed, to the cabinet secretary and deputy cabinet secretary; and

(v) Other duties and responsibilities as may be assigned by the cabinet secretary and deputy cabinet secretary, subject to all restrictions and prohibitions described in this article.

(5) A deputy director, who shall be appointed by and serve at the pleasure of the director. The deputy director shall either have a current, valid federal security clearance at the appropriate level, and training and certifications commensurate with the position, or be eligible for that clearance, and be in the process of obtaining the appropriate clearance, and shall be responsible for assisting the director in: (A) facilitating and implementing applicable federal standards and programs by the West Virginia Fusion Center; (B) ensuring compliance with all applicable laws and federal requirements; (C) maintaining proper separation between military and civilian capacities; (D) providing support, as needed, to the cabinet secretary and deputy cabinet secretary; and (E) other duties and responsibilities as may be assigned by the Fusion Center director.

### **§15A-9-3. Joint Oversight Committee.**

(a) The Speaker of the House of Delegates and President of the Senate shall establish a select committee which shall have oversight of the information collected by the West Virginia Fusion Center to ensure the proper collection, dissemination, storage, and destruction of information or intelligence. The committee shall be composed of: (1) The Speaker of the House of Delegates and four members of the House of Delegates, to be appointed by the Speaker of the House of Delegates, no more than two of whom shall be

appointed from the same political party; and (2) the President of the Senate and four members of the Senate, to be appointed by the President of the Senate, no more than two of whom shall be from the same political party; and counsel and staff to the Speaker and the Senate President: *Provided*, That in the event the membership of a political party is less than 15 percent in the House of Delegates or Senate, then the membership of that political party from the legislative house with less than 15 percent membership may be one from that house. The committee shall be chaired by the President of the Senate and the Speaker of the House of Delegates. All members appointed to the select committee by the select committee chairs serve until their successors are appointed as provided in this section. The select committee members, counsel, and staff must have the appropriate security clearance in order to obtain information that is classified and shall be subject to the same rules, regulations, and laws as the employees of the West Virginia Fusion Center for safeguarding both classified and law enforcement sensitive information or intelligence. These select committee members, counsel, and staff shall be advised of the restrictions and protocol for handling such information or intelligence and shall sign a statement of understanding as well as a confidentiality agreement.

(b) Members of the select committee may enter and inspect the West Virginia Fusion Center at any time, during normal business hours, with select committee counsel and staff, with or without notice to the West Virginia Fusion Center.

(c) Meetings of the select committee shall be confidential and the information and materials, in any medium, including hard copy and electronic, coming to the attention of or placed in the custody of the Select Committee shall not be subject to the West Virginia Freedom of Information Act (§29B-1-1 *et seq.* of this code).

(d) The select committee may conduct proceedings in a confidential executive session for the purpose of conducting business, establishing policy, reviewing investigations, and interrogating a witness or witnesses.

(e) All witnesses appearing before the select committee shall testify under oath or affirmation, and any member of the select committee or its counsel may administer oaths or affirmations to such witnesses. To compel witnesses to attend a hearing or produce any books, records, documents, or papers, or any other tangible thing except where the records, documents, data, or items are protected from disclosure by privilege recognized by state or federal courts, the select committee may issue subpoenas, signed by one of the co-chairs: *Provided*, That the select committee may specifically authorize or delegate the power to any member of the select committee to sign subpoenas on its behalf. The subpoenas shall be served by any person authorized by law to serve and execute legal process, and service shall be made without charge. Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury in this state.

(f) If any person subpoenaed to appear at any hearing shall refuse to appear or to answer inquiries there propounded, or shall fail or refuse to produce books, records, documents, papers, or any other tangible thing within his or her control when the same are demanded, the select committee shall report the facts to the circuit court of Kanawha County or any other court of competent jurisdiction and that court may compel obedience to the subpoena as though the subpoena had been issued by that court in the first instance: *Provided*, That prior to seeking circuit court relief, the select committee may, in its discretion, first demand the Secretary of Homeland Security or the director of the West Virginia Fusion Center under whom an employee has failed to appear or which has failed to produce requested or subpoenaed material to appear before the select committee and address the basis for the failure to comply and whether compliance will be forthcoming.

(g) The select committee may direct the West Virginia Fusion Center to send its budgetary accounting to the State Auditor: *Provided*, That if budgetary expenditures are classified, or security or law enforcement sensitive such that disclosure would compromise an investigation, those entry descriptions, but not the expenditure amounts, may be redacted from the West Virginia



Fusion Center accounting provided to the State Auditor: *Provided, however,* That the State Auditor shall bring any accounting issues of concern to the attention of the select committee, upon which the select committee shall subpoena the West Virginia Fusion Center for unredacted copies of the accounting items to be presented for explanation and justification of the necessity and legality of the concerns raised by the State Auditor. The select committee may take whatever action it deems necessary, if any, after review and analysis of the subpoenaed unredacted materials.

**§15A-9-4. Memoranda of understanding required.**

(a) Each governmental and nongovernmental entity participating in the West Virginia Fusion Center shall enter a memorandum of understanding between the West Virginia Fusion Center and the participating entity. The memorandum of understanding shall at a minimum:

(1) Provide a framework and working mechanism for the organization of the West Virginia Fusion Center to address issues that are common to city, county, state, and federal governments' obligations to protect the safety and well-being of citizens and to enhance the success of the Fusion Center in responding to criminal, terrorist, and other threats to public safety through the achievement of coordination and cooperation;

(2) Clarify the working relationships between the governmental and nongovernmental entities and use limitations of shared information; and

(3) Outline the intent of the parties regarding the information provided by the governmental and non-governmental entities to the West Virginia Fusion Center.

(b) Nothing in any agreement shall obligate any nongovernmental entity to provide information nor establish any duty for any nongovernmental entity to assume any police or law enforcement responsibilities.

(c) Failure of any governmental or nongovernmental entity to abide by the restrictions and use limitations set forth by the West

Virginia Fusion Center may result in the suspension or termination of use privileges, discipline sanctions imposed by the user's employing agency, or criminal prosecution.

(d) Any and all interagency memoranda of understanding and participating public or private persons, organizations, entities, or agencies described in this section shall be subject to all restrictions and prohibitions described in this section.

**§15A-9-5. Confidentiality and immunity from service of process; penalties.**

(a) Papers, records, documents, reports, materials, databases, or other evidence or information relative to criminal intelligence, any terrorism investigation, threat assessment, or information on infrastructure which if released would compromise the public safety in the possession of the West Virginia Fusion Center shall be confidential and shall not be subject to the West Virginia Freedom of Information Act (§29B-1-1 *et seq.* of this code): *Provided*, That this exemption from the West Virginia Freedom of Information Act may be lifted in the event a court determines in a state or federal whistleblower action that unlawful or unauthorized activity has taken place, and shall in no way restrict the Legislature's select oversight committee from access to all such information. Every five years, the West Virginia Fusion Center shall conduct a review of information contained in any database maintained by the West Virginia Fusion Center. Data that has been determined not to have a nexus to criminal or terrorist activity shall be removed from such database. A reasonable suspicion standard shall be applied when determining whether or not information has a nexus to terrorist activity for non-U.S. citizens, but a probable cause standard shall apply for U.S. citizens: *Provided, however*, That all such determinations shall be reported to the Legislature's select oversight committee at regularly scheduled oversight audit and committee meetings.

(b) No person having access to information maintained by the West Virginia Fusion Center shall be subject to subpoena in a civil action in any court of the state to testify concerning a matter of which he has knowledge pursuant to his access to criminal

intelligence information maintained by the West Virginia Fusion Center.

(c) No person or agency receiving information from the West Virginia Fusion Center shall release or disseminate that information without prior authorization from the West Virginia Fusion Center.

(d) Intelligence data in the possession of a criminal or juvenile justice agency, state or federal regulatory agency, or peace officer, or disseminated by such agency or peace officer, are confidential records under §29B-1-1 et seq. of this code.

(e) Any person who knowingly disseminates information in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$200 nor more than \$1,000, or be confined in jail for not more than 20 days, or both fined and confined. If such unauthorized dissemination results in death or serious bodily injury to another person, such person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than five years: *Provided*, That all state and federal Whistleblower Protection Act protections shall apply to any person whose disclosures are found to have been made to report or protect against violation or attempted violation of any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).

(f) Any person, being an officer or employee of the United States, the State of West Virginia or of any department, agency, or political subdivision thereof, or any person from the private sector or industry assigned to or working with the West Virginia Fusion Center in any capacity, who knowingly publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by law, any critical infrastructure or national intelligence information protected from disclosure by this section coming to him or her in the course of his or her employment, affiliation, or official duties with the West Virginia Fusion Center,

or by reason of any examination or investigation made by, return, report, or record made to or filed with, such department or agency, officer or employee thereof, shall be guilty of a felony and, upon conviction, be imprisoned in a state correctional facility for not less than one year, and shall be removed from office or employment and affiliation with the West Virginia Fusion Center: *Provided*, That all state and federal Whistleblower Protection Act protections shall apply to any person whose disclosures are found to have been made to report or protect against violation or attempted violation of any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).

(g) The West Virginia Department of Homeland Security shall provide legal counsel to the West Virginia Fusion Center to serve as privacy and civil liberties counsel to the West Virginia Fusion Center. Such attorney shall advise the West Virginia Fusion Center director and its deputy director on all matters necessary to ensure compliance with all applicable federal and state privacy or civil liberties laws, obligations, restrictions, and prohibitions as set forth herein.

(h) For purposes of this article:

(1) “Criminal intelligence information” means data or information that has been evaluated and determined to be relevant to the identification and criminal activity of individuals or organizations that are reasonably suspected of involvement in criminal activity.

(2) “Critical Infrastructure” means systems and assets as defined in 42 U.S.C. § 5195c(e).

(3) “National Intelligence” means data or information determined to meet the definition stated in 50 U.S.C. §3003 (5): *Provided*, That Fusion Center activities and operations relating to National Intelligence shall at all times strictly abide by all restrictions and prohibitions against conducting non-law

enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).

**§15A-9-6. Receipt of information; immunity from liability.**

(a) No cause of action for defamation, invasion of privacy, or negligence shall arise against any person by reason of that person's furnishing information concerning any suspected, anticipated, or completed criminal violation or terrorist activity when the information is provided to or received from the West Virginia Fusion Center or any federal, state, or local governmental or private sector entity established for the purpose of detecting and preventing acts of criminal activity or terrorism: *Provided*, That with regard to any Fusion Center intelligence or information gathering activity or operation against a U.S. Citizen related to alleged terrorism or violation of a law, such allegation must be vetted and confirmed by procedures substantially in compliance with those set forth in laws, rules, and regulations developed in accordance with 50 U.S.C. §3036(d).

(b) No person shall be subject to such cause of action for cooperating with or furnishing evidence or information regarding any suspected criminal violation to the West Virginia Fusion Center.

(c) This section shall not provide immunity for those disclosing or furnishing false information with malice or willful intent to injure any person, nor for any person who does not comply with the procedures set forth in §15A-9-6(a) of this code.

(d) This section does not in any way abrogate or modify common law or statutory privilege or immunity heretofore enjoyed by any person or entity.

**§15A-9-7. Costs.**

(a) The director, with approval of the cabinet secretary or deputy cabinet secretary, may enter into agreements with participating agencies or organizations, whether public or private,

for their participation in the West Virginia Fusion Center. Such agreements: (1) Shall define the duties and responsibilities of each participating agency or organization; (2) may provide for payment by the participating agency or organization of a reasonable share of the cost to establish, maintain, and operate the West Virginia Fusion Center; and (3) shall require compliance with all requirements, restrictions, and prohibitions set forth in this article.

(b)(1) The West Virginia Fusion Center, with approval of the cabinet secretary or deputy cabinet secretary, may accept any gift, grant, payment, moneys, or assets seized by forfeiture as a result of collaborative efforts or contribution from any source, public or private, for the purpose of paying the costs to establish, maintain, or operate the West Virginia Fusion Center. Such gift, grant, payment, moneys, or assets seized by forfeiture as a result of collaborative works or contribution may be in the form of services, equipment, supplies, materials, or funds. All amounts received under this section shall be remitted to the State Treasurer in accordance with chapter 12 of this code, and the amendments thereto. Upon receipt of each such remittance, the State Treasurer shall deposit the entire amount in the State Treasury to the credit of the West Virginia Fusion Center Fund, that is hereby created in the State Treasury and shall be administered by the West Virginia Department of Homeland Security in accordance with this article and subject to regular auditing and oversight by the legislature's select oversight committee.

(2) Moneys in the West Virginia Fusion Center Fund may be used by the director to pay any costs associated with establishing, maintaining, or operating the West Virginia Fusion Center. The director of the West Virginia Fusion Center Fund shall develop policy and procedures for purchasing, and expenditures shall be made in accordance with vouchers approved by the director or the director's designee. Any gift, grant, payment, moneys, or assets seized by forfeiture as a result of collaborative efforts, or contribution in any form other than funds may be accepted by the director, with approval of the cabinet secretary, and utilized and expended in any manner authorized by law to establish, maintain, or operate the West Virginia Fusion Center: *Provided*, That all

moneys used by the director shall be subject to all restrictions and prohibitions set forth in this article, and also to regular auditing and oversight by the Legislature's select oversight committee.

(3) The moneys credited to the fund created in subsection (b) of this section shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the Legislature that the moneys deposited in this fund shall remain intact and inviolate for the purposes set forth in this act.

**§15A-9-8. Registration plates to official vehicles used in agency activities.**

Notwithstanding any provision of this code to the contrary, the Commissioner of the Division of Motor Vehicles is authorized to issue Class A license plates to authorized state-owned vehicles operated by the West Virginia Fusion Center when the director signs a written affidavit stating that the vehicle or vehicles for which the plates are being requested will be used by the West Virginia Fusion Center in fulfilling its mission.

On motion of Senator Sypolt, the following substitute amendment to the bill (Eng. Com. Sub. for H. B. 4176) was reported by the Clerk and adopted in lieu of the foregoing Government Organization committee amendment to the bill:

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

**ARTICLE 9. WEST VIRGINIA FUSION CENTER.**

**§15A-9-1. West Virginia Fusion Center Established.**

(a) The Governor shall establish, organize, equip, staff, and maintain a multiagency information fusion center ("Fusion Center") to receive, analyze, and disseminate all hazard, crime, and threat information. The Department of Homeland Security shall operate the facility, as directed by the Governor, with oversight auditing and accountability to the select committee of the Legislature as set forth herein, and in collaboration among federal, state, and local agencies, as well as private sector persons,

organizations, entities, or agencies, including, but not limited to, those with the primary purposes of homeland security, counter-terrorism, public safety, public protection, and critical infrastructure: *Provided*, That the Fusion Center shall not knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency, when that participation or cooperation involves illegal or improper actions. Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia.

(b) The Fusion Center shall collect, integrate, analyze, disseminate, and maintain such information to support local, state, and federal law-enforcement agencies, other governmental agencies, and private persons, organizations, entities, or agencies in detecting, preventing, investigating, preparing for, responding to, and recovering from any possible or actual criminal or terrorist activity, as well as any hazard, including to the state's critical infrastructure, in compliance with applicable state and federal laws and regulations, including 28 CFR 23: *Provided*, That as used in this article, "terrorism" shall mean only foreign or international terrorist groups or individuals, or domestic groups or individuals involved in transnational or domestic terrorism as defined in 6 U.S.C. §485: *Provided, however*, That under no circumstance shall the Fusion Center or its officers, directors, agents, or employees engage in, or be ordered or directed to engage in prohibited non-law enforcement intelligence gathering activities on citizens of the United States as set forth in any federal or state law or in contravention of the Constitution of the United States, nor shall the Fusion Center engage in any information or intelligence gathering for any political purpose nor be solicited for, or cooperate in, any investigation of a public official or candidate for elected office, unless reasonable grounds exist to suspect the subject of the investigation is, or may be, involved in criminal conduct. This provision shall not prohibit the Fusion Center from participating in matters dealing with election fraud, election tampering, or other



issues designed to provide the citizens of the state with tamper-free elections, and shall not restrict the Fusion Center from assisting in security matters involving political or dignitary visits to or within the State of West Virginia.

(c) The West Virginia Fusion Center shall be housed within secure facilities in order to access sensitive information, as permitted by state and federal law. Within the secure facilities, the Fusion Center shall house a Homeland Secure Data Network (HSDN) in order to access classified information as permitted by state and federal law and ensure that appropriate security measures are in place for: (1) the secure facilities; (2) data collected or stored at the secure facilities; and (3) personnel working at the secure facilities.

(d) The West Virginia Fusion Center shall do all acts necessary and proper to carry out the powers granted to the board of the State Resiliency Office.

#### **§15A-9-2. Operation of center.**

(a) The West Virginia Department of Homeland Security shall operate the West Virginia Fusion Center under the direction of the Governor, with oversight auditing and accountability to the select committee of the Legislature as set forth herein, and shall cooperate with the United States Department of Homeland Security, local, county, state, or federal government agencies, and private organizations: *Provided*, That the Fusion Center shall not knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency, when that participation or cooperation involves illegal or improper actions. Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia: *Provided, however*, That all Fusion Center operations shall be subject to applicable state and federal laws and regulations, including, but not limited to, 28 CFR Part 23, and shall at all times strictly abide by all restrictions and prohibitions against conducting

non-law enforcement intelligence operations against U.S. citizens as set forth in any federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).

(b) The West Virginia Fusion Center shall: (1) Be the primary clearinghouse for the State of West Virginia for the collection, analysis, and proper distribution of information and actionable intelligence as defined in this section; (2) generate intelligence analyses critical for homeland security policy and relevant threat warning in order to protect life, liberty, and property in West Virginia; (3) promote and improve intelligence sharing among public safety and public service agencies at the federal, state, and local levels, and with critical infrastructure and key resource entities within the private sector subject to all restrictions and prohibitions recited in this article; (4) receive and integrate intelligence and information related to terrorism and other homeland security threats; (5) collect, analyze, produce, disseminate, and maintain such intelligence and information, as allowed by law, to support local, state, and federal law enforcement agencies, other governmental agencies, and private organizations in: preventing, preparing for, responding to, and recovering from any possible or actual terrorist attack or other homeland security threat; and (6) maximize intelligence and information sharing in strict accordance with all applicable state and federal laws, restrictions, and prohibitions: *Provided*, That the Fusion Center shall not knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency, when that participation or cooperation involves illegal or improper actions. Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia.

(c) The Governor shall provide facilities, budget, and administrative support for the West Virginia Fusion Center and its

employees and participants. The cabinet secretary shall serve as security manager for the West Virginia Fusion Center.

(d) Private sector persons, organizations, entities, or agencies participating in the West Virginia Fusion Center shall not be considered governmental entities, nor shall employees or agents of private sector persons, organizations, entities, or agencies assigned to the West Virginia Fusion Center be considered state employees; however, private sector entities and their employees or agents are subject to the same confidentiality requirements and held to the same standards as an employee of the West Virginia Fusion Center, including, but not limited to, any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d): *Provided*, That the Fusion Center shall not knowingly participate in any activity, or knowingly cooperate, with any federal agency, or a contractor for or any person or entity utilizing or collaborating with any federal agency, when that participation or cooperation involves illegal or improper actions. *:Provided*, however, that the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia.

(e) The operations of the West Virginia Fusion Center shall be overseen by the cabinet secretary and deputy cabinet secretary of the West Virginia Department of Homeland Security, with oversight auditing and accountability to the select committee of the Legislature as set forth herein.

(f) The cabinet secretary and deputy cabinet secretary shall either have a current, valid federal security clearance at the appropriate level, and training and certifications commensurate with the position, or be eligible for that clearance, and be in the process of obtaining the appropriate clearance.

(g) The cabinet secretary and deputy cabinet secretary may adopt policies and procedures for the operation of the West Virginia Fusion Center. The cabinet secretary and deputy cabinet secretary may adopt rules and regulations as may be necessary to carry out the provisions of this act, including rules and regulations concerning the operations of the West Virginia Fusion Center: *Provided*, That all policies, procedures, rules, and regulations shall be subject to any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including but not limited to, 50 U.S.C. §3036(d).

(h) Subject to appropriations, the West Virginia Fusion Center shall have the following employees, all in the unclassified service of the civil service act:

(1) A director, who shall be appointed by and serve at the pleasure of the cabinet secretary. The director shall either have a current, valid federal security clearance at the appropriate level, and training and certifications commensurate with the position, or be eligible for that clearance, and be in the process of obtaining the appropriate clearance, and shall:

(A) Be responsible for all operations of the West Virginia Fusion Center and shall report to the cabinet secretary or deputy cabinet secretary;

(B) Be responsible for:

(i) Facilitating and implementing applicable federal standards and programs by the West Virginia Fusion Center;

(ii) Ensuring compliance with all applicable laws and federal requirements, including, but not limited to, any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d);

(iii) Maintaining proper separation between military and civilian capacities;

(iv) Providing support, as needed, to the cabinet secretary and deputy cabinet secretary; and

(v) Other duties and responsibilities as may be assigned by the cabinet secretary and deputy cabinet secretary, subject to all restrictions and prohibitions described in this article.

(5) A deputy director, who shall be appointed by and serve at the pleasure of the director. The deputy director shall either have a current, valid federal security clearance at the appropriate level, and training and certifications commensurate with the position, or be eligible for that clearance, and be in the process of obtaining the appropriate clearance, and shall be responsible for assisting the director in: (A) facilitating and implementing applicable federal standards and programs by the West Virginia Fusion Center; (B) ensuring compliance with all applicable laws and federal requirements; (C) maintaining proper separation between military and civilian capacities; (D) providing support, as needed, to the cabinet secretary and deputy cabinet secretary; and (E) other duties and responsibilities as may be assigned by the Fusion Center director.

### **§15A-9-3. Joint Oversight Committee.**

(a) The Speaker of the House of Delegates and President of the Senate shall establish a select committee which shall have oversight of the information collected by the West Virginia Fusion Center to ensure the proper collection, dissemination, storage, and destruction of information or intelligence. The committee shall be composed of: (1) The Speaker of the House of Delegates and four members of the House of Delegates, to be appointed by the Speaker of the House of Delegates, no more than two of whom shall be appointed from the same political party; and (2) the President of the Senate and four members of the Senate, to be appointed by the President of the Senate, no more than two of whom shall be from the same political party; and counsel and staff to the Speaker and the Senate President: *Provided*, That in the event the membership

of a political party is less than 15 percent in the House of Delegates or Senate, then the membership of that political party from the legislative house with less than 15 percent membership may be one from that house. The committee shall be chaired by the President of the Senate and the Speaker of the House of Delegates. All members appointed to the select committee by the select committee chairs serve until their successors are appointed as provided in this section. The select committee members, counsel, and staff must have the appropriate security clearance in order to obtain information that is classified and shall be subject to the same rules, regulations, and laws as the employees of the West Virginia Fusion Center for safeguarding both classified and law enforcement sensitive information or intelligence. These select committee members, counsel, and staff shall be advised of the restrictions and protocol for handling such information or intelligence and shall sign a statement of understanding as well as a confidentiality agreement.

(b) Members of the select committee may enter and inspect the West Virginia Fusion Center at any time staff is present with select committee counsel and staff, with or without notice to the West Virginia Fusion Center.

(c) Meetings of the select committee shall be confidential and the information and materials, in any medium, including hard copy and electronic, coming to the attention of or placed in the custody of the Select Committee shall not be subject to the West Virginia Freedom of Information Act as set forth in §29B-1-1 *et seq.* of this code.

(d) The select committee may conduct proceedings in a confidential executive session for the purpose of conducting business, establishing policy, reviewing investigations, and interrogating a witness or witnesses.

(e) All witnesses appearing before the select committee shall testify under oath or affirmation, and any member of the select committee or its counsel may administer oaths or affirmations to such witnesses. To compel witnesses to attend a hearing or produce any books, records, documents, or papers, or any other tangible

thing except where the records, documents, data, or items are protected from disclosure by privilege recognized by state or federal courts, the select committee may issue subpoenas, signed by one of the co-chairs: *Provided*, That the select committee may specifically authorize or delegate the power to any member of the select committee to sign subpoenas on its behalf. The subpoenas shall be served by any person authorized by law to serve and execute legal process, and service shall be made without charge. Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury in this state.

(f) If any person subpoenaed to appear at any hearing shall refuse to appear or to answer inquiries there propounded, or shall fail or refuse to produce books, records, documents, papers, or any other tangible thing within his or her control when the same are demanded, the select committee shall report the facts to the circuit court of Kanawha County or any other court of competent jurisdiction and that court may compel obedience to the subpoena as though the subpoena had been issued by that court in the first instance: *Provided*, That prior to seeking circuit court relief, the select committee may, in its discretion, first demand the Secretary of Homeland Security or the director of the West Virginia Fusion Center under whom an employee has failed to appear or which has failed to produce requested or subpoenaed material to appear before the select committee and address the basis for the failure to comply and whether compliance will be forthcoming.

(g) The select committee may direct the West Virginia Fusion Center to send its budgetary accounting to the State Auditor: *Provided*, That if budgetary expenditures are classified, or security or law enforcement sensitive such that disclosure would compromise an investigation, those entry descriptions, but not the expenditure amounts, may be redacted from the West Virginia Fusion Center accounting provided to the State Auditor: *Provided, however*, That the State Auditor shall bring any accounting issues of concern to the attention of the select committee, upon which the select committee shall subpoena the West Virginia Fusion Center for unredacted copies of the accounting items to be presented for

explanation and justification of the necessity and legality of the concerns raised by the State Auditor. The select committee may take whatever action it deems necessary, if any, after review and analysis of the subpoenaed unredacted materials.

**§15A-9-4. Memoranda of understanding required.**

(a) Each governmental and nongovernmental entity participating in the West Virginia Fusion Center shall enter a memorandum of understanding between the West Virginia Fusion Center and the participating entity. The memorandum of understanding shall at a minimum:

(1) Provide a framework and working mechanism for the organization of the West Virginia Fusion Center to address issues that are common to city, county, state, and federal governments' obligations to protect the safety and well-being of citizens and to enhance the success of the Fusion Center in responding to criminal, terrorist, and other threats to public safety through the achievement of coordination and cooperation;

(2) Clarify the working relationships between the governmental and nongovernmental entities and use limitations of shared information; and

(3) Outline the intent of the parties regarding the information provided by the governmental and non-governmental entities to the West Virginia Fusion Center.

(b) Nothing in any agreement shall obligate any nongovernmental entity to provide information nor establish any duty for any nongovernmental entity to assume any police or law enforcement responsibilities.

(c) Failure of any governmental or nongovernmental entity to abide by the restrictions and use limitations set forth by the West Virginia Fusion Center may result in the suspension or termination of use privileges, discipline sanctions imposed by the user's employing agency, or criminal prosecution.



(d) Any and all interagency memoranda of understanding and participating public or private persons, organizations, entities, or agencies described in this section shall be subject to all restrictions and prohibitions described in this section.

**§15A-9-5. Confidentiality and immunity from service of process; penalties.**

(a) Papers, records, documents, reports, materials, databases, or other evidence or information relative to criminal intelligence, any terrorism investigation, threat assessment, or information on infrastructure which if released would compromise the public safety in the possession of the West Virginia Fusion Center shall be confidential and shall not be subject to the West Virginia Freedom of Information Act (§29B-1-1 *et seq.* of this code): *Provided*, That this exemption from the West Virginia Freedom of Information Act may be lifted in the event a court determines in a state or federal whistleblower action that unlawful or unauthorized activity has taken place, and shall in no way restrict the Legislature's select oversight committee from access to all such information. Every five years, the West Virginia Fusion Center shall conduct a review of information contained in any database maintained by the West Virginia Fusion Center. Data that has been determined not to have a nexus to criminal or terrorist activity shall be removed from such database. A reasonable suspicion standard shall be applied when determining whether or not information has a nexus to terrorist activity for non-U.S. citizens, but a probable cause standard shall apply for U.S. citizens: *Provided, however*, That all such determinations shall be reported to the Legislature's select oversight committee at regularly scheduled oversight audit and committee meetings.

(b) No person having access to information maintained by the West Virginia Fusion Center shall be subject to subpoena in a civil action in any court of the state to testify concerning a matter of which he has knowledge pursuant to his access to criminal intelligence information maintained by the West Virginia Fusion Center.

(c) No person or agency receiving information from the West Virginia Fusion Center shall release or disseminate that information without prior authorization from the West Virginia Fusion Center.

(d) Intelligence data in the possession of a criminal or juvenile justice agency, state or federal regulatory agency, or peace officer, or disseminated by such agency or peace officer, are confidential records under §29B-1-1 et seq. of this code.

(e) Any person who knowingly disseminates information in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$200 nor more than \$1,000, or be confined in jail for not more than 20 days, or both fined and confined. If such unauthorized dissemination results in death or serious bodily injury to another person, such person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than five years: *Provided*, That all state and federal Whistleblower Protection Act protections shall apply to any person whose disclosures are found to have been made to report or protect against violation or attempted violation of any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).

(f) Any person, being an officer or employee of the United States, the State of West Virginia or of any department, agency, or political subdivision thereof, or any person from the private sector or industry assigned to or working with the West Virginia Fusion Center in any capacity, who knowingly publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by law, any critical infrastructure or national intelligence information protected from disclosure by this section coming to him or her in the course of his or her employment, affiliation, or official duties with the West Virginia Fusion Center, or by reason of any examination or investigation made by, return, report, or record made to or filed with, such department or agency, officer or employee thereof, shall be guilty of a felony and, upon

conviction, be imprisoned in a state correctional facility for not less than one year, and shall be removed from office or employment and affiliation with the West Virginia Fusion Center: *Provided*, That all state and federal Whistleblower Protection Act protections shall apply to any person whose disclosures are found to have been made to report or protect against violation or attempted violation of any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).

(g) The West Virginia Department of Homeland Security shall provide legal counsel to the West Virginia Fusion Center to serve as privacy and civil liberties counsel to the West Virginia Fusion Center. Such attorney shall advise the West Virginia Fusion Center director and its deputy director on all matters necessary to ensure compliance with all applicable federal and state privacy or civil liberties laws, obligations, restrictions, and prohibitions as set forth herein.

(h) For purposes of this article:

(1) “Criminal intelligence information” means data or information that has been evaluated and determined to be relevant to the identification and criminal activity of individuals or organizations that are reasonably suspected of involvement in criminal activity.

(2) “Critical Infrastructure” means systems and assets as defined in 42 U.S.C. § 5195c(e).

(3) “National Intelligence” means data or information determined to meet the definition stated in 50 U.S.C. §3003 (5): *Provided*, That Fusion Center activities and operations relating to National Intelligence shall at all times strictly abide by all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution

of the United States, including, but not limited to, 50 U.S.C. §3036(d).

**§15A-9-6. Receipt of information; immunity from liability.**

(a) No cause of action for defamation, invasion of privacy, or negligence shall arise against any person by reason of that person's furnishing information concerning any suspected, anticipated, or completed criminal violation or terrorist activity when the information is provided to or received from the West Virginia Fusion Center or any federal, state, or local governmental or private sector entity established for the purpose of detecting and preventing acts of criminal activity or terrorism: *Provided*, That with regard to any Fusion Center intelligence or information gathering activity or operation against a U.S. Citizen related to alleged terrorism or violation of a law, such allegation must be vetted and confirmed by procedures substantially in compliance with those set forth in laws, rules, and regulations developed in accordance with 50 U.S.C. §3036(d).

(b) No person shall be subject to such cause of action for cooperating with or furnishing evidence or information regarding any suspected criminal violation to the West Virginia Fusion Center.

(c) This section shall not provide immunity for those disclosing or furnishing false information with malice or willful intent to injure any person, nor for any person who does not comply with the procedures set forth in §15A-9-6(a) of this code.

(d) This section does not in any way abrogate or modify common law or statutory privilege or immunity heretofore enjoyed by any person or entity.

**§15A-9-7. Costs.**

(a) The director, with approval of the cabinet secretary or deputy cabinet secretary, may enter into agreements with participating agencies or organizations, whether public or private, for their participation in the West Virginia Fusion Center. Such agreements: (1) Shall define the duties and responsibilities of each

participating agency or organization; (2) may provide for payment by the participating agency or organization of a reasonable share of the cost to establish, maintain, and operate the West Virginia Fusion Center; and (3) shall require compliance with all requirements, restrictions, and prohibitions set forth in this article.

(b)(1) The West Virginia Fusion Center, with approval of the cabinet secretary or deputy cabinet secretary, may accept any gift, grant, payment, moneys, or assets seized by forfeiture as a result of collaborative efforts or contribution from any source, public or private, for the purpose of paying the costs to establish, maintain, or operate the West Virginia Fusion Center. Such gift, grant, payment, moneys, or assets seized by forfeiture as a result of collaborative works or contribution may be in the form of services, equipment, supplies, materials, or funds. All amounts received under this section shall be remitted to the State Treasurer in accordance with chapter 12 of this code, and the amendments thereto. Upon receipt of each such remittance, the State Treasurer shall deposit the entire amount in the State Treasury to the credit of the West Virginia Fusion Center Fund, that is hereby created in the State Treasury and shall be administered by the West Virginia Department of Homeland Security in accordance with this article and subject to regular auditing and oversight by the legislature's select oversight committee.

(2) Moneys in the West Virginia Fusion Center Fund may be used by the director to pay any costs associated with establishing, maintaining, or operating the West Virginia Fusion Center. The director of the West Virginia Fusion Center Fund shall develop policy and procedures for purchasing, and expenditures shall be made in accordance with vouchers approved by the director or the director's designee. Any gift, grant, payment, moneys, or any assets seized by forfeiture as a result of collaborative efforts, or contribution in any form other than funds may be accepted by the director, with approval of the cabinet secretary, and utilized and expended in any manner authorized by law to establish, maintain, or operate the West Virginia Fusion Center: *Provided*, That all moneys used by the director shall be subject to all restrictions and

prohibitions set forth in this article, and also to regular auditing and oversight by the Legislature's select oversight committee.

(3) The moneys credited to the fund created in subsection (b) of this section shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the Legislature that the moneys deposited in this fund shall remain intact and inviolate for the purposes set forth in this act.

**§15A-9-8. Registration plates to official vehicles used in agency activities.**

Notwithstanding any provision of this code to the contrary, the Commissioner of the Division of Motor Vehicles is authorized to issue Class A license plates to authorized state-owned vehicles operated by the West Virginia Fusion Center when the director signs a written affidavit stating that the vehicle or vehicles for which the plates are being requested will be used by the West Virginia Fusion Center in fulfilling its mission.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4176), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Pitsenbarger, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, and Carmichael (Mr. President)—29.

The nays were: Baldwin, Beach, and Romano—3.

Absent: Weld and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4176) passed.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the

unreported Government Organization committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub. for House Bill 4176**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-9-6, §15A-9-7 and §15A-9-8, all relating to establishing the West Virginia Fusion Center Act; requiring Governor to establish West Virginia Fusion Center and defining its purpose; providing that Department of Homeland Security will operate fusion center and provide legal counsel; establishing positions of fusion center director and deputy director; creating joint select oversight committee and establishing committee membership and powers; mandating entities participating in fusion center enter into memorandum of understanding with center and setting out minimum requirements of memorandum; limiting access to fusion center of certain persons; making certain information in possession of center confidential and not subject to disclosure; providing exceptions to confidentiality of information; establishing immunity from subpoena for individuals possessing criminal intelligence information gained from access to fusion center information; setting criminal penalties for knowing dissemination of fusion center information; providing whistleblower protections; prohibiting certain conduct by fusion center contractors and employees; making persons providing or receiving certain information to or from center immune from civil liability and exceptions thereto; allowing participating agencies to share in costs of operating center; creating West Virginia Fusion Center Fund; authorizing Commissioner of Department of Motor Vehicles to issue license plates for state-owned fusion center vehicles; and prohibiting fusion center from knowingly allowing contractor for federal intelligence agency to work inside fusion center.

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

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate proceeded to the sixth order of business, which agenda includes the making of main motions.

Senator Takubo moved that the Senate reconsider its action by which in earlier proceedings today it adopted Senator Maynard's amendment to the title of

**Eng. Com. Sub. for House Bill 4587**, Modernizing the Public Service Commission's regulation of solid waste motor carriers and solid waste facilities.

The bill still being in the possession of the Senate,

The question being on the adoption of Senator Takubo's aforesated motion, the same was put and prevailed.

The vote thereon having been reconsidered,

At the request of Senator Maynard, and by unanimous consent, Senator Maynard's amendment to the title of the bill (*shown in the Senate Journal of today, page 2861*) was withdrawn.

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

**Eng. Com. Sub. for House Bill 4587**—A Bill to amend and reenact §24-2-4a of the Code of West Virginia, 1931, as amended; to amend and reenact §24A-5-2 of said code; to amend said code by adding thereto two new sections, designated §24A-5-2a and §24A-5-2b; all relating to the regulation of the collection, hauling, and disposal of solid waste by motor carriers; authorizing indexed automatic rate increases for solid waste collection and hauling; setting procedures for the approval of rates; authorizing the Public Service Commission to approve alternative pick-up due to adverse conditions; and authorizing the Public Service Commission to promulgate rules.



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

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

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

**Eng. Com. Sub. for Senate Bill 150**, Budget Bill.

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

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

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

**TITLE I – GENERAL PROVISIONS.**

**Section 1. General policy.** – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2021.

**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 2021” shall mean the period from July 1, 2020, through June 30, 2021.

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

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

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

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

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

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

“Employee benefits” shall mean social security matching, workers’ compensation, unemployment compensation, pension and retirement contributions, public employees insurance matching, personnel fees or any other benefit normally paid by the employer as a direct cost of employment. Should the appropriation

be insufficient to cover such costs, the remainder of such cost shall be paid by each spending unit from its “unclassified” appropriation, or its “current expenses” appropriation or other appropriate appropriation. Each spending unit is hereby authorized and required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the Code.

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

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

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

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance Management total insurance premium cost for their respective institutions.

“Current expenses” shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings or lands. Each spending unit shall be

responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all such amounts. Such expenditures shall be considered a current expense.

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

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

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

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

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

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

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: *Provided, however*, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a “personal services and employee benefits” appropriation unless the source funds are also wholly from a “personal services and

employee benefits” line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further*, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to “personal services and employee benefits,” “current expenses,” “repairs and alterations,” “equipment,” “other assets,” “land,” and “buildings” to other appropriations within the same account and no funds from other appropriations shall be transferred to the “personal services and employee benefits” or the “unclassified” appropriation: *And provided further*, That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature consolidates, reorganizes or terminates agencies, boards or functions, within any fiscal year the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part of the item may be allocated, in order to implement such consolidation, reorganization or termination. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to

permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

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

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

## TITLE II – APPROPRIATIONS.

### ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.

- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

**Section 1. Appropriations from general revenue.** – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2021.

## LEGISLATIVE

### 1 - Senate

Fund 0165 FY 2021 Org 2100

	<b>Appro- piation</b>	<b>General Revenue Fund</b>
Compensation of Members (R).....00300	\$	1,010,000
Compensation and Per Diem of Officers and Employees (R) .....00500		4,011,332
Current Expenses and Contingent Fund (R) ....02100		276,392
Repairs and Alterations (R) .....06400		50,000
Computer Supplies (R) .....10100		20,000
Computer Systems (R).....10200		60,000
Printing Blue Book (R) .....10300		125,000
Expenses of Members (R).....39900		370,000
BRIM Premium (R) .....91300		<u>29,482</u>
Total.....	\$	<u>5,952,206</u>

The appropriations for the Senate for the fiscal year 2020 are to remain in full force and effect and are hereby reappropriated to June 30, 2021. Any balances so reappropriated may be transferred and credited to the fiscal year 2020 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.

The distribution of the blue book shall be by the office of the Clerk of the Senate and shall include 75 copies for each member of the Legislature and two copies for each classified and approved high school and junior high or middle school and one copy for each elementary school within the state.

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 2021 Org 2200

Compensation of Members (R).....00300	\$	3,000,000
Compensation and Per Diem of Officers and Employees (R) .....		575,000
Current Expenses and Contingent Fund (R)....		4,399,031
Expenses of Members (R).....		1,350,000
BRIM Premium (R) .....		<u>80,000</u>
Total.....	\$	<u>9,404,031</u>

The appropriations for the House of Delegates for the fiscal year 2020 are to remain in full force and effect and are hereby reappropriated to June 30, 2021. Any balances so reappropriated may be transferred and credited to the fiscal year 2020 accounts.

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

The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates and not

included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

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

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

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

### *3 - Joint Expenses*

(WV Code Chapter 4)

Fund 0175 FY 2021 Org 2300

Joint Committee on Government and Finance (R).....	10400	\$ 6,725,138
Legislative Printing (R).....	10500	260,000
Legislative Rule-Making Review Committee (R).....	10600	147,250

Legislative Computer System (R).....	10700	1,447,500
Legislative Fees & Dues (R).....	10701	600,000
Office of Regulatory and Fiscal Affairs.....	#####	761,440
BRIM Premium (R) .....	91300	<u>60,569</u>
Total.....		\$ 10,001,897

The appropriations for the Joint Expenses for the fiscal year 2020 are to remain in full force and effect and are hereby reappropriated to June 30, 2021. Any balances reappropriated may be transferred and credited to the fiscal year 2020 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 2021 Org 2400

#### Personal Services and

Employee Benefits (R) .....	00100	\$ 111,440,000
Military Service Members Court (R) .....	09002	300,000
Current Expenses (R) .....	13000	16,611,000
Repairs and Alterations (R) .....	06400	40,000
Equipment (R).....	07000	1,950,000
Judges' Retirement System (R).....	11000	838,000
Buildings (R).....	25800	10,000
Other Assets (R).....	69000	200,000
BRIM Premium (R) .....	91300	<u>810,000</u>
Total.....		\$ 132,199,000

The appropriations to the Supreme Court of Appeals for the fiscal years 2018, 2019 and 2020 are to remain in full force and effect and are hereby reappropriated to June 30, 2021. Any

balances so reappropriated may be transferred and credited to the fiscal year 2021 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 there from as required by law for taxes and other items.

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

### EXECUTIVE

#### *5 - Governor's Office*

(WV Code Chapter 5)

Fund 0101 FY 2021 Org 0100

Personal Services and Employee Benefits ....00100	\$ 3,250,758
Current Expenses (R).....13000	800,000
Repairs and Alterations.....06400	25,000
National Governors Association .....12300	60,700
Herbert Henderson Office	
of Minority Affairs .....13400	396,726
Community Food Program .....18500	0
Office of Resiliency .....18600	596,157
BRIM Premium.....91300	<u>183,645</u>
Total.....	\$ 5,312,986

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), and Current Expenses (fund 0101, appropriation 13000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

*6 - Governor's Office –*

*Custodial Fund*

(WV Code Chapter 5)

Fund 0102 FY 2021 Org 0100

Personal Services and Employee Benefits ....00100	\$	381,293
Current Expenses (R) .....		13000
Repairs and Alterations .....		06400
Total .....	\$	569,451

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

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

*7 - Governor's Office –*

*Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2021 Org 0100

Milton Flood Wall (R) .....	\$	6,000,000
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Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total –

Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood Wall (fund 0105, appropriation 75701), and Natural Disasters – Surplus (fund 0105, appropriation 76400) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

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

*8 - Auditor's Office –*

*General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2021 Org 1200

Personal Services and Employee Benefits....00100	\$	2,797,589
Current Expenses (R).....13000		13,429
BRIM Premium.....91300		<u>12,077</u>
Total.....	\$	2,823,095

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

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

*9 - Treasurer's Office*

(WV Code Chapter 12)

Fund 0126 FY 2021 Org 1300

Personal Services and Employee Benefits ....00100	\$	2,570,242
Unclassified.....09900		31,463
Current Expenses (R).....13000		772,684
Abandoned Property Program.....11800		41,794
Other Assets.....69000		10,000
ABLE Program .....69201		150,000
BRIM Premium.....91300		<u>59,169</u>
Total.....	\$	3,635,352

Any unexpended balances remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

*10 - Department of Agriculture*

(WV Code Chapter 19)

Fund 0131 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	6,298,229
Animal Identification Program .....03900		131,942
State Farm Museum .....05500		87,759
Current Expenses (R).....13000		848,115
Gypsy Moth Program (R) .....11900		1,003,440
WV Farmers Market .....12801		150,467
Black Fly Control.....13700		453,698
HEMP Program.....13701		350,000
Donated Foods Program .....36300		45,000
Veterans to Agriculture Program (R).....36301		255,624
Predator Control (R) .....47000		176,400

Bee Research.....	69100	70,634
Microbiology Program.....	78500	99,828
Moorefield Agriculture Center .....	78600	975,284
Chesapeake Bay Watershed.....	83000	112,427
Livestock Care Standards Board.....	84300	8,820
BRIM Premium.....	91300	138,905
State FFA-FHA Camp and Conference Center .....	94101	638,554
Threat Preparedness .....	94200	73,122
WV Food Banks.....	96900	426,000
Senior's Farmers' Market Nutrition Coupon Program .....	97000	<u>55,835</u>
Total.....		\$ 12,400,083

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

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

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

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



*11 - West Virginia Conservation Agency*

(WV Code Chapter 19)

Fund 0132 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	794,191
Unclassified.....09900		77,059
Current Expenses (R).....13000		317,848
Soil Conservation Projects (R).....12000		9,799,709
BRIM Premium.....91300		<u>34,428</u>
Total.....	\$	11,023,235

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000), and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*12 - Department of Agriculture –**Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	668,030
Unclassified.....09900		7,090
Current Expenses .....13000		<u>82,605</u>
Total.....	\$	757,725

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

*13 - Department of Agriculture –**Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2021 Org 1400

## Programs and Awards for

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

*14 - Department of Agriculture –**West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2021 Org 1400

Personal Services and Employee Benefits ....	00100	\$	99,547
Unclassified.....	09900		<u>950</u>
Total.....		\$	100,497

*15 - Attorney General*

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

Fund 0150 FY 2021 Org 1500

Personal Services and			
Employee Benefits (R) .....	00100	\$	2,818,788
Unclassified (R) .....	09900		24,428
Current Expenses (R).....	13000		762,097
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		1,000
Criminal Convictions and			
Habeas Corpus Appeals (R).....	26000		946,078
Better Government Bureau .....	74000		279,412
BRIM Premium.....	91300		<u>120,654</u>
Total.....		\$	4,953,457

Any unexpended balances remaining in the above appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus Appeals (fund

0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

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

*16 - Secretary of State*

(WV Code Chapters 3, 5, and 59)

Fund 0155 FY 2021 Org 1600

Personal Services and Employee Benefits ....00100	\$	118,794
Unclassified (R) .....09900		8,352
Current Expenses (R) .....13000		795,948
BRIM Premium.....91300		<u>34,500</u>
Total.....	\$	957,594

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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

*17 - State Election Commission*

(WV Code Chapter 3)

Fund 0160 FY 2021 Org 1601

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

**DEPARTMENT OF ADMINISTRATION**

*18 - Department of Administration –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2021 Org 0201

Personal Services and Employee Benefits ....00100	\$	606,584
Unclassified.....09900		9,177
Current Expenses .....13000		85,009
Repairs and Alterations.....06400		100
Equipment.....07000		1,000
Financial Advisor (R) .....30400		27,546
Lease Rental Payments .....51600		15,000,000
Design-Build Board .....54000		4,000
Other Assets.....69000		100
BRIM Premium.....91300		<u>6,736</u>
Total.....	\$	15,740,252

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

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

*19 - Consolidated Public Retirement Board*

(WV Code Chapter 5)

Fund 0195 FY 2021 Org 0205

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

*20 - Division of Finance*

(WV Code Chapter 5A)

Fund 0203 FY 2021 Org 0209

Personal Services and Employee Benefits ....00100	\$	64,696
Unclassified.....09900		1,400
Current Expenses .....13000		66,721
GAAP Project (R).....12500		612,666
BRIM Premium.....91300		<u>7,517</u>
Total.....	\$	753,000

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*21 - Division of General Services*

(WV Code Chapter 5A)

Fund 0230 FY 2021 Org 0211

Personal Services and Employee Benefits ....00100	\$	2,722,499
Unclassified.....09900		20,000
Current Expenses .....13000		1,148,349
Repairs and Alterations.....06400		500
Equipment .....07000		5,000
Fire Service Fee .....12600		14,000
Preservation and Maintenance of Statues and Monuments on Capitol Grounds.....37100		68,000
Capital Outlay, Repairs and Equipment (R) ....58900		23,660,888
BRIM Premium.....91300		<u>129,983</u>
Total.....	\$	27,769,219

Any unexpended balances remaining in the above appropriations for Buildings (fund 0230, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land (fund 0230, appropriation 73000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

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

## *22 - Division of Purchasing*

(WV Code Chapter 5A)

### Fund 0210 FY 2021 Org 0213

Personal Services and Employee Benefits ....00100	\$	1,055,926
Unclassified.....09900		144
Current Expenses .....13000		1,285

Repairs and Alterations.....	06400	200
BRIM Premium.....	91300	<u>6,922</u>
Total.....		\$ 1,064,477

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

### *23 - Travel Management*

(WV Code Chapter 5A)

#### Fund 0615 FY 2021 Org 0215

Personal Services and Employee Benefits....	00100	\$ 802,363
Unclassified.....	09900	12,032
Current Expenses .....	13000	440,247
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	5,000
Buildings (R).....	25800	100
Other Assets.....	69000	<u>100</u>
Total.....		\$ 1,260,842

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

### *24 - Commission on Uniform State Laws*

(WV Code Chapter 29)

#### Fund 0214 FY 2021 Org 0217

Current Expenses .....	13000	\$ 45,550
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To pay expenses for members of the commission on uniform state laws.

### *25 - West Virginia Public Employees Grievance Board*

(WV Code Chapter 6C)

Fund 0220 FY 2021 Org 0219

Personal Services and Employee Benefits ....00100	\$	969,627
Unclassified.....09900		1,000
Current Expenses .....13000		145,295
Equipment .....07000		50
BRIM Premium.....91300		<u>8,740</u>
Total.....	\$	1,124,712

*26 - Ethics Commission*

(WV Code Chapter 6B)

Fund 0223 FY 2021 Org 0220

Personal Services and Employee Benefits ....00100	\$	606,969
Unclassified.....09900		2,200
Current Expenses .....13000		104,501
Repairs and Alterations.....06400		500
Other Assets .....69000		100
BRIM Premium.....91300		<u>5,574</u>
Total.....	\$	719,844

*27 - Public Defender Services*

(WV Code Chapter 29)

Fund 0226 FY 2021 Org 0221

Personal Services and Employee Benefits ....00100	\$	1,711,081
Unclassified.....09900		314,700
Current Expenses .....13000		12,740
Public Defender Corporations.....35200		19,538,435
Appointed Counsel Fees (R) .....78800		12,898,115
BRIM Premium.....91300		<u>10,575</u>
Total.....	\$	34,485,646

Any unexpended balance remaining in the above appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.



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

*28 - Committee for the Purchase of*

*Commodities and Services from the Handicapped*

(WV Code Chapter 5A)

Fund 0233 FY 2021 Org 0224

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

*29 - Public Employees Insurance Agency*

(WV Code Chapter 5)

Fund 0200 FY 2021 Org 0225

PEIA Subsidy.....80100	\$	21,000,000
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The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

*30 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 0557 FY 2021 Org 0228

Forensic Medical Examinations (R) .....	68300	\$	141,579
Federal Funds/Grant Match (R) .....	74900		<u>105,074</u>
Total.....		\$	246,653

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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*31 - Real Estate Division*

(WV Code Chapter 5A)

Fund 0610 FY 2021 Org 0233

Personal Services and Employee Benefits ....	00100	\$	681,101
Unclassified.....	09900		1,000
Current Expenses .....	13000		137,381
Repairs and Alterations.....	06400		100
Equipment.....	07000		2,500
BRIM Premium.....	91300		<u>9,784</u>
Total.....		\$	831,866

**DEPARTMENT OF COMMERCE***32 - West Virginia Tourism Office*

(WV Code Chapter 5B)

Fund 0246 FY 2021 Org 0304

Tourism – Brand Promotion (R) .....	61803	\$	5,000,000
Tourism – Public Relations (R) .....	61804		1,500,000
Tourism – Events and Sponsorships (R).....	61805		500,000
Tourism – Industry Development (R).....	61806		500,000

State Parks and Recreation Advertising (R) ....61900	<u>1,500,000</u>
Total.....	\$ 9,000,000

Any unexpended balances remaining in the appropriations for Tourism – Brand Promotion (fund 0246, appropriation 61803), Tourism – Public Relations (fund 0246, appropriation 61804), Tourism – Events and Sponsorships (fund 0246, appropriation 61805), Tourism – Industry Development (fund 0246, appropriation 61806), and State Parks and Recreation Advertising (fund 0246, appropriation 61900) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

The Executive Director of the West Virginia Tourism Office, with approval from the Secretary of Commerce, shall have the authority to transfer between the above items of appropriation.

### *33 - Division of Forestry*

(WV Code Chapter 19)

#### Fund 0250 FY 2021 Org 0305

Personal Services and Employee Benefits ....00100	\$ 2,881,455
Unclassified.....09900	21,435
Current Expenses .....13000	338,953
Repairs and Alterations.....06400	80,000
Equipment (R).....07000	2,061
BRIM Premium.....91300	<u>98,754</u>
Total.....	\$ 3,422,658

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, appropriation 07000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

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

*34 - Geological and Economic Survey*

(WV Code Chapter 29)

Fund 0253 FY 2021 Org 0306

Personal Services and Employee Benefits ....00100	\$	1,678,448
Unclassified.....09900		27,678
Current Expenses .....13000		51,524
Repairs and Alterations .....06400		968
Mineral Mapping System (R) .....20700		1,134,143
BRIM Premium.....91300		<u>24,486</u>
Total.....	\$	2,917,247

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

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

*35 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 0256 FY 2021 Org 0307

Personal Services and Employee Benefits ....00100	\$	4,500,420
Unclassified.....09900		108,055
Current Expenses .....13000		5,615,277
National Youth Science Camp.....13200		241,570
Local Economic		
Development Partnerships (R).....13300		1,250,000
ARC Assessment .....13600		152,585
Guaranteed Work Force Grant (R).....24200		976,579
Mainstreet Program.....79400		167,467
Local Economic		
Development Assistance (R) .....18900		750,000

BRIM Premium.....	91300	3,157
Hatfield McCoy Recreational Trail.....	96000	<u>198,415</u>
Total.....		\$ 13,963,525

Any unexpended balances remaining in the appropriations for Sales and Marketing Enhancement – Surplus (fund 0256, appropriation 05099), Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000), and Local Economic Development Assistance (fund 0256, appropriation 81900) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

From the above appropriation for Current Expenses (fund 0256, appropriation 13000), \$1,800,000 shall be used for the Eastern West Virginia Regional Airport and \$50,000 shall be used for the Western Potomac Economic Partnership.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the West Virginia Development Office for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.Va. Code §5B-2-14. The West Virginia Development Office shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed \$34,000 per county served by an economic development or redevelopment corporation or authority.

### *36 - Division of Labor*

(WV Code Chapters 21, and 47)

#### Fund 0260 FY 2021 Org 0308

Personal Services and Employee Benefits....	00100	\$ 1,564,676
Current Expenses .....	13000	227,000

Repairs and Alterations.....	06400	28,000
Equipment.....	07000	15,000
BRIM Premium.....	91300	<u>8,500</u>
Total.....		\$ 1,843,176

*37 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 0265 FY 2021 Org 0310

Personal Services and Employee Benefits ....	00100	\$ 16,956,925
Unclassified.....	09900	184,711
Current Expenses .....	13000	196,302
Repairs and Alterations.....	06400	100
Equipment.....	07000	100
Buildings (R).....	25800	100
Capital Outlay – Parks (R).....	28800	3,000,000
Litter Control Conservation Officers .....	56400	146,986
Upper Mud River Flood Control.....	65400	164,791
Other Assets.....	69000	100
Land (R).....	73000	100
Law Enforcement.....	80600	2,552,994
BRIM Premium.....	91300	<u>45,141</u>
Total.....		\$ 23,248,350

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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.

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

(WV Code Chapter 22)

Fund 0277 FY 2021 Org 0314

Personal Services and Employee Benefits ....00100	\$	9,450,243
Unclassified.....09900		111,016
Current Expenses .....13000		1,396,141
Coal Dust and Rock Dust Sampling .....27000		487,752
BRIM Premium.....91300		<u>80,668</u>
Total.....	\$	11,525,820

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.

*39 - Board of Coal Mine Health and Safety*

(WV Code Chapter 22)

Fund 0280 FY 2021 Org 0319

Personal Services and Employee Benefits ....00100	\$	233,981
Unclassified.....09900		3,480
Current Expenses .....13000		<u>118,138</u>
Total.....	\$	355,599

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.

*40 - WorkForce West Virginia*

(WV Code Chapter 23)

Fund 0572 FY 2021 Org 0323

Personal Services and Employee Benefits ....00100	\$	51,433
Unclassified.....09900		593
Current Expenses .....13000		<u>7,337</u>
Total.....	\$	59,363

*41 - Department of Commerce –**Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2021 Org 0327

Personal Services and Employee Benefits ....00100	\$	588,872
Unclassified.....09900		1,490
Current Expenses .....13000		17,099
Directed Transfer .....70000		<u>500,000</u>
Total.....	\$	1,107,461

The above appropriation for Directed Transfer (fund 0606, appropriation 70000) shall be transferred to the Broadband Enhancement Fund (fund 3013).

*42 - Office of Energy*

(WV Code Chapter 5B)

Fund 0612 FY 2021 Org 0328

Personal Services and Employee Benefits ....00100	\$	198,299
Unclassified.....09900		12,395
Current Expenses .....13000		1,029,679
BRIM Premium.....91300		<u>3,894</u>
Total.....	\$	1,244,267

From the above appropriation for Current Expenses (fund 0612, appropriation 13000) \$558,247 is for West Virginia University and \$308,247 is for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

*43 - State Board of Rehabilitation –**Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 0310 FY 2021 Org 0932



Personal Services and Employee Benefits ....00100	\$ 11,459,977
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	<u>77,464</u>
Total.....	\$ 14,886,464

From the above appropriation for Workshop Development (fund 0310, appropriation 16300), fund 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 EDUCATION**

### *44 - State Board of Education –*

#### *School Lunch Program*

(WV Code Chapters 18, and 18A)

Fund 0303 FY 2021 Org 0402

Personal Services and Employee Benefits ....00100	\$ 348,042
Current Expenses .....13000	<u>2,118,865</u>
Total.....	\$ 2,466,907

### *45 - State Board of Education –*

#### *State Department of Education*

(WV Code Chapters 18, and 18A)

Fund 0313 FY 2021 Org 0402

Personal Services and Employee Benefits ....00100	\$ 4,598,523
Teachers' Retirement Savings Realized .....09500	33,028,000

Unclassified (R) .....	09900	420,000
Current Expenses (R) .....	13000	5,410,000
Center for Professional Development (R).....	11500	150,000
Increased Enrollment .....	14000	5,090,000
Safe Schools.....	14300	4,704,544
Attendance Incentive Bonus .....	15001	2,056,717
National Teacher Certification (R) .....	16100	300,000
Jobs & Hope – Childhood		
Drug Prevention Education.....	21901	2,500,000
Allowance for County Transfer .....	26400	238,174
Technology Repair and Modernization.....	29800	951,003
HVAC Technicians .....	35500	516,791
Early Retirement Notification Incentive .....	36600	300,000
MATH Program .....	36800	336,532
Assessment Programs .....	39600	1,339,588
Benedum Professional		
Development Collaborative (R).....	42700	429,775
Governor’s Honors Academy (R) .....	47800	1,059,270
21st Century Fellows .....	50700	274,899
English as a Second Language.....	52800	96,000
Teacher Reimbursement .....	57300	297,188
Hospitality Training .....	60000	272,775
Hi-Y Youth in Government .....	61600	100,000
High Acuity Special Needs (R).....	63400	1,500,000
Foreign Student Education.....	63600	100,294
State Board of Education		
Administrative Costs .....	68400	277,403
IT Academy (R) .....	72100	500,000
Early Literacy Program.....	75600	5,705,624
School Based Truancy Prevention (R).....	78101	2,032,238
Mastery Based Education .....	78104	125,000
Communities in Schools (R).....	78103	4,900,000
21st Century Learners (R).....	88600	1,756,470
BRIM Premium.....	91300	342,859
21st Century Assessment and		
Professional Development .....	93100	2,006,978
21st Century Technology Infrastructure		
NetworkTools and Support.....	93300	7,636,586
Special Olympic Games.....	96600	25,000

Educational Program Allowance .....	99600	<u>566,250</u>
Total.....		\$ 91,944,481

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

From the above appropriation for Current Expenses (fund 0313, appropriation 13000), \$2,000,000 shall be used for the Department of Education Child Nutrition Program – Non-traditional Child Hunger Solutions, \$750,000 shall be used for Local Education Projects, and \$80,000 shall be used for creating a career exploration school for students

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), National Teacher Certification (fund 0313, appropriation 16100), 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), and 21st Century Learners (fund 0313, appropriation 88600) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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 exam fees.

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

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

From the above appropriation for Educational Program Allowance (fund 0313, appropriation 99600), \$100,000 shall be expended for Webster County Board of Education for Hacker Valley; \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall be for the Preston County Board of Education for the Aurora School; \$100,000 shall be for the Fayette County Board of Education for Meadow Bridge; \$50,000 shall be for Morgan County Board for Paw Paw Schools; and \$66,250 is for Project Based Learning in STEM fields.

*46 - State Board of Education –*

*Aid for Exceptional Children*

(WV Code Chapters 18, and 18A)

Fund 0314 FY 2021 Org 0402

Special Education – Counties .....	15900	\$ 7,271,757
Special Education – Institutions.....	16000	3,968,631
Education of Juveniles Held in Predispositional		
Juvenile Detention Centers .....	30200	657,858
Education of Institutionalized		
Juveniles and Adults (R).....	47200	<u>20,325,353</u>
Total.....		\$ <u>32,223,599</u>

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

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.

*47 - State Board of Education –*

*State Aid to Schools*

## (WV Code Chapters 18, and 18A)

Fund 0317 FY 2021 Org 0402

Other Current Expenses .....	02200	\$ 170,216,073
Advanced Placement.....	05300	734,729
Professional Educators.....	15100	897,576,715
Service Personnel.....	15200	301,789,240
Fixed Charges .....	15300	106,219,537
Transportation .....	15400	78,177,730
Professional Student Support Services .....	65500	62,148,699
Improved Instructional Programs.....	15600	51,851,736
21st Century Strategic		
Technology Learning Growth.....	93600	26,198,236
Teacher and Leader Induction.....	93601	<u>5,233,355</u>
Basic Foundation Allowances.....		1,700,146,050
Less Local Share .....		(475,033,135)
Adjustments .....		<u>(2,716,826)</u>
Total Basic State Aid .....		1,222,396,089
Public Employees' Insurance Matching .....	01200	222,461,499
Teachers' Retirement System .....	01900	67,663,000
School Building Authority .....	45300	24,000,000
Retirement Systems – Unfunded Liability....	77500	<u>323,576,000</u>
Total.....		\$1,860,096,588

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

## (WV Code Chapters 18, and 18A)

Fund 0390 FY 2021 Org 0402

Personal Services and Employee Benefits ....	00100	\$ 1,339,713
Unclassified.....	09900	268,800
Current Expenses .....	13000	883,106
Wood Products – Forestry		
Vocational Program .....	14600	79,873
Albert Yanni Vocational Program .....	14700	132,123
Vocational Aid .....	14800	24,229,691
Adult Basic Education .....	14900	5,271,228

Jobs & Hope.....	14902	3,500,000
Program Modernization .....	30500	884,313
High School Equivalency		
Diploma Testing (R).....	72600	803,397
FFA Grant Awards.....	83900	11,496
Pre-Engineering Academy Program .....	84000	<u>265,294</u>
Total.....		\$ 37,669,034

Any unexpended balances remaining in the appropriations for Jim’s Dream (fund 0390, appropriation 14901) and High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*49 - State Board of Education –*

*West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18, and 18A)

Fund 0320 FY 2021 Org 0403

Personal Services and Employee Benefits ....	00100	\$ 11,379,675
Unclassified.....	09900	110,000
Current Expenses .....	13000	2,250,696
Repairs and Alterations.....	06400	164,675
Equipment.....	07000	77,000
Buildings (R).....	25800	45,000
Capital Outlay and Maintenance (R) .....	75500	520,000
BRIM Premium.....	91300	<u>130,842</u>
Total.....		\$ 14,677,888

Any unexpended balances remaining in the appropriations for Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

*50 - Division of Culture and History*

## (WV Code Chapter 29)

Fund 0293 FY 2021 Org 0432

Personal Services and Employee Benefits ....00100	\$	3,463,493
Current Expenses .....		610,843
Repairs and Alterations .....		1,000
Equipment .....		1
Unclassified (R) .....		28,483
WV Humanities Council.....		250,000
Buildings (R).....		1
Other Assets .....		1
Educational Enhancements .....		573,500
Land (R).....		1
Culture and History Programming .....		231,573
Capital Outlay and Maintenance (R) .....		19,600
Historical Highway Marker Program.....		57,548
BRIM Premium.....		<u>39,337</u>
Total.....	\$	5,275,381

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

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

*51 - Library Commission*

(WV Code Chapter 10)

Fund 0296 FY 2021 Org 0433

Personal Services and Employee Benefits ....00100	\$	1,314,744
Current Expenses .....	13000	139,624
Repairs and Alterations .....	06400	6,500
Services to Blind & Handicapped.....	18100	161,717
BRIM Premium.....	91300	<u>18,205</u>
Total.....	\$	1,640,790

*52 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 0300 FY 2021 Org 0439

Personal Services and Employee Benefits ....00100	\$	3,312,092
Current Expenses .....	13000	120,146
Mountain Stage .....	24900	300,000
Capital Outlay and Maintenance (R) .....	75500	50,000
BRIM Premium.....	91300	<u>48,453</u>
Total.....	\$	3,830,691

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

*53 - Environmental Quality Board*

(WV Code Chapter 20)

Fund 0270 FY 2021 Org 0311



Personal Services and Employee Benefits ....00100	\$	82,539
Current Expenses .....	13000	28,453
Repairs and Alterations.....	06400	800
Equipment.....	07000	500
Other Assets.....	69000	400
BRIM Premium.....	91300	791
Total.....	\$	113,483

*54 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 0273 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	4,207,200
Water Resources		
Protection and Management .....	06800	576,278
Current Expenses .....	13000	86,116
Repairs and Alterations.....	06400	1,500
Unclassified.....	09900	14,825
Dam Safety.....	60700	237,824
West Virginia Stream Partners Program .....	63700	77,396
Meth Lab Cleanup.....	65600	139,000
WV Contributions to River Commissions ....	77600	148,485
Office of Water Resources		
Non-Enforcement Activity .....	85500	1,009,855
Total.....	\$	6,498,479

*55 - Air Quality Board*

(WV Code Chapter 16)

Fund 0550 FY 2021 Org 0325

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

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES***56 - Department of Health and Human Resources –**Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2021 Org 0501

Personal Services and Employee Benefits ....00100	\$	384,638
Unclassified.....09900		6,459
Current Expenses .....13000		50,613
Commission for the		
Deaf and Hard of Hearing.....70400		<u>225,534</u>
Total.....	\$	667,244

Any unexpended balance remaining in the appropriation for the Women's Commission (fund 0400, appropriation 19100) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

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

(WV Code Chapter 16)

Fund 0407 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$	12,544,773
Chief Medical Examiner .....04500		8,714,647
Unclassified.....09900		671,795
Current Expenses .....13000		4,588,459
State Aid for Local and		
Basic Public Health Services .....18400		14,160,490
Safe Drinking Water Program (R) .....18700		1,891,323
Women, Infants and Children .....21000		38,621
Early Intervention .....22300		8,134,060
Cancer Registry.....22500		206,306
Office of Drug Control Policy (R) .....35401		545,153
Statewide EMS Program Support (R).....38300		1,695,271

Office of Medical Cannabis (R).....	42001	1,459,989
Black Lung Clinics .....	46700	170,885
Vaccine for Children.....	55100	338,235
Tuberculosis Control.....	55300	329,256
Maternal and Child Health Clinics, Clinicians		
Medical Contracts and Fees (R) .....	57500	5,892,707
Epidemiology Support .....	62600	1,497,192
Primary Care Support .....	62800	4,263,706
Sexual Assault Intervention and Prevention ....	72300	125,000
Health Right Free Clinics.....	72700	3,750,000
Capital Outlay and Maintenance (R) .....	75500	70,000
Healthy Lifestyles .....	77800	890,000
Maternal Mortality Review.....	83400	49,933
Diabetes Education and Prevention .....	87300	97,125
BRIM Premium.....	91300	169,791
State Trauma and Emergency Care System..	91800	1,921,322
WVU Charleston Poison Control Hotline.....	94400	<u>712,942</u>
Total.....		\$ 74,928,981

Any unexpended balances remaining in the appropriations for Safe Drinking Water Program (fund 0407, appropriation 18700), Office of Drug Control Policy (fund 0407, appropriation 35401), Office of Drug Control Policy – Surplus (fund 0407, appropriation 35402), Statewide EMS Program Support (fund 0407, appropriation 38300), Office of Medical Cannabis (fund 0407, appropriation 42001), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500), Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200), and Tobacco Education Program (fund 0407, appropriation 90600) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be expended for the West Virginia Aids Coalition; \$100,000 is for Adolescent Immunization Education; \$73,065 is for informal dispute

resolution relating to nursing home administrative appeals; \$50,000 is for Hospital Hospitality House of Huntington; and \$200,000 is for Potomac Center Inc. of Romney, West Virginia.

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

*58 - Consolidated Medical Services Fund*

(WV Code Chapter 16)

Fund 0525 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$ 1,632,588
Current Expenses .....	13000 14,113
Behavioral Health Program (R) .....	21900 68,613,953
Jobs & Hope.....	14902 4,500,000
Family Support Act.....	22100 251,226
Institutional Facilities Operations (R).....	33500 147,729,180
Substance Abuse Continuum of Care (R).....	35400 1,840,000
Capital Outlay and Maintenance (R) .....	75500 2,875,000
Renaissance Program .....	80400 165,996
BRIM Premium.....	91300 <u>1,296,098</u>
Total.....	\$ 228,918,154

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0525, appropriation 14901), Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), and Capital Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the

above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

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

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

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

Additional funds have been appropriated in fund 5156, fiscal year 2021, organization 0506, for the operation of the institutional facilities. The secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities Operations appropriation to facilitate cost effective and cost saving services at the community level.

*59 - Division of Health –*

*West Virginia Drinking Water Treatment*

(WV Code Chapter 16)

Fund 0561 FY 2021 Org 0506

West Virginia Drinking Water Treatment

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

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

*60 - Human Rights Commission*

(WV Code Chapter 5)

Fund 0416 FY 2021 Org 0510

Personal Services and Employee Benefits ....00100	\$	1,073,553
Unclassified.....09900		4,024
Current Expenses .....13000		331,304
BRIM Premium.....91300		<u>10,764</u>
Total.....	\$	1,419,645

*61 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2021 Org 0511

Personal Services and Employee Benefits ....00100	\$	48,929,356
Unclassified.....09900		5,688,944
Current Expenses .....13000		12,866,637
Child Care Development.....14400		3,102,718
Medical Services.....18900		297,855,264
Social Services .....19500		226,376,781
Family Preservation Program .....19600		1,565,000
Family Resource Networks.....27400		1,762,464
Domestic Violence Legal Services Fund .....38400		400,000
James “Tiger” Morton		
Catastrophic Illness Fund .....45500		105,695
I/DD Waiver.....46600		108,541,736
Child Protective Services Case Workers .....46800		27,843,073
Title XIX Waiver for Seniors.....53300		13,593,620
WV Teaching Hospitals		
Tertiary/Safety Net .....54700		6,356,000

In-Home Family Education.....	68800	1,000,000
WV Works Separate State Program.....	69800	135,000
Child Support Enforcement .....	70500	6,458,806
Temporary Assistance for Needy Families/ Maintenance of Effort.....	70700	25,819,096
Child Care – Maintenance of Effort Match .....	70800	5,693,743
Grants for Licensed Domestic Violence Programs and Statewide Prevention .....	75000	2,500,000
Capital Outlay and Maintenance (R) .....	75500	11,875
Community Based Services and Pilot Programs for Youth.....	75900	1,000,000
Medical Services Administrative Costs .....	78900	38,234,761
Traumatic Brain Injury Waiver.....	83500	800,000
Indigent Burials (R) .....	85100	1,550,000
CHIP Administrative Costs.....	85601	700,000
CHIP Services.....	85602	6,390,665
BRIM Premium.....	91300	892,642
Rural Hospitals Under 150 Beds.....	94000	2,596,000
Children’s Trust Fund – Transfer.....	95100	220,000
PATH .....	95400	<u>7,162,452</u>
Total.....		\$ 856,152,328

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

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

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

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

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

The above appropriation for WV Works Separate State Program (fund 0403, appropriation 69800), shall be transferred to the WV Works Separate State College Program Fund (fund 5467), and the WV Works Separate State Two-Parent Program Fund (fund 5468) as determined by the secretary of the Department of Health and Human Resources.

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

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

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



**DEPARTMENT OF MILITARY AFFAIRS  
AND PUBLIC SAFETY**

*62 - Department of Military Affairs and Public Safety –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0430 FY 2021 Org 0601

Personal Services and Employee Benefits ....00100	\$	684,426
Unclassified (R) .....09900		16,386
Current Expenses .....13000		168,968
Repairs and Alterations.....06400		1,500
Equipment.....07000		1,500
Fusion Center (R).....46900		824,000
Other Assets.....69000		2,500
Directed Transfer .....70000		32,000
BRIM Premium.....91300		22,563
WV Fire and EMS Survivor Benefit (R) .....93900		<u>200,000</u>
Total.....	\$	1,953,843

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation 95300) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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).

*63 - Adjutant General –*

*State Militia*

## (WV Code Chapter 15)

Fund 0433 FY 2021 Org 0603

Unclassified (R) .....	09900	\$	106,798
College Education Fund.....	23200		4,000,000
Civil Air Patrol.....	23400		249,664
Mountaineer ChalleNGe Academy .....	70900		4,800,000
Armory Board Transfer.....	70015		2,317,555
Military Authority (R).....	74800		6,260,251
Drug Enforcement and Support .....	74801		<u>1,500,000</u>
Total.....		\$	19,234,268

Any unexpended balances remaining in the appropriations for Unclassified (fund 0433, appropriation 09900), Military Authority (fund 0433, appropriation 74800), and Military Authority – Surplus (fund 0433, appropriation 74899) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

From the above appropriations an amount approved by the Adjutant General and the secretary of Military Affairs and Public Safety 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 \$4,800,000 to the Mountaineer ChalleNGe Academy to meet anticipated program demand.

*64 - Adjutant General –**Military Fund*

## (WV Code Chapter 15)

Fund 0605 FY 2021 Org 0603

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

*65 - West Virginia Parole Board*

(WV Code Chapter 62)

Fund 0440 FY 2021 Org 0605

Personal Services and Employee Benefits ....00100	\$	405,066
Current Expenses .....	13000	355,234
Unclassified.....	09900	10,000
Salaries of Members of		
West Virginia Parole Board.....	22700	609,833
BRIM Premium.....	91300	<u>6,149</u>
Total.....	\$	1,386,282

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

*66 - Division of Homeland Security and*

*Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2021 Org 0606

Personal Services and Employee Benefits ....00100	\$	2,189,894
Unclassified.....	09900	25,022
Current Expenses .....	13000	57,314
Repairs and Alterations.....	06400	600
Radiological Emergency Preparedness.....	55400	17,052
SIRN .....	55401	600,000
Federal Funds/Grant Match (R) .....	74900	1,409,145
Mine and Industrial Accident Rapid		
Response Call Center.....	78100	469,911
Early Warning Flood System (R) .....	87700	1,284,448

BRIM Premium.....	91300	<u>96,529</u>
Total.....		\$ 6,149,915

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700), and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*67 - Division of Corrections and Rehabilitation –*

*Central Office*

(WV Code Chapter 15A)

Fund 0446 FY 2021 Org 0608

Personal Services and Employee Benefits ....	00100	\$ 576,577
Current Expenses .....	13000	<u>2,400</u>
Total.....		\$ 578,977

*68 - Division of Corrections and Rehabilitation –*

*Correctional Units*

(WV Code Chapter 15A)

Fund 0450 FY 2021 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	52,016,936
Facilities Planning and Administration (R) ..	38600	1,274,200
Charleston Correctional Center .....	45600	3,400,402
Beckley Correctional Center.....	49000	2,518,874
Anthony Correctional Center .....	50400	6,096,779
Huttonsville Correctional Center .....	51400	21,920,001
Northern Correctional Center.....	53400	8,018,685
Inmate Medical Expenses (R) .....	53500	21,226,064
Pruntytown Correctional Center .....	54300	8,597,911

Corrections Academy.....	56900	1,925,980
Information Technology Services.....	59901	2,759,052
Martinsburg Correctional Center .....	66300	4,348,990
Parole Services.....	68600	5,850,564
Special Services .....	68700	6,477,777
Investigative Services .....	71600	3,394,070
Capital Outlay and Maintenance (R) .....	75500	2,000,000
Salem Correctional Center.....	77400	11,455,381
McDowell County Correctional Center .....	79000	2,542,590
Stevens Correctional Center.....	79100	7,863,195
Parkersburg Correctional Center.....	82800	3,927,845
St. Mary's Correctional Center .....	88100	14,497,534
Denmar Correctional Center .....	88200	5,189,043
Ohio County Correctional Center .....	88300	2,147,492
Mt. Olive Correctional Complex .....	88800	22,357,432
Lakin Correctional Center.....	89600	10,711,864
BRIM Premium.....	91300	<u>2,527,657</u>
Total.....		\$ 238,721,691

Any unexpended balances remaining in the appropriations for Children's Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund 0450, appropriation 75500), Security System Improvements – Surplus (fund 0450, appropriation 75501), and Roof Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

The Commissioner of Corrections and Rehabilitation shall have the authority to transfer between individual correctional unit appropriations as specified above and may transfer funds from the individual correctional unit appropriations as specified above to

Current Expenses (fund 0450, appropriation 13000) or Inmate Medical Expenses (fund 0450, appropriation 53500).

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

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

*69 - Division of Corrections and Rehabilitation –*

*Bureau of Juvenile Services*

(WV Code Chapter 15A)

Fund 0570 FY 2021 Org 0608

Statewide Reporting Centers.....	26200	\$ 7,358,529
Robert L. Shell Juvenile Center .....	26700	2,519,068
Resident Medical Expenses (R) .....	53501	3,604,999
Central Office.....	70100	2,167,320
Capital Outlay and Maintenance (R) .....	75500	250,000
Gene Spadaro Juvenile Center .....	79300	2,692,984
BRIM Premium.....	91300	115,967
Kenneth Honey Rubenstein		
Juvenile Center (R) .....	98000	5,808,523
Vicki Douglas Juvenile Center .....	98100	2,389,494
Northern Regional Juvenile Center.....	98200	2,876,302
Lorrie Yeager Jr. Juvenile Center .....	98300	2,422,880
Sam Perdue Juvenile Center .....	98400	2,614,497
Tiger Morton Center .....	98500	2,633,060
Donald R. Kuhn Juvenile Center .....	98600	5,060,657
J.M. “Chick” Buckbee Juvenile Center .....	98700	<u>2,527,617</u>
Total.....		\$ 45,041,897

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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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).

*70 - West Virginia State Police*

(WV Code Chapter 15)

Fund 0453 FY 2021 Org 0612

Personal Services and Employee Benefits ....00100	\$ 62,255,235
Children's Protection Act .....09000	1,009,529
Current Expenses .....13000	10,384,394
Repairs and Alterations.....06400	450,523
Trooper Class.....52100	3,207,832
Barracks Lease Payments .....55600	237,898
Communications and Other Equipment (R) ....55800	1,070,968
Trooper Retirement Fund.....60500	11,487,590
Handgun Administration Expense .....74700	77,892
Capital Outlay and Maintenance (R) .....75500	250,000
Retirement Systems – Unfunded Liability....77500	16,648,000
Automated Fingerprint Identification System89800	2,211,693
BRIM Premium.....91300	<u>5,743,921</u>
Total.....	\$ 115,035,475

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800), and Capital Outlay and Maintenance (fund 0453, appropriation 75500) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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.

*71 - Fire Commission*

(WV Code Chapter 29)

Fund 0436 FY 2021 Org 0619

Current Expenses .....	13000	\$	64,021
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*72 - Division of Protective Services*

(WV Code Chapter 5F)

Fund 0585 FY 2021 Org 0622

Personal Services and Employee Benefits ....	00100	\$	3,029,459
Unclassified (R) .....	09900		21,991
Current Expenses .....	13000		422,981
Repairs and Alterations.....	06400		8,500
Equipment (R).....	07000		64,171
BRIM Premium.....	91300		<u>32,602</u>
Total.....		\$	3,579,704

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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*73 - Division of Administrative Services*

(WV Code Chapter 15A)

Fund 0619 FY 2021 Org 0623

Personal Services and Employee Benefits ....	00100	\$	2,306,255
Current Expenses .....	13000		<u>305,000</u>
Total.....		\$	2,611,255



*74 - Division of Justice and Community Services*

(WV Code Chapter 15)

Fund 0546 FY 2021 Org 0623

Personal Services and Employee Benefits ....00100	\$	570,979
Current Expenses .....	13000	133,360
Repairs and Alterations.....	06400	1,804
Child Advocacy Centers (R).....	45800	2,206,954
Community Corrections (R) .....	56100	6,927,323
Statistical Analysis Program .....	59700	49,819
Sexual Assault Forensic Examination Commission (R) .....	71400	77,525
Qualitative Analysis and Training for Youth Services (R) .....	76200	332,446
Law Enforcement Professional Standards ....	83800	164,272
BRIM Premium.....	91300	<u>2,123</u>
Total.....		\$ 10,466,605

Any unexpended balances remaining in the appropriations for Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual Assault Forensic Examination Commission (fund 0546 appropriation 71400), Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200), and Law Enforcement Professional Standards – Surplus (fund 0546, appropriation 83899) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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.

**DEPARTMENT OF REVENUE***75 - Office of the Secretary*

(WV Code Chapter 11)

Fund 0465 FY 2021 Org 0701

Personal Services and Employee Benefits ....00100	\$	516,906
Unclassified.....09900		5,837
Current Expenses .....13000		81,594
Repairs and Alterations.....06400		1,262
Equipment.....07000		8,000
Other Assets.....69000		500
Total.....	\$	614,099

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*76 - Tax Division*

(WV Code Chapter 11)

Fund 0470 FY 2021 Org 0702

Personal Services and Employee Benefits (R) .....00100	\$	19,272,541
Unclassified (R) .....09900		224,578
Current Expenses (R).....13000		5,873,635
Repairs and Alterations.....06400		10,150
Equipment.....07000		54,850
Tax Technology Upgrade .....09400		3,700,000
Integrated Tax Assessment System (R) .....29200		1,100,000
Multi State Tax Commission .....65300		77,958
Other Assets.....69000		10,000
BRIM Premium.....91300		15,579
Total.....	\$	30,339,291

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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*77 - State Budget Office*

(WV Code Chapter 11B)

Fund 0595 FY 2021 Org 0703

Personal Services and Employee Benefits ....00100	\$	794,942
Unclassified (R) .....09900		1,199
Current Expenses .....13000		<u>127,450</u>
Total.....	\$	923,591

Any unexpended balance remaining in the appropriation for Unclassified (fund 0595, appropriation 09900) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*78 - West Virginia Office of Tax Appeals*

(WV Code Chapter 11)

Fund 0593 FY 2021 Org 0709

Personal Services and Employee Benefits ....00100	\$	452,106
Current Expenses (R) .....13000		97,622
Unclassified.....09900		5,255
BRIM Premium.....91300		<u>3,062</u>
Total.....	\$	558,045

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*79 - Division of Professional and Occupational Licenses –**State Athletic Commission*

(WV Code Chapter 29)

Fund 0523 FY 2021 Org 0933

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

### DEPARTMENT OF TRANSPORTATION

#### *80 - State Rail Authority*

(WV Code Chapter 29)

#### Fund 0506 FY 2021 Org 0804

Personal Services and Employee Benefits ....00100	\$	361,627
Current Expenses .....	13000	1,287,707
Other Assets (R).....	69000	1,270,019
BRIM Premium.....	91300	<u>201,541</u>
Total.....	\$	3,120,894

From the above appropriation for Current Expenses (fund 0506, appropriation 13000), \$1,000,000 shall be transferred to the State Rail Authority – Commuter Rail Access Fund (fund 8402).

Any unexpended balance remaining in the appropriation Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

#### *81 - Division of Public Transit*

(WV Code Chapter 17)

#### Fund 0510 FY 2021 Org 0805

Equipment (R).....	07000	\$ 25,000
Current Expenses (R).....	13000	<u>2,237,989</u>
Total.....		\$ 2,262,989

Any unexpended balances remaining in the appropriations for Equipment (fund 0510, appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510, appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*82 - Aeronautics Commission*

(WV Code Chapter 29)

Fund 0582 FY 2021 Org 0807

Personal Services and Employee Benefits ....00100	\$	178,740
Current Expenses (R).....13000		591,839
Repairs and Alterations.....06400		100
BRIM Premium.....91300		<u>4,438</u>
Total.....	\$	775,117

Any unexpended balances remaining in the appropriations for Unclassified (fund 0582, appropriation 09900) and Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

**DEPARTMENT OF VETERANS' ASSISTANCE***83 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 0456 FY 2021 Org 0613

Personal Services and Employee Benefits ....00100	\$	1,987,212
Unclassified.....09900		20,000
Current Expenses .....13000		161,450
Repairs and Alterations.....06400		5,000
Veterans' Field Offices .....22800		405,550
Veterans' Nursing Home (R) .....28600		6,916,912
Veterans' Toll Free Assistance Line.....32800		2,015
Veterans' Reeducation Assistance (R).....32900		40,000
Veterans' Grant Program (R).....34200		560,000
Veterans' Grave Markers.....47300		10,000
Veterans Outreach Programs .....61700		200,740
Veterans Cemetery.....80800		389,215
BRIM Premium.....91300		<u>50,000</u>
Total.....	\$	10,748,094

Any unexpended balances remaining in the appropriations for Veterans’ Nursing Home (fund 0456, appropriation 28600), Veterans’ Reeducation Assistance (fund 0456, appropriation 32900), Veterans’ Grant Program (fund 0456, appropriation 34200), Veterans’ Bonus – Surplus (fund 0456, appropriation 34400), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*84 - Department of Veterans’ Assistance –*

*Veterans’ Home*

(WV Code Chapter 9A)

Fund 0460 FY 2021 Org 0618

Personal Services and Employee Benefits ....00100	\$	1,217,096
Current Expenses .....	13000	<u>46,759</u>
Total.....	\$	1,263,855

**BUREAU OF SENIOR SERVICES**

*85 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 0420 FY 2021 Org 0508

Current Expenses .....	13000	\$	500,000
Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens .....	53900		<u>29,950,955</u>
Total.....		\$	30,450,955

From the above appropriation for Current Expenses (fund 0420, appropriation 13000), \$500,000 shall be used for Local Senior Citizens Projects.

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens

(fund 0420, appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

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

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

*86 - West Virginia Council for*

*Community and Technical College Education –*

*Control Account*

(WV Code Chapter 18B)

Fund 0596 FY 2021 Org 0420

West Virginia Council for Community and Technical Education (R) .....	39200	\$	738,955
Transit Training Partnership .....	78300		34,293
Community College Workforce Development (R) .....	87800		2,786,925
College Transition Program .....	88700		278,222
West Virginia Advance Workforce Development (R) .....	89300		3,118,960
Technical Program Development (R) .....	89400		1,800,735
WV Invests Grant Program.....	89401		<u>7,034,748</u>
Total.....		\$	15,792,838

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), and Technical Program Development (fund 0596, appropriation 89400) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

From the above appropriation for the Community College Workforce Development (fund 0596, appropriation 87800), \$200,000 shall be expended on the Mine Training Program in Southern West Virginia.

Included in the above appropriation for West Virginia Advance Workforce Development (fund 0596, appropriation 89300) is \$200,000 to be used exclusively for advanced manufacturing and energy industry specific training programs.

*87 - Mountwest Community and Technical College*

(WV Code Chapter 18B)

Fund 0599 FY 2021 Org 0444

Mountwest Community and

Technical College .....48700 \$ 6,489,307

*88 - New River Community and Technical College*

(WV Code Chapter 18B)

Fund 0600 FY 2021 Org 0445

New River Community and

Technical College .....35800 \$ 5,864,886

*89 - Pierpont Community and Technical College*

(WV Code Chapter 18B)

Fund 0597 FY 2021 Org 0446

Pierpont Community and

Technical College .....93000 \$ 7,820,129

*90 - Blue Ridge Community and Technical College*

(WV Code Chapter 18B)

Fund 0601 FY 2021 Org 0447



Blue Ridge Community and  
 Technical College .....88500 \$ 7,830,842

*91 - West Virginia University at Parkersburg*

(WV Code Chapter 18B)

Fund 0351 FY 2021 Org 0464

West Virginia University – Parkersburg .....47100 \$ 10,319,284

*92 - Southern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0380 FY 2021 Org 0487

Southern West Virginia Community  
 and Technical College .....44600 \$ 8,241,823

*93 - West Virginia Northern Community and Technical College*

(WV Code Chapter 18B)

Fund 0383 FY 2021 Org 0489

West Virginia Northern Community  
 and Technical College .....44700 \$ 7,285,825

*94 - Eastern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0587 FY 2021 Org 0492

Eastern West Virginia Community  
 and Technical College .....41200 \$ 2,179,912

*95 - BridgeValley Community and Technical College*

(WV Code Chapter 18B)

Fund 0618 FY 2021 Org 0493

BridgeValley Community and  
 Technical College .....71700 \$ 8,098,811

### HIGHER EDUCATION POLICY COMMISSION

#### 96 - Higher Education Policy Commission –

##### Administration –

##### Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2021 Org 0441

Personal Services and Employee Benefits....00100	\$ 2,710,154
Current Expenses .....13000	1,113,606
Higher Education Grant Program .....16400	40,619,864
Tuition Contract Program (R).....16500	1,225,120
Underwood-Smith Scholarship	
Program-Student Awards.....16700	628,349
Facilities Planning and Administration.....38600	1,760,254
Higher Education System Initiatives.....48801	1,630,000
PROMISE Scholarship – Transfer.....80000	18,500,000
HEAPS Grant Program (R).....86700	5,014,728
Health Professionals’ Student Loan Program..86701	364,000
BRIM Premium.....91300	<u>17,817</u>
Total.....	\$ 73,583,892

Any unexpended balances remaining in the appropriations for Tuition Contract Program (fund 0589, appropriation 16500), Capital Improvements – Surplus (fund 0589, appropriation 66100), and HEAPS Grant Program (fund 0589, appropriation 86700) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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

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

The above appropriation for Underwood-Smith Scholarship Program-Student Awards (fund 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teacher Scholarship and Loan Assistance Fund (fund 4922, org 0441) established by W.Va. Code §18C-4-1.

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

*97 - Higher Education Policy Commission –*

*Administration -*

*West Virginia Network for Educational Telecomputing (WVNET)*

(WV Code Chapter 18B9)

Fund 0551 FY 2021 Org 0495

WVNET ..... 16900 \$ 1,747,826

*98 - West Virginia University –*

*School of Medicine*

*Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2021 Org 0463

WVU School of Health Science –

Eastern Division.....05600 \$ 2,235,352

WVU – School of Health Sciences ..... 17400 15,056,370

WVU – School of Health Sciences –

Charleston Division ..... 17500 2,286,711

Rural Health Outreach Programs .....	37700	164,517
West Virginia University School of Medicine BRIM Subsidy .....	46000	<u>1,203,087</u>
Total.....		\$ 20,946,037

The above appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for West Virginia University School of Medicine BRIM Subsidy (fund 0343, appropriation 46000) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice insurance coverage.

*99 - West Virginia University –*

*General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2021 Org 0463

West Virginia University .....	45900	\$ 97,017,960
Jackson’s Mill .....	46100	491,458
West Virginia University Institute of Technology .....	47900	8,020,938
State Priorities – Brownfield Professional Development .....	53100	316,556
Energy Express .....	86100	382,935
West Virginia University – Potomac State ...	99400	<u>4,512,711</u>
Total.....		\$ 110,742,558

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.

*100 - Marshall University –*

*School of Medicine*

## (WV Code Chapter 18B)

Fund 0347 FY 2021 Org 0471

Marshall Medical School .....	17300	\$ 12,235,068
Rural Health Outreach Programs (R).....	37700	156,022
Forensic Lab.....	37701	227,415
Center for Rural Health.....	37702	157,096
Marshall University Medical School		
BRIM Subsidy .....	44900	<u>872,612</u>
Total.....		\$ 13,648,213

Any unexpended balance remaining in the appropriation for Rural Health Outreach Program (fund 0347, appropriation 37700) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

The above appropriation for Rural Health Outreach Programs (fund 0347, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for Marshall University Medical School BRIM Subsidy (fund 0347, appropriation 44900) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice insurance coverage.

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

## (WV Code Chapter 18B)

Fund 0348 FY 2021 Org 0471

Marshall University .....	44800	\$ 46,761,199
Luke Lee Listening Language and Learning Lab.....	44801	99,015
Vista E-Learning (R).....	51900	229,019

## State Priorities – Brownfield

Professional Development (R).....	53100	309,606
Marshall University Graduate College Writing Project (R).....	80700	25,412
WV Autism Training Center (R) .....	93200	<u>1,808,381</u>
Total.....		\$ 49,232,632

Any unexpended balances remaining in the appropriations for Vista E-Learning (fund 0348, appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348, appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*102 - West Virginia School of Osteopathic Medicine*

(WV Code Chapter 18B)

Fund 0336 FY 2021 Org 0476

## West Virginia School of

Osteopathic Medicine .....	17200	\$ 8,879,296
Rural Health Outreach Programs (R).....	37700	166,111
West Virginia School of Osteopathic Medicine BRIM Subsidy .....	40300	153,405
Rural Health Initiative – Medical Schools Support.....	58100	<u>397,592</u>
Total.....		\$ 9,596,404

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

The above appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for West Virginia School of Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation 40300) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice insurance coverage.

*103 - Bluefield State College*

(WV Code Chapter 18B)

Fund 0354 FY 2021 Org 0482

Bluefield State College .....40800 \$ 6,383,221

*104 - Concord University*

(WV Code Chapter 18B)

Fund 0357 FY 2021 Org 0483

Concord University .....41000 \$ 10,476,415

*105 - Fairmont State University*

(WV Code Chapter 18B)

Fund 0360 FY 2021 Org 0484

Fairmont State University .....41400 \$ 18,600,341

*106 - Glenville State College*

(WV Code Chapter 18B)

Fund 0363 FY 2021 Org 0485

Glenville State College .....42800 \$ 6,446,942

*107 - Shepherd University*

(WV Code Chapter 18B)

Fund 0366 FY 2021 Org 0486

Shepherd University.....43200 \$ 12,683,829

*108 - West Liberty University*

(WV Code Chapter 18B)

Fund 0370 FY 2021 Org 0488

West Liberty University.....43900 \$ 9,102,662

*109 - West Virginia State University*

(WV Code Chapter 18B)

Fund 0373 FY 2021 Org 0490

West Virginia State University .....44100 \$ 11,342,512

West Virginia State University

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

Total..... \$ 14,292,704

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

Total TITLE II, Section 1 – General Revenue

(Including claims against the state) ..... \$4,578,900,000

**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 2021.

## **DEPARTMENT OF TRANSPORTATION**

*110 - Division of Motor Vehicles*

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

Fund 9007 FY 2021 Org 0802



	<b>Appropriation</b>	<b>State Road Fund</b>
Personal Services and Employee Benefits ....00100	\$ 25,977,939	
Current Expenses .....	13000	16,175,840
Repairs and Alterations.....	06400	144,000
Equipment.....	07000	1,080,000
Buildings.....	25800	10,000
Other Assets.....	69000	2,600,000
BRIM Premium.....	91300	<u>89,940</u>
Total.....		\$ 46,077,719

*111 - Division of Highways*

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2021 Org 0803

Debt Service.....	04000	\$ 150,000,000
Maintenance.....	23700	489,932,854
Inventory Revolving .....	27500	4,000,000
Equipment Revolving .....	27600	18,000,000
General Operations .....	27700	80,000,000
Interstate Construction.....	27800	90,000,000
Other Federal Aid Programs .....	27900	370,000,000
Appalachian Programs .....	28000	100,000,000
Highway Litter Control.....	28200	1,650,000
Courtesy Patrol.....	28201	<u>5,000,000</u>
Total.....		\$1,308,582,854

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

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

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

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

*112 - Office of Administrative Hearings*

(WV Code Chapter 17C)

Fund 9027 FY 2021 Org 0808

Personal Services and Employee Benefits ....00100	\$	1,698,752
Current Expenses .....	13000	338,278
Repairs and Alterations.....	06400	3,000
Equipment.....	07000	15,500
BRIM Premium.....	91300	<u>10,000</u>
Total.....	\$	2,065,530

Total TITLE II, Section 2 – State Road Fund

(Including claims against the state) ..... \$1,357,570,267

**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 2021.

**LEGISLATIVE***113 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 1731 FY 2021 Org 2300

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

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

(WV Code Chapter 51)

Fund 1763 FY 2021 Org 2400

Current Expenses .....13000	\$ 1,150,000
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From the above appropriation for Current Expenses (fund 1763, appropriation 13000), \$100,000 shall be used for the West Virginia CASA Association.

*115 - Supreme Court –**Court Advanced Technology Subscription Fund*

(WV Code Chapter 51)

Fund 1704 FY 2021 Org 2400

Current Expenses .....13000	\$ 100,000
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*116 - Supreme Court –**Adult Drug Court Participation Fund*

(WV Code Chapter 62)

Fund 1705 FY 2021 Org 2400

Current Expenses .....	13000	\$	200,000
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**EXECUTIVE***117 - Governor's Office –**Minority Affairs Fund*

(WV Code Chapter 5)

Fund 1058 FY 2021 Org 0100

Personal Services and Employee Benefits ....00100	\$	177,737
Current Expenses .....	13000	503,200
Martin Luther King, Jr. Holiday Celebration03100		<u>8,926</u>
Total.....	\$	689,863

*118 - Auditor's Office –**Land Operating Fund*

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

Fund 1206 FY 2021 Org 1200

Personal Services and Employee Benefits ....00100	\$	799,211
Unclassified.....09900		15,139
Current Expenses .....	13000	715,291
Repairs and Alterations.....06400		2,600
Equipment.....07000		426,741
Cost of Delinquent Land Sales.....76800		<u>1,841,168</u>
Total.....	\$	3,800,150

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the necessary amount for the

expenditure of funds other than Personal Services and Employee Benefits to enable the division to pay the direct expenses relating to land sales as provided in Chapter 11A of the West Virginia Code.

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

*119 - Auditor's Office –*

*Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2021 Org 1200

Personal Services and Employee Benefits ....00100	\$	627,779
Current Expenses .....	13000	282,030
Repairs and Alterations.....	06400	6,000
Equipment .....	07000	10,805
Other Assets .....	69000	50,000
Statutory Revenue Distribution.....	74100	<u>3,500,000</u>
Total.....	\$	4,476,614

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

*120 - Auditor's Office –*

*Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2021 Org 1200

Personal Services and Employee Benefits ....00100	\$	2,487,017
Unclassified.....	09900	31,866
Current Expenses .....	13000	1,463,830

Repairs and Alterations.....06400	12,400
Equipment.....07000	394,700
Other Assets.....69000	<u>900,000</u>
Total.....	\$ 5,289,813

*121 - Auditor's Office – Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2021 Org 1200

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

Fifty percent of the deposits made into this fund shall be transferred to the Treasurer's Office – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the purposes described in W.Va. Code §12-3-10c.

*122 - Auditor's Office –*

*Purchasing Card Administration Fund*

(WV Code Chapter 12)

Fund 1234 FY 2021 Org 1200

Personal Services and Employee Benefits....00100	\$ 2,824,837
Current Expenses .....	13000 2,303,622
Repairs and Alterations.....06400	5,500
Equipment.....07000	650,000
Other Assets.....69000	308,886
Statutory Revenue Distribution.....74100	<u>8,000,000</u>
Total.....	\$ 14,092,845

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 Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

*123 - Auditor's Office –**Chief Inspector's Fund*

(WV Code Chapter 6)

Fund 1235 FY 2021 Org 1200

Personal Services and Employee Benefits ....00100	\$	3,583,096
Current Expenses .....13000		765,915
Equipment .....07000		<u>50,000</u>
Total .....	\$	4,399,011

*124 - Auditor's Office –**Volunteer Fire Department Workers'**Compensation Premium Subsidy Fund*

(WV Code Chapters 12 and 33)

Fund 1239 FY 2021 Org 1200

## Volunteer Fire Department

Workers' Compensation Subsidy .....83200	\$	2,500,000
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*125 - Treasurer's Office**College Prepaid Tuition and Savings Program**Administrative Account*

(WV Code Chapter 18)

Fund 1301 FY 2021 Org 1300

Personal Services and Employee Benefits ....00100	\$	810,372
Unclassified.....09900		14,000
Current Expenses .....13000		<u>619,559</u>
Total .....	\$	1,443,931

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

(WV Code Chapter 19)

Fund 1401 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	2,425,446
Unclassified.....09900		37,425
Current Expenses .....13000		1,856,184
Repairs and Alterations.....06400		158,500
Equipment.....07000		436,209
Other Assets.....69000		<u>10,000</u>
Total.....	\$	4,923,764

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

(WV Code Chapter 19)

Fund 1408 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	78,251
Unclassified.....09900		10,476
Current Expenses .....13000		<u>963,404</u>
Total.....	\$	1,052,131

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

(WV Code Chapter 19)

Fund 1409 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	71,937
Unclassified.....09900		2,100
Current Expenses .....13000		89,500
Repairs and Alterations.....06400		36,400
Equipment.....07000		<u>15,000</u>
Total.....	\$	214,937

The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.



*129 - Department of Agriculture –**Farm Operating Fund*

(WV Code Chapter 19)

Fund 1412 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	868,492
Unclassified.....09900		15,173
Current Expenses .....13000		1,367,464
Repairs and Alterations.....06400		388,722
Equipment.....07000		399,393
Other Assets.....69000		<u>20,000</u>
Total.....	\$	3,059,244

*130 - Department of Agriculture –**Capital Improvements Fund*

(WV Code Chapter 19)

Fund 1413 FY 2021 Org 1400

Unclassified.....09900		10,000
Current Expenses .....13000		10,000
Repairs and Alterations.....06400		250,000
Equipment.....07000		350,000
Building Improvements .....25800		370,000
Other Assets.....69000		<u>10,000</u>
Total.....	\$	1,000,000

*131 - Department of Agriculture –**Donated Food Fund*

(WV Code Chapter 19)

Fund 1446 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	1,030,451
Unclassified.....09900		45,807

Current Expenses .....	13000	3,410,542
Repairs and Alterations .....	06400	128,500
Equipment .....	07000	10,000
Other Assets .....	69000	27,000
Land .....	73000	<u>250,000</u>
Total .....		\$ 4,902,300

*132 - Department of Agriculture –*

*Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2021 Org 1400

Current Expenses .....	13000	\$ 112,500
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*133 - Department of Agriculture –*

*West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 19)

Fund 1481 FY 2021 Org 1400

Current Expenses .....	13000	\$ 500,000
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*134 - Department of Agriculture –*

*Veterans and Warriors to Agriculture Fund*

(WV Code Chapter 19)

Fund 1483 FY 2021 Org 1400

Current Expenses .....	13000	\$ 7,500
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*135 - Department of Agriculture –*

*State FFA-FHA Camp and Conference Center*

(WV Code Chapters 18 and 18A)

Fund 1484 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	1,218,564
Unclassified.....09900		17,000
Current Expenses ..... 13000		1,143,306
Repairs and Alterations.....06400		82,500
Equipment .....07000		76,000
Buildings .....25800		1,000
Other Assets .....69000		10,000
Land .....73000		<u>1,000</u>
Total.....	\$	2,549,370

*136 - Attorney General –*

*Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2021 Org 1500

Personal Services and Employee Benefits ....00100	\$	363,466
Current Expenses ..... 13000		148,803
Repairs and Alterations.....06400		1,000
Equipment .....07000		<u>1,000</u>
Total.....	\$	514,269

*137 - Attorney General –*

*Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2021 Org 1500

Personal Services and Employee Benefits ....00100	\$	222,569
Current Expenses ..... 13000		54,615
Repairs and Alterations.....06400		1,000
Equipment .....07000		<u>1,000</u>
Total.....	\$	279,184

*138 - Attorney General –*

*Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2021 Org 1500

Current Expenses .....	13000	\$	901,135
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*139 - Secretary of State –**Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2021 Org 1600

Personal Services and Employee Benefits ....00100		\$	1,065,106
Unclassified.....09900			4,524
Current Expenses .....	13000		<u>8,036</u>
Total.....		\$	1,077,666

*140 - Secretary of State –**General Administrative Fees Account*

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2021 Org 1600

Personal Services and Employee Benefits ....00100		\$	2,947,630
Unclassified.....09900			25,529
Current Expenses .....	13000		976,716
Technology Improvements .....	59900		<u>570,000</u>
Total.....		\$	4,519,875

**DEPARTMENT OF ADMINISTRATION***141 - Department of Administration –**Office of the Secretary –**Tobacco Settlement Fund*

(WV Code Chapter 4)

Fund 2041 FY 2021 Org 0201

## Tobacco Settlement Securitization

Trustee Pass Thru .....	65000	\$ 80,000,000
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*142 - Department of Administration –**Office of the Secretary –**Employee Pension and Health Care Benefit Fund*

(WV Code Chapter 18)

Fund 2044 FY 2021 Org 0201

Current Expenses .....	13000	\$ 42,143,000
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The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – Teachers’ Accumulation Fund (fund 2600).

*143 - Department of Administration –**Division of Finance –**Shared Services Section Fund*

(WV Code Chapter 5A)

Fund 2020 FY 2021 Org 0209

Personal Services and Employee Benefits ....00100		\$ 1,500,000
Current Expenses .....	13000	<u>500,000</u>
Total .....		\$ 2,000,000

*144 - Division of Information Services and Communications*

(WV Code Chapter 5A)

Fund 2220 FY 2021 Org 0210

Personal Services and Employee Benefits ....00100		\$ 22,464,463
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Unclassified.....	09900	382,354
Current Expenses .....	13000	13,378,766
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	2,050,000
Other Assets.....	69000	<u>1,045,000</u>
Total.....		\$ 39,321,583

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Division of Information Services and Communications as provided by law.

Each spending unit operating from the General Revenue Fund, from special revenue funds or receiving reimbursement for postage from the federal government shall be charged monthly for all postage meter service and shall reimburse the revolving fund monthly for all such amounts.

*145 - Division of Purchasing –*

*Vendor Fee Fund*

(WV Code Chapter 5A)

Fund 2263 FY 2021 Org 0213

Personal Services and Employee Benefits ....	00100	\$ 741,589
Unclassified.....	09900	2,382
Current Expenses .....	13000	208,115
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	2,500
Other Assets.....	69000	2,500
BRIM Premium.....	91300	<u>810</u>
Total.....		\$ 962,896

*146 - Division of Purchasing –*

*Purchasing Improvement Fund*

(WV Code Chapter 5A)

Fund 2264 FY 2021 Org 0213

Personal Services and Employee Benefits ....00100	\$	778,176
Unclassified.....09900		5,562
Current Expenses .....13000		393,066
Repairs and Alterations.....06400		500
Equipment.....07000		500
Other Assets.....69000		500
BRIM Premium.....91300		850
Total.....	\$	1,179,154

*147 - Travel Management –*

*Aviation Fund*

(WV Code Chapter 5A)

Fund 2302 FY 2021 Org 0215

Unclassified.....09900	\$	1,000
Current Expenses .....13000		149,700
Repairs and Alterations.....06400		1,175,237
Equipment.....07000		1,000
Buildings.....25800		100
Other Assets.....69000		100
Land.....73000		100
Total.....	\$	1,327,237

*148 - Fleet Management Division Fund*

(WV Code Chapter 5A)

Fund 2301 FY 2021 Org 0216

Personal Services and Employee Benefits ....00100	\$	757,145
Unclassified.....09900		4,000
Current Expenses .....13000		8,130,614
Repairs and Alterations.....06400		12,000
Equipment.....07000		800,000
Other Assets.....69000		2,000
Total.....	\$	9,705,759

*149 - Division of Personnel*

(WV Code Chapter 29)

Fund 2440 FY 2021 Org 0222

Personal Services and Employee Benefits ....00100	\$	4,760,683
Unclassified.....09900		51,418
Current Expenses .....13000		1,262,813
Repairs and Alterations .....06400		5,000
Equipment .....07000		20,000
Other Assets .....69000		<u>60,000</u>
Total.....	\$	6,159,914

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

*150 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 2521 FY 2021 Org 0228

Personal Services and Employee Benefits ....00100	\$	251,663
Unclassified.....09900		4,023
Current Expenses .....13000		297,528
Repairs and Alterations .....06400		600
Equipment .....07000		500
Other Assets .....69000		<u>500</u>
Total.....	\$	554,814

*151 - Office of Technology –**Chief Technology Officer Administration Fund*

(WV Code Chapter 5A)

Fund 2531 FY 2021 Org 0231

Personal Services and Employee Benefits ....00100	\$	414,722
Unclassified.....09900		6,949



Current Expenses .....	13000	227,116
Repairs and Alterations .....	06400	1,000
Equipment .....	07000	50,000
Other Assets .....	69000	<u>10,000</u>
Total .....		\$ 709,787

From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit expenditures in excess of the funds authorized for expenditure herein.

### **DEPARTMENT OF COMMERCE**

#### *152 - Division of Forestry*

(WV Code Chapter 19)

Fund 3081 FY 2021 Org 0305

Personal Services and Employee Benefits ....00100		\$ 1,574,177
Current Expenses .....	13000	282,202
Repairs and Alterations .....	06400	53,000
Equipment .....	07000	<u>300,000</u>
Total .....		\$ 2,209,379

#### *153 - Division of Forestry –*

##### *Timbering Operations Enforcement Fund*

(WV Code Chapter 19)

Fund 3082 FY 2021 Org 0305

Personal Services and Employee Benefits ....00100		\$ 239,244
Current Expenses .....	13000	87,036
Repairs and Alterations .....	06400	<u>11,250</u>
Total .....		\$ 337,530

#### *154 - Division of Forestry –*

##### *Severance Tax Operations*

(WV Code Chapter 11)

Fund 3084 FY 2021 Org 0305

Personal Services and Employee Benefits ....00100	\$	859,626
Current Expenses .....	13000	<u>435,339</u>
Total .....	\$	1,294,965

*155 - Geological and Economic Survey –**Geological and Analytical Services Fund*

(WV Code Chapter 29)

Fund 3100 FY 2021 Org 0306

Personal Services and Employee Benefits ....00100	\$	37,966
Unclassified.....	09900	2,182
Current Expenses .....	13000	141,631
Repairs and Alterations.....	06400	50,000
Equipment .....	07000	20,000
Other Assets.....	69000	<u>10,000</u>
Total.....	\$	261,779

The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

*156 - West Virginia Development Office –**Department of Commerce –**Marketing and Communications Operating Fund*

(WV Code Chapter 5B)

Fund 3002 FY 2021 Org 0307

Personal Services and Employee Benefits ....00100	\$	1,592,400
Equipment .....	07000	36,000
Unclassified.....	09900	30,000
Current Expenses .....	13000	<u>1,446,760</u>
Total.....	\$	3,105,160

*157 - West Virginia Development Office –**Office of Coalfield Community Development*

(WV Code Chapter 5B)

Fund 3162 FY 2021 Org 0307

Personal Services and Employee Benefits ....00100	\$	435,661
Unclassified.....09900		8,300
Current Expenses .....13000		<u>399,191</u>
Total.....	\$	843,152

*158 - West Virginia Development Office**Entrepreneurship and Innovation Investment Fund*

(WV Code Chapter 5B)

Fund 3014 FY 2021 Org 0307

Entrepreneurship and Innovation		
Investment Fund .....70301	\$	500,000

*159 - Division of Labor –**HVAC Fund*

(WV Code Chapter 21)

Fund 3186 FY 2021 Org 0308

Personal Services and Employee Benefits ....00100	\$	300,000
Unclassified.....09900		4,000
Current Expenses .....13000		85,000
Repairs and Alterations.....06400		1,500
Buildings .....25800		1,000
BRIM Premium.....91300		<u>8,500</u>
Total.....	\$	400,000

*160 - Division of Labor –**Contractor Licensing Board Fund*

(WV Code Chapter 21)

Fund 3187 FY 2021 Org 0308

Personal Services and Employee Benefits ....00100	\$	2,532,000
Unclassified.....09900		21,000
Current Expenses .....13000		500,000
Repairs and Alterations.....06400		5,000
Buildings .....25800		5,000
BRIM Premium.....91300		8,500
Total.....	\$	3,071,500

*161 - Division of Labor –**Elevator Safety Fund*

(WV Code Chapter 21)

Fund 3188 FY 2021 Org 0308

Personal Services and Employee Benefits ....00100	\$	397,862
Unclassified.....09900		2,261
Current Expenses .....13000		44,112
Repairs and Alterations.....06400		2,000
Buildings .....25800		1,000
BRIM Premium.....91300		8,500
Total.....	\$	455,735

*162 - Division of Labor –**Steam Boiler Fund*

(WV Code Chapter 21)

Fund 3189 FY 2021 Org 0308

Personal Services and Employee Benefits ....00100	\$	82,716
Unclassified.....09900		1,000
Current Expenses .....13000		15,000
Repairs and Alterations.....06400		2,000
Buildings .....25800		1,000
BRIM Premium.....91300		1,000
Total.....	\$	102,716

*163 - Division of Labor –**Crane Operator Certification Fund*

(WV Code Chapter 21)

Fund 3191 FY 2021 Org 0308

Personal Services and Employee Benefits ....00100	\$	191,899
Unclassified.....09900		1,380
Current Expenses .....13000		49,765
Repairs and Alterations.....06400		1,500
Buildings .....25800		1,000
BRIM Premium.....91300		8,500
Total.....	\$	254,044

*164 - Division of Labor –**Amusement Rides and Amusement Attraction Safety Fund*

(WV Code Chapter 21)

Fund 3192 FY 2021 Org 0308

Personal Services and Employee Benefits ....00100	\$	187,462
Unclassified.....09900		1,281
Current Expenses .....13000		44,520
Repairs and Alterations.....06400		2,000
Buildings .....25800		1,000
BRIM Premium.....91300		8,500
Total.....	\$	244,763

*165 - Division of Labor –**State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2021 Org 0308

Personal Services and Employee Benefits ....00100	\$	289,199
Unclassified.....09900		1,847

Current Expenses .....	13000	43,700
Repairs and Alterations .....	06400	1,000
Buildings .....	25800	1,000
BRIM Premium .....	91300	<u>3,404</u>
Total .....		\$ 340,150

*166 - Division of Labor –*

*Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2021 Org 0308

Personal Services and Employee Benefits ....00100		\$ 1,500,000
Current Expenses .....	13000	227,000
Repairs and Alterations .....	06400	28,000
Equipment .....	07000	15,000
BRIM Premium .....	91300	<u>8,500</u>
Total .....		\$ 1,778,500

*167 - Division of Labor –*

*Bedding and Upholstery Fund*

(WV Code Chapter 21)

Fund 3198 FY 2021 Org 0308

Personal Services and Employee Benefits ....00100		\$ 150,000
Unclassified .....	09900	2,000
Current Expenses .....	13000	43,000
Repairs and Alterations .....	06400	2,000
Buildings .....	25800	1,000
BRIM Premium .....	91300	<u>2,000</u>
Total .....		\$ 200,000

*168 - Division of Labor –*

*Psychophysiological Examiners Fund*

(WV Code Chapter 21)

Fund 3199 FY 2021 Org 0308

Current Expenses ..... 13000 \$ 4,000

*169 - Division of Natural Resources –*

*License Fund – Wildlife Resources*

(WV Code Chapter 20)

Fund 3200 FY 2021 Org 0310

Wildlife Resources.....	02300	\$ 5,200,996
Administration .....	15500	1,300,249
Capital Improvements and Land Purchase (R) .....	24800	1,300,248
Law Enforcement.....	80600	<u>5,200,996</u>
Total.....		\$ 13,002,489

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 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*170 - Division of Natural Resources –*

*Natural Resources Game Fish and Aquatic Life Fund*

(WV Code Chapter 22)

Fund 3202 FY 2021 Org 0310

Current Expenses ..... 13000 \$ 125,000

*171 - Division of Natural Resources –*

*Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2021 Org 0310

Personal Services and Employee Benefits ....00100	\$	688,103
Current Expenses .....	13000	201,810
Equipment .....	07000	<u>106,615</u>
Total .....	\$	996,528

*172 - Division of Natural Resources –**Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2021 Org 0310

Personal Services and Employee Benefits ....00100	\$	457,738
Current Expenses .....	13000	257,864
Repairs and Alterations .....	06400	15,016
Equipment .....	07000	8,300
Buildings .....	25800	8,300
Other Assets .....	69000	1,900,000
Land .....	73000	<u>31,700</u>
Total .....	\$	2,678,918

*173 - Division of Natural Resources –**Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2021 Org 0310

Personal Services and Employee Benefits ....00100	\$	67,641
Current Expenses .....	13000	64,778
Equipment .....	07000	1,297
Buildings .....	25800	<u>6,969</u>
Total .....	\$	140,685

*174 - Division of Natural Resources –**Whitewater Advertising and Promotion Fund*



## (WV Code Chapter 20)

Fund 3256 FY 2021 Org 0310

Unclassified.....	09900	\$	200
Current Expenses .....	13000		<u>19,800</u>
Total.....		\$	20,000

*175 - Division of Miners' Health, Safety and Training –**Special Health, Safety and Training Fund*

## (WV Code Chapter 22A)

Fund 3355 FY 2021 Org 0314

Personal Services and Employee Benefits ....	00100	\$	501,228
WV Mining Extension Service .....	02600		150,000
Unclassified.....	09900		40,985
Current Expenses .....	13000		1,954,557
Buildings .....	25800		481,358
Land .....	73000		<u>1,000,000</u>
Total.....		\$	4,128,128

*176 - Department of Commerce –**Office of the Secretary –**Broadband Enhancement Fund*Fund 3013 FY 2021 Org 0327

Current Expenses .....	13000	\$	1,780,000
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*177 - Office of Energy –**Energy Assistance*

## (WV Code Chapter 5B)

Fund 3010 FY 2021 Org 0328

Energy Assistance – Total .....	64700	\$	7,211
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*178 - State Board of Rehabilitation –**Division of Rehabilitation Services –**West Virginia Rehabilitation Center Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2021 Org 0932

Personal Services and Employee Benefits ....00100	\$	119,738
Current Expenses .....	13000	1,180,122
Repairs and Alterations.....	06400	85,500
Equipment.....	07000	220,000
Buildings.....	25800	150,000
Other Assets.....	69000	<u>150,000</u>
Total.....	\$	1,905,360

**DEPARTMENT OF EDUCATION***179 - State Board of Education –**Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2021 Org 0402

Personal Services and Employee Benefits ....00100	\$	134,000
Unclassified.....	09900	1,000
Current Expenses .....	13000	<u>765,000</u>
Total.....	\$	900,000

*180 - State Board of Education –**School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2021 Org 0402

SBA Construction Grants .....	24000	\$ 35,845,818
Directed Transfer .....	70000	<u>1,371,182</u>

Total..... \$ 37,217,000

The above appropriation for Directed Transfer (fund 3951, appropriation 70000) shall be transferred to the School Building Authority Fund (fund 3959) for the administrative expenses of the School Building Authority.

*181 - School Building Authority*

(WV Code Chapter 18)

Fund 3959 FY 2021 Org 0404

Personal Services and Employee Benefits ....00100	\$	1,134,522
Current Expenses .....13000		244,100
Repairs and Alterations.....06400		13,150
Equipment.....07000		<u>26,000</u>
Total.....	\$	1,417,772

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

*182 - Division of Culture and History –*

*Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2021 Org 0432

Personal Services and Employee Benefits ....00100	\$	226,624
Current Expenses .....13000		862,241
Equipment.....07000		75,000
Buildings .....25800		1,000
Other Assets.....69000		52,328
Land .....73000		<u>1,000</u>
Total.....	\$	1,218,193

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

*183 - Solid Waste Management Board*

(WV Code Chapter 22C)

Fund 3288 FY 2021 Org 0312

Personal Services and Employee Benefits ....00100	\$	842,305
Current Expenses .....13000		2,060,457
Repairs and Alterations.....06400		1,000
Equipment.....07000		5,000
Other Assets.....69000		<u>4,403</u>
Total.....	\$	2,913,165

*184 - Division of Environmental Protection –*

*Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	779,766
Current Expenses .....13000		155,969
Repairs and Alterations.....06400		500
Equipment.....07000		1,505
Unclassified.....09900		8,072
Other Assets.....69000		<u>2,000</u>
Total.....	\$	947,812

*185 - Division of Environmental Protection –*

*Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	950,135
Current Expenses .....13000		1,026,863
Repairs and Alterations.....06400		13,000
Equipment.....07000		53,105
Unclassified.....09900		14,647
Other Assets.....69000		<u>20,000</u>
Total.....	\$	2,077,750

*186 - Division of Environmental Protection –**Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	1,627,573
Current Expenses .....13000		16,185,006
Repairs and Alterations.....06400		79,950
Equipment.....07000		130,192
Other Assets.....69000		<u>32,000</u>
Total.....	\$	18,054,721

*187 - Division of Environmental Protection –**Oil and Gas Reclamation Fund*

(WV Code Chapter 22)

Fund 3322 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	143,906
Current Expenses .....13000		<u>356,094</u>
Total.....	\$	500,000

*188 - Division of Environmental Protection –**Oil and Gas Operating Permit and Processing Fund*

(WV Code Chapter 22)

Fund 3323 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	3,486,896
Current Expenses .....13000		1,249,758
Repairs and Alterations.....06400		40,600
Equipment.....07000		8,000
Unclassified.....09900		44,700
Other Assets.....69000		<u>15,000</u>
Total.....	\$	4,844,954

*189 - Division of Environmental Protection –**Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	3,566,280
Current Expenses .....	13000	2,202,231
Repairs and Alterations.....	06400	60,260
Equipment.....	07000	83,000
Unclassified.....	09900	920
Other Assets.....	69000	<u>57,500</u>
Total.....	\$	5,970,191

*190 - Division of Environmental Protection –**Underground Storage Tank**Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	476,417
Current Expenses .....	13000	318,420
Repairs and Alterations.....	06400	5,350
Equipment.....	07000	3,610
Unclassified.....	09900	7,520
Other Assets.....	69000	<u>3,500</u>
Total.....	\$	814,817

*191 - Division of Environmental Protection –**Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	598,154
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Current Expenses .....	13000	767,905
Repairs and Alterations .....	06400	7,014
Equipment .....	07000	9,000
Unclassified.....	09900	10,616
Other Assets .....	69000	<u>3,500</u>
Total.....		\$ 1,396,189

*192 - Division of Environmental Protection –*

*Solid Waste Reclamation and*

*Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100		\$ 825,811
Current Expenses .....	13000	3,604,737
Repairs and Alterations.....	06400	25,000
Equipment .....	07000	31,500
Unclassified.....	09900	22,900
Buildings .....	25800	500
Other Assets .....	69000	<u>1,000</u>
Total.....		\$ 4,511,448

*193 - Division of Environmental Protection –*

*Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100		\$ 3,274,054
Current Expenses .....	13000	940,229
Repairs and Alterations.....	06400	30,930
Equipment .....	07000	23,356
Unclassified.....	09900	31,145
Other Assets .....	69000	<u>25,554</u>
Total.....		\$ 4,325,268

*194 - Division of Environmental Protection –**Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	5,934,859
Current Expenses .....	13000	1,469,467
Repairs and Alterations.....	06400	84,045
Equipment.....	07000	103,601
Unclassified.....	09900	70,572
Other Assets.....	69000	<u>52,951</u>
Total.....	\$	<u>7,715,495</u>

*195 - Division of Environmental Protection –**Environmental Laboratory**Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100	\$	352,834
Current Expenses .....	13000	201,146
Repairs and Alterations.....	06400	1,000
Unclassified.....	09900	1,120
Other Assets.....	69000	<u>163,000</u>
Total.....	\$	<u>719,100</u>

*196 - Division of Environmental Protection –**Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2021 Org 0313

Current Expenses .....	13000	\$ 5,182,076
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*197 - Division of Environmental Protection –**Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2021 Org 0313

Current Expenses .....	13000	\$	60,000
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*198 - Division of Environmental Protection –**Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100		\$	660,575
Current Expenses .....	13000		2,754,258
Repairs and Alterations .....	06400		800
Equipment .....	07000		500
Unclassified.....	09900		400
Other Assets .....	69000		<u>2,500</u>
Total.....		\$	3,419,033

*199 - Division of Environmental Protection –**Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2021 Org 0313

Personal Services and Employee Benefits ....00100		\$	1,250,562
Current Expenses .....	13000		642,934
Repairs and Alterations .....	06400		30,112
Equipment .....	07000		23,500
Unclassified.....	09900		1,180
Other Assets .....	69000		<u>11,520</u>
Total.....		\$	1,959,808

*200 - Oil and Gas Conservation Commission –  
Special Oil and Gas Conservation Fund*

(WV Code Chapter 22C)

Fund 3371 FY 2021 Org 0315

Personal Services and Employee Benefits ....00100	\$	162,161
Current Expenses .....	13000	161,225
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	9,481
Other Assets.....	69000	<u>1,500</u>
Total.....	\$	335,367

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*201 - Division of Health –*

*Ryan Brown Addiction Prevention and Recovery Fund*

(WV Code Chapter 19)

Fund 5111 FY 2021 Org 0506

Current Expenses .....	13000	\$ 10,667,392
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*202 - Division of Health –*

*The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$	938,484
Unclassified.....	09900	15,500
Current Expenses .....	13000	<u>2,757,788</u>
Total.....	\$	3,711,772

*203 - Division of Health –*

*Hospital Services Revenue Account*

*Special Fund**Capital Improvement, Renovation and Operations*

(WV Code Chapter 16)

Fund 5156 FY 2021 Org 0506

Institutional Facilities Operations .....	33500	\$ 35,555,221
Medical Services Trust Fund – Transfer.....	51200	<u>27,800,000</u>
Total.....		\$ 63,355,221

The total amount of these appropriations shall be paid from the Hospital Services Revenue Account Special Fund created by W.Va. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities.

Additional funds have been appropriated in fund 0525, fiscal year 2021, organization 0506, for the operation of the institutional facilities. The Secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the appropriation for Institutional Facilities Operations to facilitate cost effective and cost saving services at the community level.

Necessary funds from the above appropriation may be used for medical facilities operations, either in connection with this fund or in connection with the appropriation designated Institutional Facilities Operations in the Consolidated Medical Service Fund (fund 0525, organization 0506).

*204 - Division of Health –**Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2021 Org 0506

Personal Services and Employee Benefits ....	00100	\$ 936,712
Unclassified.....	09900	18,114
Current Expenses .....	13000	<u>1,803,327</u>
Total.....		\$ 2,758,153

*205 - Division of Health –**The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$	645,446
Unclassified.....09900		7,113
Current Expenses .....13000		<u>98,247</u>
Total.....	\$	750,806

*206 - Division of Health –**Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2021 Org 0506

Current Expenses .....13000	\$	9,740
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*207 - Division of Health –**Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$	19,100
Unclassified.....09900		373
Current Expenses .....13000		<u>17,875</u>
Total.....	\$	37,348

*208 - Division of Health –**West Virginia Birth-to-Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$	691,978
Unclassified.....09900		223,999
Current Expenses .....13000		<u>28,053,549</u>
Total.....	\$	28,969,526

*209 - Division of Health –*

*Tobacco Control Special Fund*

(WV Code Chapter 16)

Fund 5218 FY 2021 Org 0506

Current Expenses .....13000	\$	7,579
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*210 - Division of Health –*

*Medical Cannabis Program Fund*

(WV Code Chapter 16A)

Fund 5420 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$	509,658
Current Expenses .....13000		<u>2,046,040</u>
Total.....	\$	2,555,698

*211 - West Virginia Health Care Authority –*

*Health Care Cost Review Fund*

(WV Code Chapter 16)

Fund 5375 FY 2021 Org 0507

Personal Services and Employee Benefits ....00100	\$	1,345,380
Unclassified.....09900		20,100
Current Expenses .....13000		<u>785,445</u>
Total.....	\$	2,150,925

The above appropriation is to be expended in accordance with and pursuant to the provisions of W.Va. Code §16-29B and from

the special revolving fund designated Health Care Cost Review Fund.

*212 - West Virginia Health Care Authority –*

*Certificate of Need Program Fund*

(WV Code Chapter 16)

Fund 5377 FY 2021 Org 0507

Personal Services and Employee Benefits ....00100	\$	829,798
Current Expenses .....13000		<u>474,967</u>
Total.....	\$	1,304,765

*213 - Division of Human Services –*

*Health Care Provider Tax –*

*Medicaid State Share Fund*

(WV Code Chapter 11)

Fund 5090 FY 2021 Org 0511

Medical Services.....18900	\$	213,594,315
Medical Services Administrative Costs .....78900		<u>242,287</u>
Total.....	\$	213,836,602

The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation 78900) shall be transferred to a special revenue account in the treasury for use by the Department of Health and Human Resources for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the Medical Services Program Fund (fund 5084).

*214 - Division of Human Services –*

*Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2021 Org 0511

Personal Services and Employee Benefits ....00100	\$ 24,809,509
Unclassified.....09900	380,000
Current Expenses .....13000	<u>12,810,491</u>
Total.....	\$ 38,000,000

*215 - Division of Human Services –*

*Medical Services Trust Fund*

(WV Code Chapter 9)

Fund 5185 FY 2021 Org 0511

Medical Services.....18900	\$ 82,227,707
Medical Services Administrative Costs .....78900	<u>602,486</u>
Total.....	\$ 82,830,193

The above appropriation to Medical Services shall be used to provide state match of Medicaid expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a. Expenditures from the fund are limited to the following: payment of backlogged billings, funding for services to future federally mandated population groups and payment of the required state match for Medicaid disproportionate share payments. The remainder of all moneys deposited in the fund shall be transferred to the Division of Human Services accounts.

*216 - Division of Human Services –*

*James “Tiger” Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2021 Org 0511

Unclassified.....09900	\$ 7,000
Current Expenses .....13000	<u>393,000</u>
Total.....	\$ 400,000

*217 - Division of Human Services –*

*Domestic Violence Legal Services Fund*

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(WV Code Chapter 48)

Fund 5455 FY 2021 Org 0511

Current Expenses ..... 13000 \$ 900,000

*218 - Division of Human Services –*

*West Virginia Works Separate State College Program Fund*

(WV Code Chapter 9)

Fund 5467 FY 2021 Org 0511

Current Expenses ..... 13000 \$ 500,000

*219 - Division of Human Services –*

*West Virginia Works Separate State Two-Parent Program Fund*

(WV Code Chapter 9)

Fund 5468 FY 2021 Org 0511

Current Expenses ..... 13000 \$ 1,500,000

*220 - Division of Human Services –*

*Marriage Education Fund*

(WV Code Chapter 9)

Fund 5490 FY 2021 Org 0511

Personal Services and Employee Benefits .... 00100 \$ 10,000

Current Expenses ..... 13000 25,000

Total ..... \$ 35,000

**DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY**

*221 - Department of Military Affairs and Public Safety –*

*Office of the Secretary –*



*Law-Enforcement, Safety and Emergency Worker**Funeral Expense Payment Fund*

(WV Code Chapter 15)

Fund 6003 FY 2021 Org 0601

Current Expenses .....	13000	\$	32,000
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*222 - State Armory Board –**General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2021 Org 0603

Personal Services and Employee Benefits ....00100		\$	1,681,247
Current Expenses .....	13000		650,000
Repairs and Alterations .....	06400		385,652
Equipment .....	07000		250,000
Buildings .....	25800		770,820
Other Assets .....	69000		100,000
Land .....	73000		<u>200,000</u>
Total .....		\$	4,037,719

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).

*223 - Division of Homeland Security**And Emergency Management –**Statewide Interoperable Radio Network Account*

(WV Code Chapter 15)

Fund 6208 FY 2021 Org 0606

Current Expenses .....	13000	\$	80,000
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*224 - Division of Homeland Security and*

*Emergency Management –*

*West Virginia Interoperable Radio Project*

(WV Code Chapter 24)

Fund 6295 FY 2021 Org 0606

Current Expenses .....	13000	\$	2,000,000
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Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 6295, appropriation 09600) at the close of fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*225 - Division of Corrections and Rehabilitation –*

*Parolee Supervision Fees*

(WV Code Chapter 15A)

Fund 6362 FY 2021 Org 0608

Personal Services and Employee Benefits ....00100	\$	1,118,697
Unclassified.....09900		9,804
Current Expenses .....	13000	758,480
Equipment .....	07000	30,000
Other Assets .....	69000	40,129
Total.....	\$	1,957,110

*226 - Division of Corrections and Rehabilitation –*

*Regional Jail and Correctional Facility Authority*

(WV Code Chapter 15A)

Fund 6675 FY 2021 Org 0608

Personal Services and Employee Benefits ....00100	\$	544,798
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Debt Service.....	04000	9,000,000
Current Expenses .....	13000	<u>245,472</u>
Total.....		\$ 9,790,270

*227 - West Virginia State Police –*

*Motor Vehicle Inspection Fund*

(WV Code Chapter 17C)

Fund 6501 FY 2021 Org 0612

Personal Services and Employee Benefits ....	00100	\$ 1,907,726
Current Expenses .....	13000	1,488,211
Repairs and Alterations.....	06400	204,500
Equipment.....	07000	3,770,751
Buildings .....	25800	534,000
Other Assets.....	69000	5,000
BRIM Premium.....	91300	<u>302,432</u>
Total.....		\$ 8,212,620

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.

*228 - West Virginia State Police –*

*Forensic Laboratory Fund*

(WV Code Chapter 15)

Fund 6511 FY 2021 Org 0612

Personal Services and Employee Benefits ....	00100	\$ 1,600,000
Current Expenses .....	13000	90,000
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	<u>545,000</u>
Total.....		\$ 2,240,000

*229 - West Virginia State Police –*

*Drunk Driving Prevention Fund*

(WV Code Chapter 15)

Fund 6513 FY 2021 Org 0612

Current Expenses .....	13000	\$ 1,327,000
Equipment .....	07000	3,491,895
BRIM Premium.....	91300	<u>154,452</u>
Total.....		\$ 4,973,347

The total amount of these appropriations shall be paid from the special revenue fund out of receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund account in the State Treasury.

*230 - West Virginia State Police –**Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2021 Org 0612

Buildings .....	25800	\$ 1,022,778
Land .....	73000	1,000
BRIM Premium.....	91300	<u>77,222</u>
Total.....		\$ 1,101,000

*231 - West Virginia State Police –**Surplus Transfer Account*

(WV Code Chapter 15)

Fund 6519 FY 2021 Org 0612

Current Expenses .....	13000	\$ 225,000
Repairs and Alterations.....	06400	20,000
Equipment .....	07000	250,000
Buildings .....	25800	40,000
Other Assets.....	69000	45,000
BRIM Premium.....	91300	<u>5,000</u>
Total.....		\$ 585,000

*232 - West Virginia State Police –**Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2021 Org 0612

Personal Services and Employee Benefits ....00100	\$	256,629
Current Expenses .....13000		51,443
Repairs and Alterations.....06400		500
Equipment.....07000		300,500
Other Assets.....69000		300,500
BRIM Premium.....91300		18,524
Total.....	\$	928,096

*233 - West Virginia State Police –**Bail Bond Enforcer Account*

(WV Code Chapter 15)

Fund 6532 FY 2021 Org 0612

Current Expenses .....13000	\$	8,300
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*234 - West Virginia State Police –**State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2021 Org 0612

Current Expenses .....13000	\$	160,000
Repairs and Alterations.....06400		40,000
Total.....	\$	200,000

*235 - Fire Commission –**Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2021 Org 0619

Personal Services and Employee Benefits ....00100	\$	3,480,533
Unclassified.....09900		3,800
Current Expenses .....13000		1,246,550
Repairs and Alterations.....06400		58,500
Equipment.....07000		140,800
BRIM Premium.....91300		<u>65,000</u>
Total.....	\$	4,995,183

*236 - Division of Administrative Services –**WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2021 Org 0623

Personal Services and Employee Benefits ....00100	\$	161,923
Unclassified.....09900		750
Current Expenses .....13000		1,846,250
Repairs and Alterations.....06400		<u>1,000</u>
Total.....	\$	2,009,923

*237 - Division of Administrative Services –**Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2021 Org 0623

Personal Services and Employee Benefits ....00100	\$	23,840
Current Expenses .....13000		<u>1,478,135</u>
Total.....	\$	1,501,975

*238 - Division of Administrative Services –**Second Chance Driver's License Program Account*

(WV Code Chapter 17B)

Fund 6810 FY 2021 Org 0623

Current Expenses .....13000 \$ 25,000

**DEPARTMENT OF REVENUE**

*239 - Division of Financial Institutions*

(WV Code Chapter 31A)

Fund 3041 FY 2021 Org 0303

Personal Services and Employee Benefits ....00100	\$ 2,703,057
Current Expenses .....13000	650,475
Equipment .....07000	<u>8,500</u>
Total.....	\$ 3,362,032

*240 - Office of the Secretary –*

*State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2021 Org 0701

Retirement Systems – Unfunded Liability....77500 \$ 20,000,000

The above appropriation for Retirement System – Unfunded Liability shall be transferred to the Consolidated Public Retirement Board – West Virginia Teachers Retirement System Employers School Aid Formula Funds Holding Account Fund (fund 2606).

*241 - Home Rule Board Operations*

(WV Code Chapter 8)

Fund 7010 FY 2021 Org 0701

Personal Services and Employee Benefits ....00100	\$ 25,000
Unclassified.....09900	680
Current Expenses .....13000	42,000
Repairs and Alterations.....06400	120
Equipment .....07000	<u>200</u>
Total.....	\$ 68,000

*242 - Tax Division –**Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2021 Org 0702

Personal Services and Employee Benefits ....00100	\$	25,928
Current Expenses .....13000		<u>7,717</u>
Total.....	\$	33,645

*243 - Tax Division –**Special Audit and Investigative Unit*

(WV Code Chapter 11)

Fund 7073 FY 2021 Org 0702

Personal Services and Employee Benefits ....00100	\$	696,428
Unclassified.....09900		8,500
Current Expenses .....13000		273,297
Repairs and Alterations.....06400		7,000
Equipment.....07000		<u>5,000</u>
Total.....	\$	990,225

*244 - Tax Division –**Wine Tax Administration Fund*

(WV Code Chapter 60)

Fund 7087 FY 2021 Org 0702

Personal Services and Employee Benefits ....00100	\$	268,973
Current Expenses .....13000		<u>5,406</u>
Total.....	\$	274,379

*245 - Tax Division –**Reduced Cigarette Ignition Propensity**Standard and Fire Prevention Act Fund*



(WV Code Chapter 47)

Fund 7092 FY 2021 Org 0702

Current Expenses .....	13000	\$	35,000
Equipment .....	07000		<u>15,000</u>
Total .....		\$	50,000

*246 - Tax Division –**Local Sales Tax and Excise Tax**Administration Fund*

(WV Code Chapter 11)

Fund 7099 FY 2021 Org 0702

Personal Services and Employee Benefits ....	00100	\$	1,543,527
Unclassified.....	09900		10,000
Current Expenses .....	13000		784,563
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		<u>5,000</u>
Total.....		\$	2,344,090

*247 - State Budget Office –**Public Employees Insurance Reserve Fund*

(WV Code Chapter 11B)

Fund 7400 FY 2021 Org 0703

Public Employees

Insurance Reserve Fund – Transfer .....90300 \$ 6,800,000

The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical Services Trust Fund (fund 5185, org 0511) for expenditure.

*248 - State Budget Office –**Public Employees Insurance Agency Financial Stability Fund*

(WV Code Chapter 11B)

Fund 7401 FY 2021 Org 0703

Retiree Premium Offset .....	80101	\$ 5,000,000
PEIA Reserve.....	80102	<u>10,000,000</u>
Total.....		\$ 15,000,000

The above appropriation shall be transferred to special revenue funds to be utilized by the West Virginia Public Employees Insurance Agency for the purposes of permitting the PEIA Finance Board to offset \$5 million in retiree premium increases. Additionally, \$10 million will be put into a reserve fund to stabilize and preserve the future solvency of PEIA. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

*249 - Insurance Commissioner –**Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2021 Org 0704

Personal Services and Employee Benefits ....	00100	\$ 748,764
Current Expenses .....	13000	1,357,201
Repairs and Alterations .....	06400	3,000
Equipment .....	07000	81,374
Buildings .....	25800	8,289
Other Assets .....	69000	<u>11,426</u>
Total.....		\$ 2,210,054

*250 - Insurance Commissioner –**Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2021 Org 0704

Personal Services and Employee Benefits ....	00100	\$ 571,976
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Current Expenses .....	13000	202,152
Repairs and Alterations .....	06400	5,000
Equipment .....	07000	34,225
Buildings .....	25800	4,865
Other Assets .....	69000	<u>19,460</u>
Total .....		\$ 837,678

*251 - Insurance Commissioner –*

*Insurance Commission Fund*

(WV Code Chapter 33)

Fund 7152 FY 2021 Org 0704

Personal Services and Employee Benefits ....	00100	\$ 24,169,021
Current Expenses .....	13000	8,797,758
Repairs and Alterations .....	06400	68,614
Equipment .....	07000	1,728,240
Buildings .....	25800	25,000
Other Assets .....	69000	<u>340,661</u>
Total .....		\$ 35,129,294

*252 - Insurance Commissioner –*

*Workers' Compensation Old Fund*

(WV Code Chapter 23)

Fund 7162 FY 2021 Org 0704

Employee Benefits .....	01000	\$ 50,000
Current Expenses .....	13000	<u>250,500,000</u>
Total .....		\$
		250,550,000

*253 - Insurance Commissioner –*

*Workers' Compensation Uninsured Employers' Fund*

(WV Code Chapter 23)

Fund 7163 FY 2021 Org 0704

Current Expenses .....	13000	\$ 15,000,000
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*254 - Insurance Commissioner –**Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2021 Org 0704

Current Expenses .....	13000	\$ 9,000,000
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*255 - Insurance Commissioner –**Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2021 Org 0704

Current Expenses .....	13000	\$ 14,000,000
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*256 - Municipal Bond Commission*

(WV Code Chapter 13)

Fund 7253 FY 2021 Org 0706

Personal Services and Employee Benefits ....00100		\$ 282,589
Current Expenses .....	13000	144,844
Equipment .....	07000	<u>100</u>
Total .....		\$ 427,533

*257 - Racing Commission –**Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2021 Org 0707

Medical Expenses – Total .....	24500	\$ 57,000
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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.

*258 - Racing Commission –*

*Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2021 Org 0707

Personal Services and Employee Benefits ....00100	\$	264,564
Current Expenses .....	13000	85,433
Other Assets .....	69000	<u>5,000</u>
Total .....	\$	354,997

*259 - Racing Commission –*

*General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2021 Org 0707

Personal Services and Employee Benefits ....00100	\$	2,352,306
Current Expenses .....	13000	497,284
Repairs and Alterations .....	06400	5,000
Other Assets .....	69000	<u>40,000</u>
Total .....	\$	2,894,590

*260 - Racing Commission –*

*Administration, Promotion, Education, Capital Improvement*

*and Greyhound Adoption Programs*

*to include Spaying and Neutering Account*

## (WV Code Chapter 19)

Fund 7307 FY 2021 Org 0707

Personal Services and Employee Benefits ....00100	\$	918,781
Current Expenses .....	13000	160,099
Other Assets .....	69000	<u>200,000</u>
Total.....	\$	1,278,880

*261 - Alcohol Beverage Control Administration –**Wine License Special Fund*

## (WV Code Chapter 60)

Fund 7351 FY 2021 Org 0708

Personal Services and Employee Benefits ....00100	\$	147,213
Unclassified.....	09900	30,750
Current Expenses .....	13000	54,186
Repairs and Alterations.....	06400	7,263
Equipment.....	07000	10,000
Buildings .....	25800	100,000
Other Assets .....	69000	<u>100</u>
Total.....	\$	349,512

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

*262 - Alcohol Beverage Control Administration*

## (WV Code Chapter 60)

Fund 7352 FY 2021 Org 0708

Personal Services and Employee Benefits ....00100	\$	5,790,574
Current Expenses .....	13000	2,890,577
Repairs and Alterations.....	06400	91,000
Equipment.....	07000	108,000
Buildings .....	25800	375,100
Purchase of Supplies for Resale.....	41900	76,500,000

Transfer Liquor Profits and Taxes .....	42500	21,200,000
Other Assets .....	69000	125,100
Land .....	73000	<u>100</u>
Total .....		\$ 107,080,451

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.

*263 - State Athletic Commission Fund*

(WV Code Chapter 29)

Fund 7009 FY 2021 Org 0933

Personal Services and Employee Benefits ....00100	\$	10,500
Current Expenses .....	13000	<u>29,500</u>
Total .....	\$	40,000

**DEPARTMENT OF TRANSPORTATION**

*264 - Division of Motor Vehicles –*

*Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2021 Org 0802

Current Expenses .....	13000	\$	189,000
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*265 - Division of Motor Vehicles –**Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2021 Org 0802

Personal Services and Employee Benefits ....00100	\$	3,733,074
Current Expenses .....13000		4,357,773
Repairs and Alterations.....06400		16,000
Equipment.....07000		75,000
Other Assets.....69000		10,000
BRIM Premium.....91300		<u>89,939</u>
Total.....	\$	8,281,786

*266 - Division of Highways –**A. James Manchin Fund*

(WV Code Chapter 22)

Fund 8319 FY 2021 Org 0803

Current Expenses .....13000	\$	1,650,000
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**DEPARTMENT OF VETERANS' ASSISTANCE***267 - Veterans' Facilities Support Fund*

(WV Code Chapter 9A)

Fund 6703 FY 2021 Org 0613

Current Expenses .....13000	\$	1,654,234
Other Assets.....69000		<u>10,000</u>
Total.....	\$	1,664,234

*268 - Department of Veterans' Assistance –**WV Veterans' Home –**Special Revenue Operating Fund*



(WV Code Chapter 9A)

Fund 6754 FY 2021 Org 0618

Current Expenses .....	13000	\$	289,400
Repairs and Alterations.....	06400		<u>10,600</u>
Total.....		\$	300,000

**BUREAU OF SENIOR SERVICES***269 - Bureau of Senior Services –**Community Based Service Fund*

(WV Code Chapter 29)

Fund 5409 FY 2021 Org 0508

Personal Services and Employee Benefits ....	00100	\$	160,883
Current Expenses .....	13000		<u>10,348,710</u>
Total.....		\$	10,509,593

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***270 - Higher Education Policy Commission –**System –**Tuition Fee Capital Improvement Fund**(Capital Improvement and Bond Retirement Fund)**Control Account*

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2021 Org 0442

Debt Service.....	04000	\$ 27,713,123
General Capital Expenditures .....	30600	5,000,000
Facilities Planning and Administration.....	38600	<u>441,111</u>
Total.....		\$ 33,154,234

The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for Debt Service, may be transferred to special revenue funds for capital improvement projects at the institutions.

*271 - Tuition Fee Revenue Bond Construction Fund*

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2021 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.

The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.

*272 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2021 Org 0442

Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

The total amount of this appropriation shall be paid from the sale of the Series 2017 Community and Technical College Capital Improvement Refunding Revenue Bonds and anticipated interest earnings.

*273 - West Virginia University –*

*West Virginia University Health Sciences Center*

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2021 Org 0463

Personal Services and Employee Benefits ....00100	\$ 10,764,347
Current Expenses .....	13000 4,524,300
Repairs and Alterations.....06400	425,000
Equipment.....07000	512,000
Buildings.....25800	150,000
Other Assets.....69000	<u>50,000</u>
Total.....	\$ 16,425,647

**MISCELLANEOUS BOARDS AND COMMISSIONS**

*274 - Board of Barbers and Cosmetologists –*

*Barbers and Beauticians Special Fund*

(WV Code Chapters 16 and 30)

Fund 5425 FY 2021 Org 0505

Personal Services and Employee Benefits ....00100	\$ 543,993
Current Expenses .....	13000 <u>239,969</u>
Total.....	\$ 783,962

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.

*275 - Hospital Finance Authority –*

*Hospital Finance Authority Fund*

(WV Code Chapter 16)

Fund 5475 FY 2021 Org 0509

Personal Services and Employee Benefits ....00100	\$	93,279
Unclassified.....09900		1,501
Current Expenses .....13000		<u>55,328</u>
Total.....	\$	150,108

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by Article 29A, Chapter 16 of the Code.

*276 - WV State Board of Examiners for Licensed Practical Nurses –*

*Licensed Practical Nurses*

(WV Code Chapter 30)

Fund 8517 FY 2021 Org 0906

Personal Services and Employee Benefits ....00100	\$	495,505
Current Expenses .....13000		<u>107,700</u>
Total.....	\$	603,205

*277 - WV Board of Examiners for Registered Professional Nurses –*

*Registered Professional Nurses*

(WV Code Chapter 30)

Fund 8520 FY 2021 Org 0907

Personal Services and Employee Benefits ....00100	\$	1,300,612
Current Expenses .....13000		312,655

Repairs and Alterations.....	06400	3,000
Equipment.....	07000	25,000
Other Assets.....	69000	<u>4,500</u>
Total.....		\$ 1,645,767

*278 - Public Service Commission*

(WV Code Chapter 24)

Fund 8623 FY 2021 Org 0926

Personal Services and Employee Benefits ....	00100	\$ 12,481,921
Unclassified.....	09900	147,643
Current Expenses .....	13000	2,572,202
Repairs and Alterations.....	06400	55,000
Equipment.....	07000	160,000
Buildings.....	25800	10
PSC Weight Enforcement .....	34500	4,605,652
Debt Payment/Capital Outlay .....	52000	350,000
Land .....	73000	10
BRIM Premium.....	91300	<u>172,216</u>
Total.....		\$ 20,544,654

The total amount of these appropriations shall be paid from a special revenue fund out of collections for special license fees from public service corporations as provided by law.

The Public Service Commission is authorized to transfer up to \$500,000 from this fund to meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

*279 - Public Service Commission –*

*Gas Pipeline Division –*

*Public Service Commission Pipeline Safety Fund*

(WV Code Chapter 24B)

Fund 8624 FY 2021 Org 0926

Personal Services and Employee Benefits ....00100	\$	294,658
Unclassified.....09900		3,851
Current Expenses .....13000		93,115
Repairs and Alterations.....06400		<u>4,000</u>
Total.....	\$	395,624

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.

*280 - Public Service Commission –*

*Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2021 Org 0926

Personal Services and Employee Benefits ....00100	\$	2,377,514
Unclassified.....09900		29,233
Current Expenses .....13000		577,557
Repairs and Alterations.....06400		23,000
Equipment.....07000		<u>50,000</u>
Total.....	\$	3,057,304

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.

*281 - Public Service Commission –*

*Consumer Advocate Fund*

(WV Code Chapter 24)

Fund 8627 FY 2021 Org 0926

Personal Services and Employee Benefits ....00100	\$	772,994
Current Expenses .....13000		276,472
Equipment.....07000		9,872

BRIM Premium.....	91300	<u>4,660</u>
Total.....		\$ 1,063,998

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.

*282 - Real Estate Commission –*

*Real Estate License Fund*

(WV Code Chapter 30)

Fund 8635 FY 2021 Org 0927

Personal Services and Employee Benefits ....	00100	\$ 607,098
Current Expenses .....	13000	293,122
Repairs and Alterations .....	06400	2,500
Equipment .....	07000	<u>5,000</u>
Total.....		\$ 907,720

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

*283 - WV Board of Examiners for Speech-Language*

*Pathology and Audiology –*

*Speech-Language Pathology and Audiology Operating Fund*

(WV Code Chapter 30)

Fund 8646 FY 2021 Org 0930

Personal Services and Employee Benefits ....	00100	\$ 91,513
Current Expenses .....	13000	<u>63,499</u>
Total.....		\$ 155,012

*284 - WV Board of Respiratory Care –*

*Board of Respiratory Care Fund*

(WV Code Chapter 30)

Fund 8676 FY 2021 Org 0935

Personal Services and Employee Benefits ....00100	\$	94,050
Current Expenses .....13000		54,137
Repairs and Alterations .....06400		<u>400</u>
Total.....	\$	148,587

*285 - WV Board of Licensed Dietitians –**Dietitians Licensure Board Fund*

(WV Code Chapter 30)

Fund 8680 FY 2021 Org 0936

Personal Services and Employee Benefits ....00100	\$	20,219
Current Expenses .....13000		<u>20,250</u>
Total.....	\$	40,469

*286 - Massage Therapy Licensure Board –**Massage Therapist Board Fund*

(WV Code Chapter 30)

Fund 8671 FY 2021 Org 0938

Personal Services and Employee Benefits ....00100	\$	109,555
Current Expenses .....13000		<u>42,448</u>
Total.....	\$	152,003

*287 - Board of Medicine –**Medical Licensing Board Fund*

(WV Code Chapter 30)

Fund 9070 FY 2021 Org 0945

Personal Services and Employee Benefits ....00100	\$	1,378,807
Current Expenses .....13000		1,108,789
Repairs and Alterations .....06400		<u>8,000</u>
Total.....	\$	2,495,596



*288 - West Virginia Enterprise Resource Planning Board –**Enterprise Resource Planning System Fund*

(WV Code Chapter 12)

Fund 9080 FY 2021 Org 0947

Personal Services and Employee Benefits ....00100	\$	6,856,239
Unclassified.....09900		232,000
Current Expenses .....13000		13,662,210
Repairs and Alterations.....06400		300
Equipment.....07000		302,000
Buildings .....25800		2,000
Other Assets .....69000		<u>203,500</u>
Total.....	\$	21,258,249

*289 - Board of Treasury Investments –**Board of Treasury Investments Fee Fund*

(WV Code Chapter 12)

Fund 9152 FY 2021 Org 0950

Personal Services and Employee Benefits ....00100	\$	832,889
Unclassified.....09900		14,850
Current Expenses .....13000		605,714
BRIM Premium.....91300		31,547
Fees of Custodians, Fund Advisors and Fund Managers.....93800		<u>3,500,000</u>
Total.....	\$	4,985,000

There is hereby appropriated from this fund, in addition to the above appropriation if needed, an amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses of custodians, fund advisors and fund managers for the consolidated fund of the State as provided in Article 6C, Chapter 12 of the Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

Total TITLE II, Section 3 – Other Funds

(Including claims against the state) ..... \$1,514,818,528

**Sec. 4. Appropriations from lottery net profits.** — Net profits of the lottery are to be deposited by the Director of the Lottery to the following accounts in the amounts indicated. The Director of the Lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the Director of the Lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 for that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery shall deposit the reimbursement amounts to the following accounts as required by this section.

*290 - Education, Arts, Sciences and Tourism –*

*Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2021 Org 0211

	<b>Appropriation</b>	<b>Lottery Funds</b>
Debt Service – Total .....	31000	\$ 10,000,000

*291 - West Virginia Development Office –*

*West Virginia Tourism Office*

(WV Code Chapter 5B)

Fund 3067 FY 2021 Org 0304

Tourism – Telemarketing Center .....	46300	\$	82,080
Tourism – Advertising (R).....	61800		2,422,407
Tourism – Operations (R).....	66200		<u>4,227,938</u>
Total.....		\$	6,732,425

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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*292 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 3267 FY 2021 Org 0310

Personal Services and Employee Benefits ....	00100	\$	2,428,178
Current Expenses .....	13000		26,900
Pricketts Fort State Park.....	32400		106,560
Non-Game Wildlife (R) .....	52700		386,935
State Parks and Recreation Advertising (R) .	61900		<u>494,578</u>
Total.....		\$	3,443,151

Any unexpended balances remaining in the appropriations for Unclassified (fund 3267, appropriation 09900), 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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*293 - State Board of Education*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2021 Org 0402

FBI Checks.....	37200	\$	116,548
Vocational Education			
Equipment Replacement .....	39300		800,000

Assessment Program (R).....	39600	3,016,444
Literacy Project.....	89900	350,000
21st Century Technology Infrastructure		
Network Tools and Support (R) .....	93300	<u>14,600,383</u>
Total.....		\$ 18,883,375

Any unexpended balances remaining in the appropriations for Unclassified (fund 3951, appropriation 09900), Current Expenses (fund 3951, appropriation 13000), 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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*294 - State Department of Education –*

*School Building Authority –*

*Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2021 Org 0404

Debt Service – Total .....	31000	\$ 15,320,363
Directed Transfer .....	70000	<u>2,679,637</u>
Total.....		\$ 18,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18.

*295 - Division of Culture and History –*

*Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2021 Org 0432

Huntington Symphony .....	02700	\$ 59,058
Preservation WV (R).....	09200	491,921

Fairs and Festivals (R) .....	12200	1,346,814
Commission for National and Community Service (R) .....	19300	374,980
Archeological Curation/Capital Improvements (R) .....	24600	36,276
Historic Preservation Grants (R) .....	31100	368,428
West Virginia Public Theater .....	31200	120,019
Greenbrier Valley Theater .....	42300	115,000
Theater Arts of West Virginia .....	46400	90,000
Marshall Artists Series .....	51800	36,005
Grants for Competitive Arts Program (R) .....	62400	726,000
West Virginia State Fair .....	65700	31,241
Save the Music .....	68000	24,000
Contemporary American Theater Festival .....	81100	57,281
Independence Hall .....	81200	27,277
Mountain State Forest Festival .....	86400	38,187
WV Symphony .....	90700	59,058
Wheeling Symphony .....	90800	59,058
Appalachian Children's Chorus .....	91600	54,554
Total .....		<u>\$ 4,115,157</u>

From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) \$2,673, Arts Monongahela (Monongalia) \$11,881, Barbour County Arts and Humanities Council \$891, Beckley Main Street (Raleigh) \$2,970, Buffalo Creek Memorial (Logan) \$2,970, Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society (Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188, Ceredo Museum (Wayne) \$720, Children's Theatre of Charleston (Kanawha) \$3,127, Chuck Mathena Center (Mercer) \$62,532, Collis P. Huntington Railroad Historical Society (Cabell) \$5,941, Country Music Hall of Fame and Museum (Marion) \$4,159, First Stage Children's Theater Company \$1,188, Flannigan Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$891, Fort New Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970, General Adam Stephen Memorial Foundation (Berkeley) \$11,006, Grafton Mother's Day Shrine Committee (Taylor) \$8,749, Hardy County Tour and Crafts Association \$11,881,

Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267, Historic Middleway Conservancy (Jefferson) \$594, Jefferson County Black History Preservation Society \$2,970, Jefferson County Historical Landmark Commission \$4,753, Maddie Carroll House (Cabell) \$4,455, Marshall County Historical Society \$5,049, McCoy Theater (Hardy) \$11,881, Memorial Day Patriotic Exercise (Taylor) \$20,000, Morgantown Theater Company (Monongalia) \$11,881, Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera House Theater Company (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881, Pocahontas Historic Opera House \$3,564, Raleigh County All Wars Museum \$5,941, Rhododendron Girl's State (Ohio) \$5,941, Roane County 4-H and FFA Youth Livestock Program \$2,970, Society for the Preservation of McGrew House (Preston) \$2,079, Southern West Virginia Veterans' Museum \$3,393, Summers County Historic Landmark Commission \$2,970, Those Who Served War Museum (Mercer) \$2,376, Three Rivers Avian Center (Summers) \$5,311, Veterans Committee for Civic Improvement of Huntington (Wayne) \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern West Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$720.

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to the A Princeton 4th (Mercer) \$1,800, African-American Cultural Heritage Festival (Jefferson) \$2,970, Alderson 4th of July Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas) \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683, American Civil War (Grant) \$3,127, American Legion Post 8 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle Show (Lewis) \$891, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938, Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apple Butter Festival (Morgan) \$3,564, Arkansaw Homemaker's Heritage Weekend (Hardy) \$2,079, Armed Forces Day-South

Charleston (Kanawha) \$1,782, Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe) \$2,448, Barbour County Fair \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Battelle District Fair (Monongalia) \$2,970, Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant Memorial Committee (Mason) \$2,970, Belle Town Fair (Kanawha) \$2,673, Belleville Homecoming (Wood) \$11,881, Bergoo Down Home Days (Webster) \$1,485, Berkeley County Youth Fair \$10,990, Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blast from the Past (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Boone County Fair \$5,940, Boone County Labor Day Celebration \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Brandonville Heritage Day (Preston) \$1,048, Braxton County Fair \$6,832, Braxton County Monster Fest / West Virginia Autumn Festival \$1,485, Brooke County Fair \$2,079, Bruceton Mills Good Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston) \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo October Fest (Putnam) \$3,240, Burlington Apple Harvest Festival (Mineral) \$17,821, Burlington Pumpkin Harvest Festival (Raleigh) \$2,970, Burnsville Freedom Festival (Braxton) \$1,407, Cabell County Fair \$5,940, Calhoun County Wood Festival \$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485, Cape Coalwood Festival Association (McDowell) \$1,485, Capon Bridge Founders Day Festival (Hampshire) \$1,188, Capon Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684, Celebration of America (Monongalia) \$3,564, Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville Fire Department 4th of July (Logan) \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970, Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas) \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July Festivities (Hancock) \$2,970, Chief Logan State Park-Civil War Celebration (Logan) \$4,752, Chilifest West Virginia State Chili Championship (Cabell) \$1,563, Christmas In Our Town (Marion) \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376, Christmas in the Park (Brooke) \$2,970,

Christmas in the Park (Logan) \$14,851, City of Dunbar Critter Dinner (Kanawha) \$5,940, City of Logan Polar Express (Logan) \$4,456, City of New Martinsville Festival of Memories (Wetzel) \$6,534, Clay County Golden Delicious Apple Festival \$4,158, Clay District Fair (Monongalia) \$1,080, Coal Field Jamboree (Logan) \$20,792, Coalton Days Fair (Randolph) \$4,158, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079, Doddridge County Fair \$4,158, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion Festival (McDowell) \$891, Fairview 4th of July Celebration (Marion) \$684, Farm Safety Day (Preston) \$1,188, Farmer's Day Festival (Monroe) \$2,330, Fenwick Mountain Old Time Community Festival (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$11,881, Flemington Day Fair and Festival (Taylor) \$2,379, 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) \$4,456, Freshwater Folk Festival (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,485, Gassaway Days Celebration (Braxton) \$2,970, Gilbert Elementary Fall Blast (Mingo) \$2,188, Gilbert Spring Fling (Mingo) \$3,595, Gilmer County Farm Show \$2,376, Grant County Arts Council \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940, Greater Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration Days (Hampshire) \$684, Hampshire County 4th of July Celebration \$11,881, Hampshire County Fair \$5,002, Hancock County Oldtime Fair \$2,970, Hardy County Commission - 4th of July \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln) \$2,970, Heritage Craft Festival (Monroe) \$1,044, Heritage Days Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop Festival of Lights (McDowell)



\$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River Festival (Webster) \$891, Hometown Mountain Heritage Festival (Fayette) \$2,432, Hundred 4th of July (Wetzel) \$4,307, Hurricane 4th of July Celebration (Putnam) \$2,970, 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 \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and Crafts Fair (Lewis) \$684, Jefferson County Fair Association \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown Community Fair (Harrison) \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970, Kingwood Downtown Street Fair and Heritage Days (Preston) \$1,188, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$2,970, Last Blast of Summer (McDowell) \$2,970, Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival \$4,752, Lincoln County Winterfest \$2,970, Lindsie Veterans' Day Parade (Monroe) \$720, Little Levels Heritage Festival (Pocahontas) \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$2,813, Mannington District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph) \$684, Marion County FFA Farm Fest \$1,485, Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall County Antique Power Show \$1,485, Mason County Fair \$2,970, , Matewan Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County \$11,881, McGrew House History Day (Preston) \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow Bridge Hometown Festival (Fayette) \$743, Meadow River Days Festival (Greenbrier) \$1,782,

Mercer Bluestone Valley Fair (Mercer) \$1,188, Mercer County Fair \$1,188, Mercer County Heritage Festival \$3,474, Milton Christmas in the Park (Cabell) \$1,485, Milton Old Timey Days (Cabell) \$1,485, Mineral County Veterans Day Parade \$891, Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion) \$3,752, Moon Over Mountwood Fishing Festival (Wood) \$1,782, Morgan County Fair-History Wagon \$891, Moundsville Bass Festival (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour) \$1,485, Mountain Fest (Monongalia) \$11,881, Mountain Festival (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks District VFD (Upshur) \$1,278, New Cumberland Christmas Parade (Hancock) \$1,782, New Cumberland 4th of July (Hancock) \$2,970, New River Bridge Day Festival (Fayette) \$23,762, Nicholas County Fair \$2,970, Nicholas County Potato Festival \$2,079, Oak Leaf Festival (Fayette) \$6,253, Oceana Heritage Festival (Wyoming) \$3,564, Oglebay City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County Country Fair \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio Valley Beef Association (Wood) \$1,485, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old Central City Fair (Cabell) \$2,970, Old Tyme Christmas (Jefferson) \$1,425, Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Patty Fest (Monongalia) \$1,188, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970, Pendleton County 4-H Weekend \$1,188, Pendleton County Committee for Arts \$8,910, Pendleton County Fair \$6,253, Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg 4th of July Celebration (Grant) \$11,881, Petersburg HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$891, Pine Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County Agriculture Youth Fair \$2,970, Poca Heritage Days (Putnam)

\$1,782, Pocahontas County Pioneer Days \$4,159, Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall Festival (Kanawha) \$1,485, Princeton Autumnfest (Mercer) \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County Fair \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127, Rand Community Center Festival (Kanawha) \$1,485, Randolph County Community Arts Council \$1,782, Randolph County Fair \$4,158, Randolph County Ramp and Rails \$1,188, Ranson Christmas Festival (Jefferson) \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier) \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition \$2,970, Ritchie County Pioneer Days \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day \$1,782, Rock the Park (Kanawha) \$3,240, Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage Days (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier) \$2,970, Rowlesburg Labor Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782, South Charleston Summerfest (Kanawha) \$5,940, Southern Wayne County Fall Festival \$684, Spirit of Grafton Celebration (Taylor) \$6,240, St. Albans City of Lights - December (Kanawha) \$2,970, Sternwheel Festival (Wood) \$1,782, Stoco Reunion (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200, Storytelling Festival (Lewis) \$400, 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 \$3,567, The Gathering at Sweet Creek (Wood) \$1,782, Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$7,300, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town of Fayetteville Heritage Festival (Fayette) \$4,456, Town of Rivesville 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam County Homecoming \$3,240, St. Albans Train Fest (Kanawha) \$6,120, Treasure Mountain Festival (Pendleton) \$14,851, Tri-County Fair (Grant) \$22,548, Tucker County Arts Festival and

Celebration \$10,692, Tucker County Fair \$2,821, Tucker County Health Fair \$1,188, Turkey Festival (Hardy) \$1,782, Tyler County Fair \$3,088, Union Community Irish Festival (Barbour) \$648, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian Festival (Ohio) \$7,128, Valley District Fair (Preston) \$2,079, Veterans Welcome Home Celebration (Cabell) \$938, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970, Wayne County Fair \$2,970, Wayne County Fall Festival \$2,970, Webster County Fair \$3,600, Webster County Wood Chopping Festival \$8,910, Webster Wild Water Weekend (Webster) \$1,188, Weirton July 4th Celebration (Hancock) \$11,881, Welcome Home Family Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg Apple Festival of Brooke County \$2,970, West Virginia Blackberry Festival (Harrison) \$2,970, West Virginia Chestnut Festival (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia Coal Show (Mercer) \$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800, West Virginia Fair and Exposition (Wood) \$4,812, West Virginia Fireman's Rodeo (Fayette) \$1,485, West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$3,240, West Virginia Polled Hereford Association (Braxton) \$891, West Virginia Pumpkin Festival (Cabell) \$5,940, West Virginia Water Festival - City of Hinton (Summers) \$9,144, Weston VFD 4th of July Firemen Festival (Lewis) \$1,188, Wetzel County Autumnfest \$3,267, Wetzel County Town and Country Days \$10,098, Wheeling Celtic Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752, Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat Regatta (Ohio) \$11,881, Whipple Community Action (Fayette) \$1,485, Wine Festival and Mountain Music Event (Harrison) \$2,970, Wirt County Fair \$1,485, Wirt County Pioneer Days \$1,188, Wyoming County Civil War Days \$1,296, Youth Stockman Beef Expo (Lewis) \$1,188.

Any unexpended balances remaining in the appropriations for 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), Grants for Competitive Arts Program (fund 3534, appropriation 62400), and Project ACCESS (fund 3534, appropriation 86500) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*296 - Library Commission –*

*Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2021 Org 0433

Books and Films .....	17900	\$	360,784
Services to Libraries .....	18000		550,000
Grants to Public Libraries .....	18200		9,439,571
Digital Resources .....	30900		219,992
Infomine Network.....	88400		<u>943,353</u>
Total.....		\$	11,513,700

Any unexpended balance remaining in the appropriation for Libraries – Special Projects (fund 3559, appropriation 62500) at the close of fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*297 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 3587 FY 2021 Org 0439

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500) at the close of fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*298 - Bureau of Senior Services –**Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2021 Org 0508

Personal Services and Employee Benefits ....00100	\$	209,640
Current Expenses .....	13000	332,284
Repairs and Alterations.....	06400	1,000
Local Programs Service Delivery Costs .....	20000	2,435,250
Silver Haired Legislature .....	20200	18,500
Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens .....	53900	4,615,503
Roger Tompkins Alzheimer's Respite Care ....	64300	2,302,016
WV Alzheimer's Hotline .....	72400	45,000
Regional Aged and Disabled Resource Center.....	76700	425,000
Senior Services Medicaid Transfer .....	87100	16,400,070
Legislative Initiatives for the Elderly.....	90400	9,671,239
Long Term Care Ombudsman.....	90500	297,226
BRIM Premium.....	91300	7,718
In-Home Services and Nutrition for Senior Citizens .....	91700	<u>6,095,941</u>
Total.....		\$ 42,856,387

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000), is funding to support an in-home direct care workforce registry.

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (appropriation 53900) along with the federal moneys generated

thereby shall be used for reimbursement for services provided under the program.

*299 - Higher Education Policy Commission –*

*Lottery Education –*

*Higher Education Policy Commission –*

*Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2021 Org 0441

RHI Program and Site Support (R).....03600	\$ 1,912,491
RHI Program and Site Support –	
RHEP Program Administration .....03700	146,653
RHI Program and Site Support – Grad Med	
Ed and Fiscal Oversight (R) .....03800	88,913
Minority Doctoral Fellowship (R) .....16600	129,604
Health Sciences Scholarship (R).....17600	225,527
Vice Chancellor for Health Sciences –	
Rural Health Residency Program (R) .....60100	62,725
WV Engineering, Science, and	
Technology Scholarship Program.....86800	<u>452,831</u>
Total.....	\$ 3,018,744

Any unexpended balances remaining in the appropriations for RHI Program and Site Support (fund 4925, appropriation 03600), RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (fund 4925, appropriation 03800), Minority Doctoral Fellowship (fund 4925, appropriation 16600), Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, appropriation 60100) at the close of fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (fund 4925, appropriation

86800) shall be transferred to the West Virginia Engineering, Science and Technology Scholarship Fund (fund 4928, org 0441) established by W.Va. Code §18C-6-1.

*300 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2021 Org 0442

Debt Service – Total .....31000 \$ 5,000,000

Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, appropriation 84700) at the close of fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*301 - Higher Education Policy Commission –*

*Lottery Education –*

*West Virginia University – School of Medicine*

(WV Code Chapter 18B)

Fund 4185 FY 2021 Org 0463

WVU Health Sciences –

RHI Program and Site Support (R).....03500	\$ 1,181,728
MA Public Health Program and Health Science Technology (R).....62300	52,445
Health Sciences Career Opportunities Program (R) .....	86900 336,987
HSTA Program (R) .....	87000 1,761,948
Center for Excellence in Disabilities (R) .....	96700 <u>313,517</u>
Total.....	\$ 3,646,625

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and



Health Science Technology (fund 4185, appropriation 62300), Health Sciences Career Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700) at the close of fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*302 - Higher Education Policy Commission –*

*Lottery Education –*

*Marshall University – School of Medicine*

(WV Code Chapter 18B)

Fund 4896 FY 2021 Org 0471

Marshall Medical School –

RHI Program and Site Support (R).....03300	\$	427,075
Vice Chancellor for Health Sciences –		
Rural Health Residency Program (R) .....60100		<u>171,361</u>
Total.....	\$	598,436

Any unexpended balances remaining in the appropriations for Marshall Medical School – RHI Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4896, appropriation 60100) at the close of fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

Total TITLE II, Section 4 – Lottery Revenue..... \$127,808,000

**Sec. 5. Appropriations from state excess lottery revenue fund.** — In accordance with W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following appropriations shall be deposited and disbursed by the Director of the Lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-

25-22b, the Director of the Lottery shall provide funding from the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are sufficient to meet all the appropriations required made pursuant to this section, then the Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

*303 - Lottery Commission –*

*Refundable Credit*

Fund 7207 FY 2021 Org 0705

	<b>Appropriation</b>	<b>Excess Lottery Funds</b>
Directed Transfer .....	70000	\$ 10,000,000

The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit allowable under W.Va. Code §11-21-21. The amount of the required transfer shall be determined solely by the State Tax Commissioner and shall be completed by the Director of the Lottery upon the commissioner’s request.

*304 - Lottery Commission –*

*General Purpose Account*

Fund 7206 FY 2021 Org 0705

General Revenue Fund – Transfer .....	70011	\$ 65,000,000
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The above appropriation shall be transferred to the General Revenue Fund as determined by the Director of the Lottery in accordance with W.Va. Code §29-22-18a.

*305 - Higher Education Policy Commission –*

*Education Improvement Fund*

Fund 4295 FY 2021 Org 0441

PROMISE Scholarship – Transfer.....80000 \$ 29,000,000

The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the limits of available appropriations.

*306 - Economic Development Authority –*

*Economic Development Project Fund*

Fund 9065 FY 2021 Org 0944

Debt Service – Total .....31000 \$ 19,000,000

Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the economic development project fund pursuant to section four of this title and W.Va. Code §29-22-18, subsection (f).

*307 - Department of Education –*

*School Building Authority*

Fund 3514 FY 2021 Org 0404

Debt Service – Total .....31000 \$ 19,000,000

*308 - West Virginia Infrastructure Council –*

*West Virginia Infrastructure Transfer Fund*

Fund 3390 FY 2021 Org 0316

Directed Transfer .....70000 \$ 46,000,000

The above appropriation shall be allocated pursuant to W.Va. Code §29-22-18d and §31-15-9.

*309 - Higher Education Policy Commission –*

*Higher Education Improvement Fund*

Fund 4297 FY 2021 Org 0441

Directed Transfer .....  
 70000  
 \$ 15,000,000

The above appropriation shall be transferred to fund 4903, org 0442 as authorized by Senate Concurrent Resolution No. 41.

*310 - Division of Natural Resources –*

*State Park Improvement Fund*

Fund 3277 FY 2021 Org 0310

Current Expenses (R).....	13000	\$	23,300
Repairs and Alterations (R) .....	06400		161,200
Equipment (R).....	07000		200,000
Buildings (R).....	25800		100,000
Other Assets (R).....	69000		<u>1,020,500</u>
Total.....		\$	1,505,000

Any unexpended balances remaining in the above appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600), Unclassified (fund 3277, appropriation 09900), 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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*311 - Economic Development Authority –*

*Cacapon and Beech Fork State Parks –*

*Lottery Revenue Debt Service*Fund 9067 FY 2021 Org 0944

Debt Service.....04000 \$ 2,032,000

*312 - Economic Development Authority –**State Parks Lottery Revenue Debt Service Fund*Fund 9068 FY 2021 Org 0944

Debt Service.....04000 \$ 4,395,000

*313 - Racing Commission –*Fund 7308 FY 2021 Org 0707

Special Breeders Compensation

(WVC §29-22-18a, subsection (l)) .....21800 \$ 2,000,000

*314 - Lottery Commission –**Distributions to Statutory Funds and Purposes*Fund 7213 FY 2021 Org 0705

Parking Garage Fund – Transfer .....70001 \$ 500,000

2004 Capitol Complex

Parking Garage Fund – Transfer.....70002 216,478

Capitol Dome and

Improvements Fund – Transfer .....70003 1,796,256

Capitol Renovation and

Improvement Fund – Transfer .....70004 2,381,252

Development Office

Promotion Fund – Transfer.....70005 1,298,864

Research Challenge Fund – Transfer .....70006 1,731,820

Tourism Promotion Fund – Transfer .....70007 4,808,142

Cultural Facilities and Capitol Resources

Matching Grant Program Fund –

Transfer.....70008 1,250,535

State Debt Reduction Fund – Transfer.....70010 20,000,000

General Revenue Fund – Transfer .....	70011	1,167,799
West Virginia Racing Commission Racetrack		
Video Lottery Account .....	70012	3,463,637
Historic Resort Hotel Fund .....	70013	24,010
Licensed Racetrack Regular Purse Fund .....	70014	<u>22,383,247</u>
Total.....		\$ 61,022,040

*315 - Governor's Office*

(WV Code Chapter 5)

Fund 1046 FY 2021 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 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*316 - Office of Technology*

(WV Code Chapter 5A)

Fund 2532 FY 2021 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 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*317 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 3170 FY 2021 Org 0307

Any unexpended balances remaining in the appropriations for Unclassified – Total (fund 3170, appropriation 09600), Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300), and Connectivity Research and

Development – Lottery Surplus (fund 3170, appropriation 92300) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*318 - Higher Education Policy Commission –*

*Administration –*

*Control Account*

(WV Code Chapter 18B)

Fund 4932 FY 2021 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*319 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2021 Org 0511

Medical Servicesz ..... 18900 \$ 66,302,960

*320 - Division of Corrections and Rehabilitation –*

*Correctional Units*

(WV Code Chapters 15A)

Fund 6283 FY 2021 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 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

Total TITLE II, Section 5 –

Excess Lottery Funds..... \$ 340,257,000

**Sec. 6. Appropriations of federal funds.** — In accordance with Article 11, Chapter 4 of the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2021.

### LEGISLATIVE

#### *321 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 8738 FY 2021 Org 2300

	<b>Appropriation</b>	<b>Federal Funds</b>
Economic Loss Claim Payment Fund.....	33400	\$ 1,400,000

### JUDICIAL

#### *322 - Supreme Court*

Fund 8867 FY 2021 Org 2400

Personal Services and Employee Benefits ....	00100	\$ 1,813,000
Current Expenses .....	13000	1,557,000
Repairs and Alterations.....	06400	100,000
Equipment.....	07000	250,000
Other Assets.....	69000	<u>280,000</u>
Total.....		\$ 4,000,000

### EXECUTIVE

#### *323 - Department of Agriculture*

(WV Code Chapter 19)

Fund 8736 FY 2021 Org 1400

Personal Services and Employee Benefits ....	00100	\$ 2,628,780
Unclassified.....	09900	50,534



Current Expenses .....	13000	3,828,661
Repairs and Alterations .....	06400	650,000
Equipment .....	07000	910,500
Buildings .....	25800	1,000,000
Other Assets .....	69000	50,000
Land .....	73000	<u>500,000</u>
Total.....		\$ 9,618,475

*324 - Department of Agriculture –*

*Meat Inspection Fund*

(WV Code Chapter 19)

Fund 8737 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	658,571
Unclassified.....09900		8,755
Current Expenses .....	13000	136,012
Repairs and Alterations .....	06400	5,500
Equipment .....	07000	<u>114,478</u>
Total.....	\$	923,316

*325 - Department of Agriculture –*

*State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	97,250
Current Expenses .....	13000	<u>15,599,974</u>
Total.....	\$	15,697,224

*326 - Department of Agriculture –*

*Land Protection Authority*

Fund 8896 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	46,526
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Unclassified.....	09900	5,004
Current Expenses .....	13000	<u>448,920</u>
Total.....		\$ 500,450

*327 - Attorney General –**Medicaid Fraud Unit*Fund 8882 FY 2021 Org 1500

Personal Services and Employee Benefits ....	00100	\$ 1,038,458
Unclassified.....	09900	15,336
Current Expenses .....	13000	456,638
Repairs and Alterations.....	06400	4,313
Equipment .....	07000	7,500
Other Assets.....	69000	<u>11,336</u>
Total.....		\$ 1,533,581

*328 - Secretary of State –**State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2021 Org 1600

Personal Services and Employee Benefits ....	00100	\$ 210,240
Unclassified.....	09900	7,484
Current Expenses .....	13000	415,727
Repairs and Alterations.....	06400	15,000
Other Assets.....	69000	<u>100,000</u>
Total.....		\$ 748,451

**DEPARTMENT OF COMMERCE***329 - Division of Forestry*

(WV Code Chapter 19)

Fund 8703 FY 2021 Org 0305

Personal Services and Employee Benefits ....	00100	\$ 1,640,060
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Unclassified.....	09900	51,050
Current Expenses .....	13000	5,232,560
Repairs and Alterations.....	06400	155,795
Equipment.....	07000	100,000
Other Assets.....	69000	<u>1,808,300</u>
Total.....		\$ 8,987,765

*330 - Geological and Economic Survey*

(WV Code Chapter 29)

Fund 8704 FY 2021 Org 0306

Personal Services and Employee Benefits ....	00100	\$ 54,432
Unclassified.....	09900	2,803
Current Expenses .....	13000	195,639
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	7,500
Other Assets.....	69000	<u>15,000</u>
Total.....		\$ 280,374

*331 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 8705 FY 2021 Org 0307

Personal Services and Employee Benefits ....	00100	\$ 789,921
Unclassified.....	09900	50,000
Current Expenses .....	13000	<u>4,504,019</u>
Total.....		\$ 5,343,940

*332 - West Virginia Development Office –*

*Office of Economic Opportunity*

(WV Code Chapter 5)

Fund 8901 FY 2021 Org 0307

Personal Services and Employee Benefits ....	00100	\$ 497,289
Repairs and Alterations.....	06400	250

Equipment .....	07000	6,000
Unclassified.....	09900	106,795
Current Expenses .....	13000	<u>10,069,166</u>
Total.....		\$ 10,679,500

*333 - Division of Labor*

(WV Code Chapters 21 and 47)

Fund 8706 FY 2021 Org 0308

Personal Services and Employee Benefits ....	00100	\$ 409,251
Unclassified.....	09900	5,572
Current Expenses .....	13000	167,098
Repairs and Alterations.....	06400	<u>500</u>
Total.....		\$ 582,421

*334 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 8707 FY 2021 Org 0310

Personal Services and Employee Benefits ....	00100	\$ 8,237,073
Unclassified.....	09900	107,693
Current Expenses .....	13000	7,887,660
Repairs and Alterations.....	06400	566,250
Equipment.....	07000	2,126,141
Administration .....	15500	50,325
Buildings .....	25800	951,000
Other Assets.....	69000	7,088,880
Land .....	73000	<u>2,893,920</u>
Total.....		\$ 29,908,942

*335 - Division of Miners' Health,*

*Safety and Training*

(WV Code Chapter 22)

Fund 8709 FY 2021 Org 0314

Personal Services and Employee Benefits ....00100	\$	642,799
Current Expenses .....	13000	<u>150,000</u>
Total.....	\$	792,799

*336 - WorkForce West Virginia*

(WV Code Chapter 23)

Fund 8835 FY 2021 Org 0323

Unclassified.....09900	\$	5,127
Current Expenses .....	13000	507,530
Reed Act 2002 –		
Unemployment Compensation .....	62200	2,850,000
Reed Act 2002 – Employment Services .....	63000	<u>1,650,000</u>
Total.....	\$	5,012,657

Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration of the state’s unemployment insurance program or job service activities, subject to each and every restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

*337 - Office of Energy*

(WV Code Chapter 5B)

Fund 8892 FY 2021 Org 0328

Personal Services and Employee Benefits ....00100	\$	426,385
Unclassified.....09900		7,350
Current Expenses .....	13000	<u>2,816,076</u>
Total.....	\$	3,249,811

*338 - State Board of Rehabilitation –*

*Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 8734 FY 2021 Org 0932

Personal Services and Employee Benefits ....00100	\$ 11,863,244
Current Expenses .....13000	34,440,940
Repairs and Alterations .....06400	350,400
Equipment .....07000	<u>1,275,870</u>
Total .....	\$ 47,930,454

*339 - State Board of Rehabilitation –**Division of Rehabilitation Services –**Disability Determination Services*

(WV Code Chapter 18)

Fund 8890 FY 2021 Org 0932

Personal Services and Employee Benefits ....00100	\$ 12,476,122
Current Expenses .....13000	13,383,206
Repairs and Alterations .....06400	1,100
Equipment .....07000	<u>83,350</u>
Total .....	\$ 25,943,778

**DEPARTMENT OF EDUCATION***340 - State Board of Education –**State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2021 Org 0402

Personal Services and Employee Benefits ....00100	\$ 5,785,359
Unclassified.....09900	2,000,000
Current Expenses .....13000	222,367,820
Repairs and Alterations .....06400	10,000
Equipment .....07000	10,000
Other Assets .....69000	<u>10,000</u>
Total .....	\$ 230,183,179

*341 - State Board of Education –**School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2021 Org 0402

Personal Services and Employee Benefits ....00100	\$ 1,881,766
Unclassified.....09900	1,150,500
Current Expenses .....13000	148,281,265
Repairs and Alterations.....06400	20,000
Equipment.....07000	100,000
Other Assets.....69000	<u>25,000</u>
Total.....	\$ 151,458,531

*342 - State Board of Education –**Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2021 Org 0402

Personal Services and Employee Benefits ....00100	\$ 1,896,249
Unclassified.....09900	155,000
Current Expenses .....13000	14,820,081
Repairs and Alterations.....06400	10,000
Equipment.....07000	10,000
Other Assets.....69000	<u>10,000</u>
Total.....	\$ 16,901,330

*343 - State Board of Education –**Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2021 Org 0402

Personal Services and Employee Benefits ....00100	\$ 3,477,006
Unclassified.....09900	1,000,000

Current Expenses .....	13000	113,346,390
Repairs and Alterations .....	06400	10,000
Equipment .....	07000	10,000
Other Assets .....	69000	<u>10,000</u>
Total .....		\$ 117,853,396

***DEPARTMENT OF ARTS, CULTURE, AND HISTORY***

*344 - Commission for National and Community Service*

(WV Code Chapter 5F)

Fund 8841 FY 2021 Org 0432

Personal Services and Employee Benefits ....00100	\$	437,040
Current Expenses .....	13000	5,587,325
Repairs and Alterations .....	06400	<u>1,000</u>
Total .....	\$	6,025,365

*345 - Division of Culture and History*

(WV Code Chapter 29)

Fund 8718 FY 2021 Org 0432

Personal Services and Employee Benefits ....00100	\$	810,436
Current Expenses .....	13000	1,947,372
Repairs and Alterations .....	06400	1,000
Equipment .....	07000	1,000
Buildings .....	25800	1,000
Other Assets .....	69000	1,000
Land .....	73000	<u>360</u>
Total .....	\$	2,762,168

*346 - Library Commission*

(WV Code Chapter 10)

Fund 8720 FY 2021 Org 0433

Personal Services and Employee Benefits ....00100	\$	353,396
Current Expenses .....	13000	1,076,162



Equipment .....	07000	<u>543,406</u>
Total .....		\$ 1,972,964

*347 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 8721 FY 2021 Org 0439

Equipment .....	07000	\$ 200,000
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**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

*348 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 8708 FY 2021 Org 0313

Personal Services and Employee Benefits ....	00100	\$ 31,406,529
Current Expenses .....	13000	153,850,118
Repairs and Alterations .....	06400	739,783
Equipment .....	07000	1,712,238
Unclassified .....	09900	1,923,580
Other Assets .....	69000	2,177,261
Land .....	73000	<u>80,000</u>
Total .....		\$ 191,889,509

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*349 - Consolidated Medical Service Fund*

(WV Code Chapter 16)

Fund 8723 FY 2021 Org 0506

Personal Services and Employee Benefits ....	00100	\$ 1,532,219
Unclassified .....	09900	73,307
Current Expenses .....	13000	<u>36,583,302</u>
Total .....		\$ 38,188,828

*350 - Division of Health –**Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$ 14,610,947
Unclassified.....09900	856,614
Current Expenses .....13000	69,201,885
Equipment.....07000	456,972
Buildings .....25800	155,000
Other Assets.....69000	<u>380,000</u>
Total.....	\$ 85,661,418

*351 - Division of Health –**West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2021 Org 0506

## West Virginia Drinking Water Treatment

Revolving Fund – Transfer.....68900	\$ 16,000,000
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*352 - Human Rights Commission*

(WV Code Chapter 5)

Fund 8725 FY 2021 Org 0510

Personal Services and Employee Benefits ....00100	\$ 449,874
Unclassified.....09900	5,050
Current Expenses .....13000	<u>64,950</u>
Total.....	\$ 519,874

*353 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2021 Org 0511

Personal Services and Employee Benefits ....00100	\$	76,486,842
Unclassified.....09900		22,855,833
Current Expenses .....13000		112,110,500
Medical Services .....18900		3,598,409,155
Medical Services Administrative Costs .....78900		132,247,536
CHIP Administrative Costs.....85601		4,539,496
CHIP Services.....85602		47,422,974
Federal Economic Stimulus .....89100		<u>5,000,000</u>
Total.....	\$	<u>\$3,999,072,336</u>

**DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC  
SAFETY**

*354 - Office of the Secretary*

(WV Code Chapter 5F)

Fund 8876 FY 2021 Org 0601

Unclassified.....09900	\$	5,000
Current Expenses .....13000		<u>495,000</u>
Total.....	\$	<u>500,000</u>

*355 - Adjutant General –*

*State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2021 Org 0603

Unclassified.....09900	\$	982,705
Mountaineer ChalleNGe Academy .....70900		4,978,680
Martinsburg Starbase .....74200		439,622
Charleston Starbase.....74300		424,685
Military Authority .....74800		<u>93,601,594</u>
Total.....	\$	<u>\$100,427,286</u>

The Adjutant General shall have the authority to transfer between appropriations.

*356 - Adjutant General –**West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2021 Org 0603

Personal Services and Employee Benefits ....00100	\$	1,350,000
Current Expenses .....13000		300,000
Equipment .....07000		<u>350,000</u>
Total.....	\$	2,000,000

*357 - Division of Homeland Security and**Emergency Management*

(WV Code Chapter 15)

Fund 8727 FY 2021 Org 0606

Personal Services and Employee Benefits ....00100	\$	1,260,422
Current Expenses .....13000		20,429,281
Repairs and Alterations.....06400		5,000
Equipment .....07000		<u>100,000</u>
Total.....	\$	21,794,703

*358 - Division of Corrections and Rehabilitation*

(WV Code Chapters 15A)

Fund 8836 FY 2021 Org 0608

Unclassified.....09900	\$	1,100
Current Expenses .....13000		<u>108,900</u>
Total.....	\$	110,000

*359 - West Virginia State Police*

(WV Code Chapter 15)

Fund 8741 FY 2021 Org 0612

Personal Services and Employee Benefits ....00100	\$	2,480,877
Current Expenses .....13000		2,125,971
Repairs and Alterations .....06400		42,000
Equipment .....07000		2,502,285
Buildings .....25800		750,500
Other Assets .....69000		144,500
Land .....73000		500
Total .....	\$	8,046,633

*360 - Fire Commission*

(WV Code Chapter 29)

Fund 8819 FY 2021 Org 0619

Current Expenses .....13000	\$	80,000
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*361 - Division of Administrative Services*

(WV Code Chapter 15)

Fund 8803 FY 2021 Org 0623

Personal Services and Employee Benefits ....00100	\$	1,222,258
Unclassified.....09900		25,381,973
Current Expenses .....13000		1,750
Repairs and Alterations .....06400		25,185
Total .....	\$	26,631,166

**DEPARTMENT OF REVENUE***362 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2021 Org 0704

Current Expenses .....13000	\$	3,000,000
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**DEPARTMENT OF TRANSPORTATION***363 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2021 Org 0802

Personal Services and Employee Benefits ....00100	\$	501,394
Current Expenses .....13000		5,498,106
Repairs and Alterations.....06400		500
Total.....	\$	6,000,000

*364 - Division of Public Transit*

(WV Code Chapter 17)

Fund 8745 FY 2021 Org 0805

Personal Services and Employee Benefits ....00100	\$	922,070
Current Expenses .....13000		8,663,149
Repairs and Alterations.....06400		2,500
Equipment.....07000		2,801,714
Buildings .....25800		1,250,000
Other Assets.....69000		100,000
Total.....	\$	13,739,433

**DEPARTMENT OF VETERANS' ASSISTANCE***365 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 8858 FY 2021 Org 0613

Personal Services and Employee Benefits ....00100	\$	2,947,485
Current Expenses .....13000		2,840,300
Repairs and Alterations.....06400		20,000
Equipment.....07000		25,000
Buildings .....25800		250,000
Land .....73000		500
Veterans' Cemetery .....80800		175,000
Total.....	\$	6,258,285

*366 - Department of Veterans' Assistance –**Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2021 Org 0618

Personal Services and Employee Benefits ....00100	\$	906,850
Current Expenses .....	13000	601,700
Repairs and Alterations.....	06400	60,500
Equipment.....	07000	10,500
Buildings.....	25800	500
Other Assets.....	69000	500
Land .....	73000	100
Total.....	\$	1,580,650

**BUREAU OF SENIOR SERVICES***367 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 8724 FY 2021 Org 0508

Personal Services and Employee Benefits ....00100	\$	767,364
Current Expenses .....	13000	13,811,853
Repairs and Alterations.....	06400	3,000
Total.....	\$	14,582,217

**MISCELLANEOUS BOARDS AND COMMISSIONS***368 - Public Service Commission –**Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2021 Org 0926

Personal Services and Employee Benefits ....00100	\$	1,352,576
Current Expenses .....	13000	368,953
Repairs and Alterations.....	06400	39,000
Equipment.....	07000	1,000
Total.....	\$	1,761,529

*369 - Public Service Commission –**Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2021 Org 0926

Personal Services and Employee Benefits ....00100	\$	621,039
Current Expenses .....	13000	124,628
Equipment .....	07000	3,000
Unclassified.....	09900	<u>4,072</u>
Total.....	\$	<u>752,739</u>

*370 - National Coal Heritage Area Authority*

(WV Code Chapter 29)

Fund 8869 FY 2021 Org 0941

Personal Services and Employee Benefits ....00100	\$	163,405
Current Expenses .....	13000	633,417
Repairs and Alterations.....	06400	5,000
Equipment .....	07000	3,000
Other Assets.....	69000	<u>2,000</u>
Total.....	\$	<u>806,822</u>

Total TITLE II, Section 6 - Federal Funds

(Including claims against the state) ..... \$5,240,174,645

**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 2021.

*371 - West Virginia Development Office –**Community Development*Fund 8746 FY 2021 Org 0307

Personal Services and Employee Benefits ....00100	\$	10,658,978
Unclassified.....	09900	2,375,000
Current Expenses .....	13000	<u>224,476,883</u>
Total.....	\$	<u>237,510,861</u>



*372 - Department of Commerce**West Virginia Development Office –**Office of Economic Opportunity –**Community Services*Fund 8902 FY 2021 Org 0307

Personal Services and Employee Benefits ....00100	\$	362,389
Unclassified.....09900		125,000
Current Expenses .....13000		12,002,111
Repairs and Alterations.....06400		1,500
Equipment.....07000		<u>9,000</u>
Total.....	\$	12,500,000

*373 - WorkForce West Virginia –**Workforce Investment Act*Fund 8749 FY 2021 Org 0323

Personal Services and Employee Benefits ....00100	\$	2,999,497
Unclassified.....09900		23,023
Current Expenses .....13000		39,263,511
Repairs and Alterations.....06400		1,600
Equipment.....07000		500
Buildings .....25800		<u>1,100</u>
Total.....	\$	42,289,231

*374 - Division of Health –**Maternal and Child Health*Fund 8750 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$	2,268,209
Unclassified.....09900		81,439
Current Expenses .....13000		<u>5,794,267</u>
Total.....	\$	8,143,915

*375 - Division of Health –**Preventive Health*Fund 8753 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$	268,337
Unclassified.....09900		22,457
Current Expenses .....13000		1,895,366
Equipment.....07000		<u>165,642</u>
Total.....	\$	2,351,802

*376 - Division of Health –**Substance Abuse Prevention and Treatment*Fund 8793 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$	657,325
Unclassified.....09900		115,924
Current Expenses .....13000		<u>10,853,740</u>
Total.....	\$	11,626,989

*377 - Division of Health –**Community Mental Health Services*Fund 8794 FY 2021 Org 0506

Personal Services and Employee Benefits ....00100	\$	551,368
Unclassified.....09900		33,533
Current Expenses .....13000		<u>4,883,307</u>
Total.....	\$	5,468,208

*378 - Division of Human Services –**Energy Assistance*Fund 8755 FY 2021 Org 0511

Personal Services and Employee Benefits ....00100	\$	1,860,574
Unclassified.....09900		350,000
Current Expenses .....13000		<u>33,182,151</u>
Total.....	\$	35,392,725

*379 - Division of Human Services –**Social Services*Fund 8757 FY 2021 Org 0511

Personal Services and Employee Benefits ....00100	\$ 8,806,005
Unclassified.....09900	171,982
Current Expenses .....13000	<u>8,870,508</u>
Total.....	\$ 17,848,495

*380 - Division of Human Services –**Temporary Assistance for Needy Families*Fund 8816 FY 2021 Org 0511

Personal Services and Employee Benefits ....00100	\$ 20,559,397
Unclassified.....09900	1,250,000
Current Expenses .....13000	<u>105,851,386</u>
Total.....	\$ 127,660,783

*381 - Division of Human Services –**Child Care and Development*Fund 8817 FY 2021 Org 0511

Personal Services and Employee Benefits ....00100	\$ 2,797,226
Unclassified.....09900	350,000
Current Expenses .....13000	<u>47,000,307</u>
Total.....	\$ 50,147,533

Total TITLE II, Section 7 –

Federal Block Grants ..... \$ 550,940,542

**Sec. 8. Awards for claims against the state.** — There are hereby appropriated for fiscal year 2021, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$1,397,579, special revenue funds in the amount of \$6,433, state road funds in the amount of \$844,164, and federal revenue funds in the amount of \$280,346 for payment of claims against the state.

**Sec. 9. Appropriations from general revenue fund surplus accrued.** — The following item is hereby appropriated from the state fund, general revenue, and is to be available for expenditure during the fiscal year 2021 out of surplus funds only, accrued from the fiscal year ending June 30, 2020, 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, 2020 from the fiscal year ending June 30, 2020, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2020, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available as of the date mandated to meet the appropriation in this section and shall be allocated first to provide the necessary funds to meet the first appropriation of this section and each subsequent appropriation in the order listed in this section.

*382 - West Virginia Tourism Office*

(WV Code Chapter 5B)

Fund 0246 FY 2021 Org 0304

Tourism – Brand Promotion – Surplus .....##### \$ 5,000,000

*383 - Governor's Office*

(WV Code Chapter 5)

Fund 0101 FY 2021 Org 010

Community Food Program – Surplus .....##### \$ 1,000,000

*384 - State Board of Education –*

*Vocational Division*

(WV Code Chapters 18, and 18A)

Fund 0390 FY 2021 Org 0402

Jobs & Hope - Surplus .....##### \$ 3,500,000

*385 - State Board of Education –*

*State Department of Education*

(WV Code Chapters 18, and 18A)

Fund 0313 FY 2021 Org 0402

Jobs & Hope – Childhood Drug Prevention

Education - Surplus.....##### \$ 2,500,000

*386 - Consolidated Medical Services Fund*

(WV Code Chapter 16)

Fund 0525 FY 2021 Org 0506

Jobs & Hope - Surplus .....##### \$ 4,500,000

Total TITLE II, Section 9 – Surplus Accrued..... \$ 16,500,000

**Sec. 10. Appropriations from lottery net profits surplus accrued.** — The following item is hereby appropriated from the lottery net profits, and is to be available for expenditure during the fiscal year 2021 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2020, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2020.

In the event that surplus revenues available from the fiscal year ending June 30, 2020, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

*387 - Bureau of Senior Services –**Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2021 Org 0508

## In-Home Services and Nutrition for

Senior Citizens – Lottery Surplus.....	76699	\$	750,000
Senior Services Medicaid Transfer –			
Lottery Surplus .....	68199		<u>16,000,000</u>
Total.....		\$	<u>16,750,000</u>

## Total TITLE II, Section 10 –

Surplus Accrued ..... \$ 16,750,000

**Sec. 11. Appropriations from state excess lottery revenue surplus accrued.** — The following item is hereby appropriated from the state excess lottery revenue fund, and is to be available for expenditure during the fiscal year 2021 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2020, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2020.

In the event that surplus revenues available from the fiscal year ending June 30, 2020, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

*388 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2021 Org 0511

Medical Services – Lottery Surplus.....68100 \$ 17,000,000

Total TITLE II, Section 11 –  
 Surplus Accrued ..... \$ 17,000,000

**Sec. 12. Special revenue appropriations.** — There are hereby appropriated for expenditure during the fiscal year 2021 appropriations made by general law from special revenues which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2: *Provided*, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.Va. Code §12-2 and 3, and W.Va. Code §11B-2, 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.

During Fiscal Year 2021, the following funds are hereby available and are to be transferred to the appropriate funds as specified from available balances per the following:

*389 -Attorney General*

*Consumer Protection Recovery Fund*

*(WV Code Chapter 46A)*

*Fund 1509 FY 2021 Org 1500*

Directed Transfer .....70000 \$ 6,100,000

From the above appropriation for Directed Transfer (Fund 1509, appropriation 70000), \$100,000 shall be transferred to the Supreme Court – Family Court Fund (Fund 1763), \$1,000,000 shall be transferred to the West Virginia State Police – Forensic Laboratory Fund (Fund 6511) and \$5,000,000 shall be transferred to the Department of Health and Human Resources, Division of

Health – Ryan Brown Addiction Prevention and Recovery Fund (Fund 5111).

Total TITLE II, Section 12 –

Appropriations for Special Revenue

Appropriations..... \$ 6,100,000

**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 2021, 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 2021 to be expended as authorized by the Governor, for such studies and recommendations which may encompass any problems of organization, procedures, systems, functions, powers or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

**Sec. 14. Specific funds and collection accounts.** — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.

**Sec. 15. Appropriations for refunding erroneous payment.** — Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the proper amount. The Auditor shall issue his or her warrant to the



Treasurer and the Treasurer shall pay the warrant out of the fund into which the amount was originally paid.

**Sec. 16. Sinking fund deficiencies.** — There is hereby appropriated to the Governor a sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance fund of the West Virginia housing development fund which is under the supervision and control of the municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal bond commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The Governor is authorized to transfer from time to time such amounts to the municipal bond commission as may be necessary for these purposes.

The municipal bond commission shall reimburse the state of West Virginia through the Governor from the first remittance collected from the West Virginia housing development fund or from any state agency or local taxing district for which the Governor advanced funds, with interest at the rate carried by the bonds for security or payment of which the advance was made.

**Sec. 17. Appropriations for local governments.** — There are hereby appropriated for payment to counties, districts and municipal corporations such amounts as will be necessary to pay taxes due counties, districts and municipal corporations and which have been paid into the treasury:

- (a) For redemption of lands;
- (b) By public service corporations;
- (c) For tax forfeitures.

**Sec. 18. Total appropriations.** — Where only a total sum is appropriated to a spending unit, the total sum shall include personal services and employee benefits, annual increment, current expenses, repairs and alterations, buildings, equipment, other assets, land, and capital outlay, where not otherwise specifically

provided and except as otherwise provided in TITLE I – GENERAL PROVISIONS, Sec. 3.

**Sec. 19. General school fund.** — The balance of the proceeds of the general school fund remaining after the payment of the appropriations made by this act is appropriated for expenditure in accordance with W.Va. Code §18-9A-16.

### TITLE III – ADMINISTRATION

**Sec. 1. Appropriations conditional.** — The expenditure of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of Article 2, Chapter 11B of the Code.

Where spending units or parts of spending units have been absorbed by or combined with other spending units, it is the intent of this act that appropriations and reappropriations shall be to the succeeding or later spending unit created, unless otherwise indicated.

**Sec. 2. Constitutionality.** — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

On motion of Senator Blair, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 150) was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

### TITLE I – GENERAL PROVISIONS.

**Section 1. General policy.** – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2021.

**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 2021” shall mean the period from July 1, 2020, through June 30, 2021.

“General revenue fund” shall mean the general operating fund of the state and includes all moneys received or collected by the state except as provided in W.Va. Code §12-2-2 or as otherwise provided.

“Special revenue funds” shall mean specific revenue sources which by legislative enactments are not required to be accounted for as general revenue, including federal funds.

“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collections. If the amount collected exceeds the amount designated “from collections,” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

**Sec. 3. Classification of appropriations.** — An appropriation for:

“Personal services” shall mean salaries, wages and other compensation paid to full-time, part-time and temporary employees of the spending unit but shall not include fees or contractual payments paid to consultants or to independent

contractors engaged by the spending unit. “Personal services” shall include “annual increment” for “eligible employees” and shall be disbursed only in accordance with Article 5, Chapter 5 of the Code.

Unless otherwise specified, appropriations for “personal services” shall include salaries of heads of spending units.

“Employee benefits” shall mean social security matching, workers’ compensation, unemployment compensation, pension and retirement contributions, public employees insurance matching, personnel fees or any other benefit normally paid by the employer as a direct cost of employment. Should the appropriation be insufficient to cover such costs, the remainder of such cost shall be paid by each spending unit from its “unclassified” appropriation, or its “current expenses” appropriation or other appropriate appropriation. Each spending unit is hereby authorized and required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the Code.

Each spending unit shall be responsible for all contributions, payments or other costs related to coverage and claims of its employees for unemployment compensation and workers compensation. Such expenditures shall be considered an employee benefit.

“BRIM Premiums” shall mean the amount charged as consideration for insurance protection and includes the present value of projected losses and administrative expenses. Premiums are assessed for coverages, as defined in the applicable policies, for claims arising from, inter alia, general liability, wrongful acts, property, professional liability and automobile exposures.

Should the appropriation for “BRIM Premium” be insufficient to cover such cost, the remainder of such costs shall be paid by each spending unit from its “unclassified” appropriation, its “current expenses” appropriation or any other appropriate appropriation to the Board of Risk and Insurance Management. Each spending unit is hereby authorized and required to make such payments. If there is no appropriation for “BRIM Premium” such costs shall be paid

by each spending unit from its “current expenses” appropriation, “unclassified” appropriation or other appropriate appropriation.

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance Management total insurance premium cost for their respective institutions.

“Current expenses” shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings or lands. Each spending unit shall be responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all such amounts. Such expenditures shall be considered a current expense.

“Equipment” shall mean equipment items which have an appreciable and calculable period of usefulness in excess of one year.

“Repairs and alterations” shall mean routine maintenance and repairs to structures and minor improvements to property which do not increase the capital assets.

“Buildings” shall include new construction and major alteration of existing structures and the improvement of lands and shall include shelter, support, storage, protection or the improvement of a natural condition.

“Lands” shall mean the purchase of real property or interest in real property.

“Capital outlay” shall mean and include buildings, lands or buildings and lands, with such category or item of appropriation to remain in effect as provided by W.Va. Code §12-3-12.

From appropriations made to the spending units of state government, upon approval of the Governor there may be

transferred to a special account an amount sufficient to match federal funds under any federal act.

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: *Provided, however*, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a “personal services and employee benefits” appropriation unless the source funds are also wholly from a “personal services and employee benefits” line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further*, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to “personal services and employee benefits,” “current expenses,” “repairs and alterations,” “equipment,” “other assets,” “land,” and “buildings” to other appropriations within the same account and no funds from other appropriations shall be transferred to the “personal services and employee benefits” or the “unclassified” appropriation: *And provided further*, That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature consolidates, reorganizes or terminates agencies, boards or functions, within any fiscal year the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part

of the item may be allocated, in order to implement such consolidation, reorganization or termination. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

**Sec. 4. Method of expenditure.** — Money appropriated by this bill, unless otherwise specifically directed, shall be appropriated and expended according to the provisions of Article 3, Chapter 12 of the Code or according to any law detailing a procedure specifically limiting that article.

**Sec. 5. Maximum expenditures.** — No authority or requirement of law shall be interpreted as requiring or permitting an expenditure in excess of the appropriations set out in this bill.

## TITLE II – APPROPRIATIONS.

### ORDER OF SECTIONS

- |            |   |
|------------|---|
| SECTION 1. | Appropriations from general revenue.              |
| SECTION 2. | Appropriations from state road fund.              |
| SECTION 3. | Appropriations from other funds.                  |
| SECTION 4. | Appropriations from lottery net profits.          |
| SECTION 5. | Appropriations from state excess lottery revenue. |
| SECTION 6. | Appropriations of federal funds.                  |

- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

**Section 1. Appropriations from general revenue.** – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2021.

## LEGISLATIVE

*1 - Senate*

Fund 0165 FY 2021 Org 2100



	<b>Appropriation</b>	<b>General Revenue Fund</b>
Compensation of Members (R).....	00300	\$ 1,010,000
Compensation and Per Diem of Officers and Employees (R) .....	00500	4,011,332
Current Expenses and Contingent Fund (R)....	02100	276,392
Repairs and Alterations (R) .....	06400	50,000
Computer Supplies (R) .....	10100	20,000
Computer Systems (R).....	10200	60,000
Printing Blue Book (R) .....	10300	125,000
Expenses of Members (R).....	39900	370,000
BRIM Premium (R) .....	91300	<u>29,482</u>
Total.....		\$ 5,952,206

The appropriations for the Senate for the fiscal year 2020 are to remain in full force and effect and are hereby reappropriated to June 30, 2021. Any balances so reappropriated may be transferred and credited to the fiscal year 2020 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.

The distribution of the blue book shall be by the office of the Clerk of the Senate and shall include 75 copies for each member of the Legislature and two copies for each classified and approved high school and junior high or middle school and one copy for each elementary school within the state.

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 2021 Org 2200

Compensation of Members (R).....00300	\$	3,000,000
Compensation and Per Diem of Officers and Employees (R) .....		00500 575,000
Current Expenses and Contingent Fund (R)....		02100 4,399,031
Expenses of Members (R).....		39900 1,350,000
BRIM Premium (R) .....		91300 80,000
Total.....	\$	9,404,031

The appropriations for the House of Delegates for the fiscal year 2020 are to remain in full force and effect and are hereby reappropriated to June 30, 2021. Any balances so reappropriated may be transferred and credited to the fiscal year 2020 accounts.

Upon the written request of the Clerk of the House of Delegates, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates and not included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Speaker of the House of Delegates shall have authority to employ such staff personnel during and between sessions of the Legislature as shall be needed, in addition to personnel designated in the House resolution, and the compensation of all personnel shall be as fixed in such House resolution for the session, or fixed by the Speaker during and between sessions of the Legislature, notwithstanding such House resolution. The Clerk of the House of Delegates is hereby authorized to draw requisitions upon the Auditor for such services, payable out of the appropriation for the Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

For duties imposed by law and by the House of Delegates, including salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as provided in the House resolution, unless increased between sessions under the authority of the Speaker and payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

Included in the above appropriation for House of Delegates (fund 0170, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

*3 - Joint Expenses*

(WV Code Chapter 4)

Fund 0175 FY 2021 Org 2300

Joint Committee on Government and Finance (R).....	10400	\$ 6,725,138
Legislative Printing (R).....	10500	260,000
Legislative Rule-Making Review Committee (R).....	10600	147,250
Legislative Computer System (R).....	10700	1,447,500
Legislative Fees & Dues (R).....	10701	600,000
BRIM Premium (R) .....	91300	<u>60,569</u>
Total.....		\$ 9,240,457

The appropriations for the Joint Expenses for the fiscal year 2020 are to remain in full force and effect and are hereby reappropriated to June 30, 2021. Any balances reappropriated may be transferred and credited to the fiscal year 2020 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 2021 Org 2400

Personal Services and Employee Benefits (R) .....	00100	\$ 111,440,000
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Military Service Members Court (R) .....	09002	300,000
Current Expenses (R) .....	13000	19,911,000
Repairs and Alterations (R) .....	06400	40,000
Equipment (R).....	07000	1,950,000
Judges' Retirement System (R).....	11000	838,000
Buildings (R).....	25800	10,000
Other Assets (R).....	69000	200,000
BRIM Premium (R) .....	91300	<u>810,000</u>
Total .....		\$ 135,499,000

The appropriations to the Supreme Court of Appeals for the fiscal years 2018, 2019 and 2020 are to remain in full force and effect and are hereby reappropriated to June 30, 2021. Any balances so reappropriated may be transferred and credited to the fiscal year 2021 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 there from as required by law for taxes and other items.

The appropriation for the Judges' Retirement System (fund 0180, appropriation 11000) is to be transferred to the Consolidated Public Retirement Board, in accordance with the law relating thereto, upon requisition of the Administrative Director of the Supreme Court of Appeals.

## EXECUTIVE

### *5 - Governor's Office*

(WV Code Chapter 5)

#### Fund 0101 FY 2021 Org 0100

Personal Services and Employee Benefits ....	00100	\$ 3,250,758
Current Expenses (R) .....	13000	800,000
Repairs and Alterations .....	06400	25,000
National Governors Association .....	12300	60,700
Herbert Henderson		
Office of Minority Affairs .....	13400	396,726

Community Food Program .....	18500	1,000,000
Office of Resiliency .....	18600	596,157
BRIM Premium.....	91300	<u>183,645</u>
Total.....		\$ 6,312,986

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), and Current Expenses (fund 0101, appropriation 13000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101, appropriation 13400) shall be transferred to the Minority Affairs Fund (fund 1058).

*6 - Governor's Office –*

*Custodial Fund*

(WV Code Chapter 5)

Fund 0102 FY 2021 Org 0100

Personal Services and Employee Benefits ....00100	\$	381,293
Current Expenses (R) .....	13000	183,158
Repairs and Alterations.....	06400	<u>5,000</u>
Total.....	\$	569,451

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

Appropriations are to be used for current general expenses, including compensation of employees, household maintenance, cost of official functions and additional household expenses occasioned by such official functions.

*7 - Governor's Office –*

*Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2021 Org 0100

Milton Flood Wall (R) .....	75701	\$ 6,000,000
Public Health Emergency Response Fund....	xxxxx	<u>2,000,000</u>
Total.....		8,000,000

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood Wall (fund 0105, appropriation 75701), and Natural Disasters – Surplus (fund 0105, appropriation 76400) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

From this fund there may be expended, at the discretion of the Governor, an amount not to exceed \$1,000 as West Virginia’s contribution to the interstate oil compact commission.

The above fund is intended to provide contingency funding for accidental, unanticipated, emergency or unplanned events which may occur during the fiscal year and is not to be expended for the normal day-to-day operations of the Governor’s Office.

*8 - Auditor’s Office –*

*General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2021 Org 1200

Personal Services and Employee Benefits....	00100	\$ 2,797,589
Current Expenses (R).....	13000	13,429

BRIM Premium.....	91300	<u>12,077</u>
Total.....		\$ 2,823,095

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0116, appropriation 00100), is \$95,000 for the Salary of the Auditor.

*9 - Treasurer's Office*

(WV Code Chapter 12)

Fund 0126 FY 2021 Org 1300

Personal Services and Employee Benefits ....	00100	\$ 2,570,242
Unclassified.....	09900	31,463
Current Expenses (R).....	13000	772,684
Abandoned Property Program.....	11800	41,794
Other Assets.....	69000	10,000
ABLE Program .....	69201	150,000
BRIM Premium.....	91300	<u>59,169</u>
Total.....		\$ 3,635,352

Any unexpended balances remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0126, appropriation 00100), is \$95,000 for the Salary of the Treasurer.

*10 - Department of Agriculture*

(WV Code Chapter 19)

Fund 0131 FY 2021 Org 1400



Personal Services and Employee Benefits ....00100	\$	6,298,229
Animal Identification Program .....03900		131,942
State Farm Museum .....05500		87,759
Current Expenses (R).....13000		848,115
Gypsy Moth Program (R) .....11900		1,003,440
WV Farmers Market .....12801		150,467
Black Fly Control.....13700		453,698
HEMP Program.....13701		350,000
Donated Foods Program .....36300		45,000
Veterans to Agriculture Program (R).....36301		255,624
Predator Control (R) .....47000		176,400
Bee Research.....69100		70,634
Microbiology Program.....78500		99,828
Moorefield Agriculture Center .....78600		975,284
Chesapeake Bay Watershed .....83000		112,427
Livestock Care Standards Board.....84300		8,820
BRIM Premium.....91300		138,905
State FFA-FHA Camp and Conference Center .....94101		738,554
Threat Preparedness .....94200		73,122
WV Food Banks.....96900		426,000
Senior's Farmers' Market Nutrition Coupon Program .....97000		<u>55,835</u>
Total.....	\$	<u>12,500,083</u>

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0131, appropriation 00100), is \$95,000 for the Salary of the Commissioner.

The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made available to the United States

Department of Agriculture, Wildlife Services to administer the Predator Control Program.

A portion of the Current Expenses appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for marketing and development activities.

From the above appropriation for WV Food Banks (fund 0131, appropriation 96900), \$20,000 is for House of Hope and the remainder of the appropriation shall be allocated to the Huntington Food Bank and the Mountaineer Food Bank in Braxton County.

*11 - West Virginia Conservation Agency*

(WV Code Chapter 19)

Fund 0132 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	794,191
Unclassified.....09900		77,059
Current Expenses (R).....13000		317,848
Soil Conservation Projects (R).....12000		9,799,709
BRIM Premium.....91300		<u>34,428</u>
Total.....	\$	11,023,235

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000), and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*12 - Department of Agriculture –*

*Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2021 Org 1400

Personal Services and Employee Benefits ....00100	\$	668,030
Unclassified.....09900		7,090
Current Expenses .....13000		<u>82,605</u>
Total.....	\$	757,725

Any part or all of this appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for the above-named program.

*13 - Department of Agriculture –*

*Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2021 Org 1400

Programs and Awards for 4-H Clubs and FFA/FHA .....	57700	\$	15,000
Commissioner's Awards and Programs .....	73700		<u>39,250</u>
Total .....		\$	54,250

*14 - Department of Agriculture –*

*West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2021 Org 1400

Personal Services and Employee Benefits ....	00100	\$	99,547
Unclassified .....	09900		<u>950</u>
Total .....		\$	100,497

*15 - Attorney General*

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2021 Org 1500

Personal Services and Employee Benefits (R) .....	00100	\$	2,818,788
Unclassified (R) .....	09900		24,428
Current Expenses (R) .....	13000		762,097
Repairs and Alterations .....	06400		1,000
Equipment .....	07000		1,000
Criminal Convictions and Habeas Corpus Appeals (R) .....	26000		946,078
Better Government Bureau .....	74000		279,412

BRIM Premium.....	91300	<u>120,654</u>
Total.....		\$ 4,953,457

Any unexpended balances remaining in the above appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0150, appropriation 00100), is \$95,000 for the Salary of the Attorney General.

When legal counsel or secretarial help is appointed by the Attorney General for any state spending unit, this account shall be reimbursed from such spending units specifically appropriated account or from accounts appropriated by general language contained within this bill: *Provided*, That the spending unit shall reimburse at a rate and upon terms agreed to by the state spending unit and the Attorney General: *Provided, however*, That if the spending unit and the Attorney General are unable to agree on the amount and terms of the reimbursement, the spending unit and the Attorney General shall submit their proposed reimbursement rates and terms to the Governor for final determination.

*16 - Secretary of State*

(WV Code Chapters 3, 5, and 59)

Fund 0155 FY 2021 Org 1600

Personal Services and Employee Benefits ....	00100	\$ 118,794
Unclassified (R) .....	09900	8,352
Current Expenses (R) .....	13000	795,948
BRIM Premium.....	91300	<u>34,500</u>
Total.....		\$ 957,594

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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0155, appropriation 00100), is \$95,000 for the Salary of the Secretary of State.

*17 - State Election Commission*

(WV Code Chapter 3)

Fund 0160 FY 2021 Org 1601

Personal Services and Employee Benefits ....00100	\$	2,477
Unclassified.....09900		75
Current Expenses .....13000		<u>4,956</u>
Total.....	\$	7,508

**DEPARTMENT OF ADMINISTRATION**

*18 - Department of Administration –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2021 Org 0201

Personal Services and Employee Benefits ....00100	\$	606,584
Unclassified.....09900		9,177
Current Expenses .....13000		85,009
Repairs and Alterations.....06400		100
Equipment.....07000		1,000
Financial Advisor (R) .....30400		27,546
Lease Rental Payments .....51600		15,000,000
Design-Build Board .....54000		4,000
Other Assets.....69000		100
BRIM Premium.....91300		<u>6,736</u>
Total.....	\$	15,740,252

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

The appropriation for Lease Rental Payments (fund 0186, appropriation 51600) shall be disbursed as provided by W.Va. Code §31-15-6b.

*19 - Consolidated Public Retirement Board*

(WV Code Chapter 5)

Fund 0195 FY 2021 Org 0205

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the retirement costs for their respective divisions. When specific appropriations are not made, such payments may be made from the balances in the various special revenue funds in excess of specific appropriations.

*20 - Division of Finance*

(WV Code Chapter 5A)

Fund 0203 FY 2021 Org 0209

Personal Services and Employee Benefits ....00100	\$	64,696
Unclassified.....09900		1,400
Current Expenses .....13000		66,721
GAAP Project (R).....12500		612,666
BRIM Premium.....91300		<u>7,517</u>
Total.....	\$	753,000

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*21 - Division of General Services*

(WV Code Chapter 5A)

Fund 0230 FY 2021 Org 0211

Personal Services and Employee Benefits ....00100	\$	2,722,499
Unclassified.....09900		20,000
Current Expenses .....13000		1,148,349
Repairs and Alterations .....06400		500
Equipment .....07000		5,000
Fire Service Fee .....12600		14,000
Preservation and Maintenance of Statues and Monuments on Capitol Grounds .....37100		68,000
Capital Outlay, Repairs and Equipment (R) ....58900		23,660,888
BRIM Premium.....91300		<u>129,983</u>
Total.....	\$	<u>27,769,219</u>

Any unexpended balances remaining in the above appropriations for Buildings (fund 0230, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land (fund 0230, appropriation 73000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

From the above appropriation for Preservation and Maintenance of Statues and Monuments on Capitol Grounds (fund 0230, appropriation 37100), the Division shall consult the Division of Culture and History and Capitol Building Commission in all aspects of planning, assessment, maintenance and restoration.

The above appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) shall be expended for capital improvements, maintenance, repairs and equipment for state-owned buildings.

*22 - Division of Purchasing*

(WV Code Chapter 5A)

Fund 0210 FY 2021 Org 0213

Personal Services and Employee Benefits ....00100	\$	1,055,926
Unclassified.....09900		144
Current Expenses .....13000		1,285
Repairs and Alterations.....06400		200
BRIM Premium.....91300		<u>6,922</u>
Total.....	\$	1,064,477

The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for all actual expenses incurred pursuant to the provisions of W.Va. Code §17-2A-13.

*23 - Travel Management*

(WV Code Chapter 5A)

Fund 0615 FY 2021 Org 0215

Personal Services and Employee Benefits ....00100	\$	802,363
Unclassified.....09900		12,032
Current Expenses .....13000		440,247
Repairs and Alterations.....06400		1,000
Equipment.....07000		5,000
Buildings (R).....25800		100
Other Assets.....69000		<u>100</u>
Total.....	\$	1,260,842

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

*24 - Commission on Uniform State Laws*

(WV Code Chapter 29)

Fund 0214 FY 2021 Org 0217

Current Expenses .....13000	\$	45,550
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To pay expenses for members of the commission on uniform state laws.



*25 - West Virginia Public Employees Grievance Board*

(WV Code Chapter 6C)

Fund 0220 FY 2021 Org 0219

Personal Services and Employee Benefits ....00100	\$	969,627
Unclassified.....09900		1,000
Current Expenses .....13000		145,295
Equipment.....07000		50
BRIM Premium.....91300		<u>8,740</u>
Total.....	\$	1,124,712

*26 - Ethics Commission*

(WV Code Chapter 6B)

Fund 0223 FY 2021 Org 0220

Personal Services and Employee Benefits ....00100	\$	606,969
Unclassified.....09900		2,200
Current Expenses .....13000		104,501
Repairs and Alterations.....06400		500
Other Assets .....69000		100
BRIM Premium.....91300		<u>5,574</u>
Total.....	\$	719,844

*27 - Public Defender Services*

(WV Code Chapter 29)

Fund 0226 FY 2021 Org 0221

Personal Services and Employee Benefits ....00100	\$	1,899,483
Unclassified.....09900		314,700
Current Expenses .....13000		12,740
Public Defender Corporations.....35200		19,538,435
Appointed Counsel Fees (R).....78800		12,709,713
BRIM Premium.....91300		<u>10,575</u>
Total.....	\$	34,485,646

Any unexpended balance remaining in the above appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

The director shall have the authority to transfer funds from the appropriation to Public Defender Corporations (fund 0226, appropriation 35200) to Appointed Counsel Fees (fund 0226, appropriation 78800).

*28 - Committee for the Purchase of*

*Commodities and Services from the Handicapped*

(WV Code Chapter 5A)

Fund 0233 FY 2021 Org 0224

Personal Services and Employee Benefits ....00100	\$	3,187
Current Expenses .....	13000	<u>868</u>
Total.....	\$	4,055

*29 - Public Employees Insurance Agency*

(WV Code Chapter 5)

Fund 0200 FY 2021 Org 0225

PEIA Subsidy.....	80100	\$ 21,000,000
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The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount

shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

*30 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 0557 FY 2021 Org 0228

Forensic Medical Examinations (R) .....	68300	\$	141,579
Federal Funds/Grant Match (R) .....	74900		<u>105,074</u>
Total .....		\$	246,653

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 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*31 - Real Estate Division*

(WV Code Chapter 5A)

Fund 0610 FY 2021 Org 0233

Personal Services and Employee Benefits ....	00100	\$	681,101
Unclassified.....	09900		1,000
Current Expenses .....	13000		137,381
Repairs and Alterations.....	06400		100
Equipment.....	07000		2,500
BRIM Premium.....	91300		<u>9,784</u>
Total.....		\$	831,866

**DEPARTMENT OF COMMERCE**

*32 - West Virginia Tourism Office*

(WV Code Chapter 5B)

Fund 0246 FY 2021 Org 0304

Tourism – Brand Promotion (R) .....	61803	\$ 10,000,000
Tourism – Public Relations (R) .....	61804	1,500,000
Tourism – Events and Sponsorships (R).....	61805	500,000
Tourism – Industry Development (R).....	61806	500,000
State Parks and Recreation Advertising (R) .	61900	<u>1,500,000</u>
Total.....		\$ 14,000,000

Any unexpended balances remaining in the appropriations for Tourism – Brand Promotion (fund 0246, appropriation 61803), Tourism – Public Relations (fund 0246, appropriation 61804), Tourism – Events and Sponsorships (fund 0246, appropriation 61805), Tourism – Industry Development (fund 0246, appropriation 61806), and State Parks and Recreation Advertising (fund 0246, appropriation 61900) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

The Executive Director of the West Virginia Tourism Office, with approval from the Secretary of Commerce, shall have the authority to transfer between the above items of appropriation.

### *33 - Division of Forestry*

(WV Code Chapter 19)

#### Fund 0250 FY 2021 Org 0305

Personal Services and Employee Benefits ....	00100	\$ 2,881,455
Unclassified.....	09900	21,435
Current Expenses .....	13000	338,953
Repairs and Alterations.....	06400	80,000
Equipment (R).....	07000	2,061
BRIM Premium.....	91300	<u>98,754</u>
Total.....		\$ 3,422,658

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, appropriation 07000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

Out of the above appropriations a sum may be used to match federal funds for cooperative studies or other funds for similar purposes.

*34 - Geological and Economic Survey*

(WV Code Chapter 29)

Fund 0253 FY 2021 Org 0306

Personal Services and Employee Benefits ....00100	\$	1,678,448
Unclassified.....09900		27,678
Current Expenses .....13000		51,524
Repairs and Alterations.....06400		968
Mineral Mapping System (R) .....20700		1,134,143
BRIM Premium.....91300		24,486
Total.....	\$	2,917,247

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

The above Unclassified and Current Expense appropriations include funding to secure federal and other contracts and may be transferred to a special revolving fund (fund 3105) for the purpose of providing advance funding for such contracts.

*35 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 0256 FY 2021 Org 0307

Personal Services and Employee Benefits ....00100	\$	4,500,420
Unclassified.....09900		108,055
Current Expenses .....13000		5,815,277
National Youth Science Camp.....13200		241,570
Local Economic		
Development Partnerships (R).....13300		1,250,000
ARC Assessment .....13600		152,585

Guaranteed Work Force Grant (R).....	24200	976,579
Mainstreet Program.....	79400	167,467
Local Economic		
Development Assistance (R) .....	18900	1,750,000
BRIM Premium.....	91300	3,157
Hatfield McCoy Recreational Trail.....	96000	<u>198,415</u>
Total.....		\$ 15,163,525

Any unexpended balances remaining in the appropriations for Sales and Marketing Enhancement – Surplus (fund 0256, appropriation 05099), Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000), and Local Economic Development Assistance (fund 0256, appropriation 81900) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

From the above appropriation for Current Expenses (fund 0256, appropriation 13000), \$1,800,000 shall be used for the Eastern West Virginia Regional Airport; \$50,000 shall be used for the Western Potomac Economic Partnership; \$100,000 shall be used for Techconnect West Virginia and \$100,000 shall be used for Advantage Valley.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the West Virginia Development Office for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.Va. Code §5B-2-14. The West Virginia Development Office shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed \$34,000 per county served by an economic development or redevelopment corporation or authority.

*36 - Division of Labor*

(WV Code Chapters 21, and 47)

Fund 0260 FY 2021 Org 0308

Personal Services and Employee Benefits ....00100	\$	1,564,676
Current Expenses .....13000		227,000
Repairs and Alterations.....06400		28,000
Equipment.....07000		15,000
BRIM Premium.....91300		<u>8,500</u>
Total.....	\$	1,843,176

*37 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 0265 FY 2021 Org 0310

Personal Services and Employee Benefits ....00100	\$	16,956,925
Unclassified.....09900		184,711
Current Expenses .....13000		196,302
Repairs and Alterations.....06400		100
Equipment.....07000		100
Buildings (R).....25800		100
Capital Outlay – Parks (R).....28800		3,000,000
Litter Control Conservation Officers .....56400		146,986
Upper Mud River Flood Control.....65400		164,791
Other Assets.....69000		100
Land (R).....73000		100
Law Enforcement.....80600		2,552,994
BRIM Premium.....91300		<u>45,141</u>
Total.....	\$	23,248,350

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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.

*38 - Division of Miners' Health, Safety and Training*

(WV Code Chapter 22)

Fund 0277 FY 2021 Org 0314

Personal Services and Employee Benefits ....00100	\$	9,450,243
Unclassified.....09900		111,016
Current Expenses .....13000		1,396,141
Coal Dust and Rock Dust Sampling .....27000		487,752
BRIM Premium.....91300		<u>80,668</u>
Total.....	\$	11,525,820

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.

*39 - Board of Coal Mine Health and Safety*

(WV Code Chapter 22)

Fund 0280 FY 2021 Org 0319

Personal Services and Employee Benefits ....00100	\$	233,981
Unclassified.....09900		3,480
Current Expenses .....13000		<u>118,138</u>
Total.....	\$	355,599

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.

*40 - WorkForce West Virginia*

(WV Code Chapter 23)



Fund 0572 FY 2021 Org 0323

Personal Services and Employee Benefits ....00100	\$	51,433
Unclassified.....09900		593
Current Expenses .....13000		<u>7,337</u>
Total.....	\$	59,363

*41 - Department of Commerce –**Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2021 Org 0327

Personal Services and Employee Benefits ....00100	\$	588,872
Unclassified.....09900		1,490
Current Expenses .....13000		17,099
Directed Transfer .....70000		<u>500,000</u>
Total.....	\$	1,107,461

The above appropriation for Directed Transfer (fund 0606, appropriation 70000) shall be transferred to the Broadband Enhancement Fund (fund 3013).

*42 - Office of Energy*

(WV Code Chapter 5B)

Fund 0612 FY 2021 Org 0328

Personal Services and Employee Benefits ....00100	\$	198,299
Unclassified.....09900		12,395
Current Expenses .....13000		1,029,679
BRIM Premium.....91300		<u>3,894</u>
Total.....	\$	1,244,267

From the above appropriation for Current Expenses (fund 0612, appropriation 13000) \$558,247 is for West Virginia University and \$308,247 is for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

*43 - State Board of Rehabilitation –**Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 0310 FY 2021 Org 0932

Personal Services and Employee Benefits ....00100	\$ 11,459,977
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	<u>77,464</u>
Total.....	\$ 14,886,464

From the above appropriation for Workshop Development (fund 0310, appropriation 16300), fund 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 EDUCATION***44 - State Board of Education –**School Lunch Program*

(WV Code Chapters 18, and 18A)

Fund 0303 FY 2021 Org 0402

Personal Services and Employee Benefits ....00100	\$ 348,042
Current Expenses ..... 13000	<u>2,118,865</u>
Total.....	\$ 2,466,907

*45 - State Board of Education –**State Department of Education*

(WV Code Chapters 18, and 18A)

Fund 0313 FY 2021 Org 0402

Personal Services and Employee Benefits ....00100	\$ 4,598,523
Teachers' Retirement Savings Realized .....09500	33,028,000
Unclassified (R) .....09900	500,000
Current Expenses (R) .....13000	5,330,000
Center for Professional Development (R).....11500	150,000
Increased Enrollment .....14000	5,090,000
Safe Schools.....14300	5,104,544
Attendance Incentive Bonus .....15001	2,056,717
National Teacher Certification (R) .....16100	300,000
Jobs & Hope – Childhood	
Drug Prevention Education.....21901	5,000,000
Allowance for County Transfer .....26400	238,174
Technology Repair and Modernization.....29800	951,003
HVAC Technicians .....35500	516,791
Early Retirement Notification Incentive .....36600	300,000
MATH Program .....36800	336,532
Assessment Programs .....39600	1,339,588
Benedum Professional	
Development Collaborative (R).....42700	429,775
Governor's Honors Academy (R) .....47800	1,059,270
21st Century Fellows .....50700	274,899
English as a Second Language.....52800	96,000
Teacher Reimbursement .....57300	297,188
Hospitality Training .....60000	272,775
Youth in Government .....61600	100,000
High Acuity Special Needs (R).....63400	1,500,000
Foreign Student Education.....63600	100,294
State Board of Education	
Administrative Costs .....68400	277,403
IT Academy (R) .....72100	500,000
Early Literacy Program.....75600	5,705,624
School Based Truancy Prevention (R).....78101	2,032,238

Mastery Based Education .....	78104	125,000
Communities in Schools (R).....	78103	4,900,000
21st Century Learners (R).....	88600	1,756,470
BRIM Premium.....	91300	342,859
21st Century Assessment and Professional Development .....	93100	2,006,978
21st Century Technology Infrastructure Network Tools and Support.....	93300	7,636,586
Mountain State Digital Literacy Program.....	xxxxx	415,500
Special Olympic Games.....	96600	25,000
Educational Program Allowance .....	99600	<u>516,250</u>
Total.....		\$ 95,209,981

The above appropriations include funding for the state board of education and their executive office.

From the above appropriation for Unclassified (fund 0313, appropriation 09900) \$80,000 shall be used for creating a career exploration tool for students.

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, \$750,000 shall be used for Local Education Projects.

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), National Teacher Certification (fund 0313, appropriation 16100), 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), and 21st Century Learners (fund 0313, appropriation 88600) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

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 exam fees.

The above appropriation for Hospitality Training (fund 0313, appropriation 60000), shall be allocated only to entities that have a plan approved for funding by the Department of Education, at the funding level determined by the State Superintendent of Schools. Plans shall be submitted to the State Superintendent of Schools to be considered for funding.

From the above appropriation for Educational Program Allowance (fund 0313, appropriation 99600), \$100,000 shall be expended for Morgan County Board of Education for Paw Paw Schools; \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall be for the Preston County Board of Education for the Aurora School; \$100,000 shall be for the Fayette County Board of Education for Meadow Bridge and \$66,250 is for Project Based Learning in STEM fields.

*46 - State Board of Education –*

*Aid for Exceptional Children*

(WV Code Chapters 18, and 18A)

Fund 0314 FY 2021 Org 0402

Special Education – Counties .....	15900	\$	7,271,757
Special Education – Institutions.....	16000		3,968,631
Education of Juveniles Held in Predispositional			
Juvenile Detention Centers .....	30200		657,858
Education of Institutionalized			
Juveniles and Adults (R).....	47200		<u>20,325,353</u>
Total.....		\$	32,223,599

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 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

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.

*47 - State Board of Education –*

*State Aid to Schools*

(WV Code Chapters 18, and 18A)

Fund 0317 FY 2021 Org 0402

Other Current Expenses .....	02200	\$ 170,216,073
Advanced Placement.....	05300	734,729
Professional Educators.....	15100	897,576,715
Service Personnel.....	15200	301,789,240
Fixed Charges .....	15300	106,219,537
Transportation .....	15400	78,177,730
Professional Student Support Services .....	65500	62,148,699
Improved Instructional Programs.....	15600	51,956,792
21st Century Strategic Technology		
Learning Growth.....	93600	26,408,349
Teacher and Leader Induction.....	93601	<u>5,443,468</u>
Basic Foundation Allowances.....		1,700,671,332
Less Local Share .....		(476,083,702)
Adjustments .....		<u>(2,716,826)</u>
Total Basic State Aid .....		1,221,870,804
Public Employees' Insurance Matching .....	01200	222,461,499
Teachers' Retirement System .....	01900	66,511,000
School Building Authority .....	45300	24,000,000
Retirement Systems – Unfunded Liability....	77500	<u>304,728,000</u>
Total.....		\$1,839,571,303

*48 - State Board of Education –*

*Vocational Division*

(WV Code Chapters 18, and 18A)

Fund 0390 FY 2021 Org 0402

Personal Services and Employee Benefits ....00100	\$	1,339,713
Unclassified.....09900		268,800
Current Expenses .....13000		883,106
Wood Products – Forestry		
Vocational Program .....14600		79,873
Albert Yanni Vocational Program .....14700		132,123
Vocational Aid .....14800		24,229,691
Adult Basic Education .....14900		5,271,228
Jobs & Hope.....14902		3,100,000
Program Modernization .....30500		884,313
High School Equivalency		
Diploma Testing (R).....72600		803,397
FFA Grant Awards.....83900		11,496
Pre-Engineering Academy Program .....84000		<u>265,294</u>
Total.....	\$	37,269,034

Any unexpended balances remaining in the appropriations for Jim’s Dream (fund 0390, appropriation 14901) and High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

*49 - State Board of Education –**West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18, and 18A)

Fund 0320 FY 2021 Org 0403

Personal Services and Employee Benefits ....00100	\$	11,379,675
Unclassified.....09900		110,000
Current Expenses .....13000		2,250,696
Repairs and Alterations .....06400		164,675
Equipment .....07000		77,000
Buildings (R).....25800		45,000
Capital Outlay and Maintenance (R) .....75500		520,000

BRIM Premium.....	91300	<u>130,842</u>
Total.....		\$ 14,677,888

Any unexpended balances remaining in the appropriations for Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

## DEPARTMENT OF ARTS, CULTURE, AND HISTORY

### *50 - Division of Culture and History*

(WV Code Chapter 29)

Fund 0293 FY 2021 Org 0432

Personal Services and Employee Benefits....	00100	\$ 3,463,493
Current Expenses .....	13000	610,843
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	1
Unclassified (R) .....	09900	28,483
WV Humanities Council.....	16800	250,000
Buildings (R).....	25800	1
Other Assets.....	69000	1
Educational Enhancements .....	69500	573,500
Land (R).....	73000	1
Culture and History Programming.....	73200	231,573
Capital Outlay and Maintenance (R) .....	75500	19,600
Historical Highway Marker Program.....	84400	57,548
BRIM Premium.....	91300	<u>39,337</u>
Total.....		\$ 5,275,381

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500)