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VOLUME II
REGULAR SESSION, 2017

WEST VIRGINIA HOUSE OF DELEGATES
HONORABLE TIM ARMSTEAD
SPEAKER OF THE HOUSE

COMPILED AND PUBLISHED
UNDER THE DIRECTION
OF

STEPHEN J. HARRISON
CLERK OF THE HOUSE



CLERK'S OFFICE LEGISLATIVE GROUP

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REGULAR SESSION, 2017

Organizational Day	Wednesday	January 11	1
1 st Day	Wednesday	February 8	141
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3 rd Day	Friday	February 10	257
6 th Day	Monday	February 13	267
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8 th Day	Wednesday	February 15	317
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13 th Day	Monday	February 20	385
14 th Day	Tuesday	February 21	417
15 th Day	Wednesday	February 22	483
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17 th Day	Friday	February 24	533
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27 th Day	Monday	March 6	713
28 th Day	Tuesday	March 7	733
29 th Day	Wednesday	March 8	771
30 th Day	Thursday	March 9	817
31 st Day	Friday	March 10	851
34 th Day	Monday	March 13	877
35 th Day	Tuesday	March 14	909
36 th Day	Wednesday	March 15	975
37 th Day	Thursday	March 16	1003
38 th Day	Friday	March 17	1079
41 st Day	Monday	March 20	1111
42 nd Day	Tuesday	March 21	1137
43 rd Day	Wednesday	March 22	1173
44 th Day	Thursday	March 23	1219
45 th Day	Friday	March 24	1291
46 th Day	Saturday	March 25	1357
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52 nd Day.....	Friday.....	March 31.....	1763
53 rd Day	Saturday	April 1	1825
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57 th Day	Wednesday.....	April 5	2227
58 th Day	Thursday	April 6	2337
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1 st Day	Thursday	May 4.....	3497
2 nd Day.....	Friday.....	May 5.....	3505
3 rd Day.....	Monday	May 15.....	3511
4 th Day	Tuesday.....	May 16.....	3515
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6 th Day	Thursday	May 18.....	3523
7 th Day	Friday.....	May 19.....	3529
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15 th Day	Friday.....	June 9.....	3647
16 th Day	Monday	June 12.....	3653
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18 th Day	Wednesday.....	June 14.....	3675
19 th Day	Thursday	June 15.....	3879
20 th Day	Friday.....	June 16.....	3883
21 st Day	Monday	June 26.....	4205

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1 st Day	Monday	October 16	4212
2 nd Day.....	Tuesday.....	October 17	4225
3 rd Day.....	Monday	November 13	Senate Only
4 th Day	Monday	December 4.....	Senate Only
5 th Day	Monday	January 8, 2018.....	Senate Only

THIRD EXTRAORDINARY SESSION

1 st Day	Monday	December 4.....	4263
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Wednesday, March 22, 2017

FORTY-THIRD DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Tuesday, March 21, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Ellington, Chair of the Committee on Health and Human Resources submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 347, Relating to modernization of Physician Assistant Practice Act,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on the Judiciary be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 347) to the Committee on the Judiciary was abrogated.

On motion for leave, bills were introduced (Originating in the Committee on Finance and reported with the recommendation that they each do pass), which were read by their titles, as follows:

By Delegates Gearhart, Nelson, Anderson, Frich, Butler, Ellington, Westfall, Walters and C. Miller:

H. B. 3105 – “A Bill to amend and reenact §29-22A-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-25-22 and §29-25-22b of said code, all relating to closing certain modernization funds and distribution of remaining unexpended balances; transferring funds remaining in the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund to the General Revenue Fund of the state during the fiscal year ending June 30, 2017; providing exceptions for recoupment of certain expenditures for eligible facility modernization improvements from the Licensed Racetrack Modernization Fund; prohibiting transfer of any moneys from any source for any purposes to the Licensed Racetrack Modernization Fund; and closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund,”

And,

By Delegates Barrett, Storch, Ambler, Espinosa, Rowe, Walters, Westfall, Sponaugle, Ellington and A. Evans:

H. B. 3106 – “A Bill to amend and reenact §29-22B-1101 and §29-22B-1201 of the Code of West Virginia, 1931, as amended, relating to increasing number of limited video lottery terminals allowed at a licensed limited video lottery retailer; requiring Lottery Commission to conduct a bid for current permit holders prior to September 1, 2017; requiring that a public hearing be conducted prior to the placement of certain video lottery terminals; and requiring the reduction of the number of approved locations of video lottery terminals.”

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2878, Increasing the amount of authorized Federal Grant Anticipation Notes the Division of Highways may apply for,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2721, Removing the cost limitation on projects completed by the Division of Highways,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2721 – “A Bill to amend and reenact §17-27-5 and §17-27-9 of the Code of West Virginia, 1931, as amended, all relating to the public-private transportation facilities act; reducing the cost threshold limitation on projects completed by the Division of Highways that are eligible for funding from the state road fund; extending time limitation by which agreements must be made; and requiring certain reporting.”

And,

H. B. 2722, Eliminating the financial limitations on utilizing the design-build program for highway construction,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2722 – “A Bill to amend and reenact §17-2D-2 of the Code of West Virginia, 1931, as amended, relating to increasing the monetary amount that may be expended for projects using the design-build program for highway construction.”

With the recommendation that the committee substitutes each do pass.

Delegate Storch, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 3096, Relating to operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 3096 – “A Bill to repeal §8-16-19 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-13A-8 of said code; to amend and reenact §16-13A-9 of said code; to amend and reenact §24-1-1b of said code; to amend and reenact §24-2-1, §24-2-3, §24-2-4b and §24-2-11 of said code, all relating to operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state by deleting reference to appeals to the Public Service Commission from actions of municipal boards that are not subject to the jurisdiction of the Public Service Commission; relating to the authority of county commissions to modify proposed rates for certain water and sewer utilities and providing for complaints to be filed with the circuit courts pertaining to rates and charges enacted as proposed or as modified or rejected by the county commission and requiring the circuit court to act within 120 days of receipt of the complaint; eliminating the Public Service Commission’s authority regarding stormwater utilities; providing time limits for the filing of requests for investigation pertaining to political subdivisions of this state providing separate or combined water and/or sewer services and having at least four thousand five hundred customers and annual combined gross revenues of \$3 million or more and specifying that the Commission must resolve such investigation requests within 120 days; clarifying the authority of the Public Service Commission to resolve complaints of customers of water and sewer utilities operated by a political subdivision of the state having at least four thousand five hundred customers and annual combined gross revenues of \$3 million or more; clarifying the jurisdiction of the Public Service Commission relating to rates for municipal water and/or sewer utilities having less than four thousand five hundred customers or annual combined

gross revenues of less than \$3 million; and revising the notice and procedure provisions for construction projects for political subdivisions of this state providing separate or combined water and/or sewer services and having at least four thousand five hundred customers and annual combined gross revenues of \$3 million or more.”

With the recommendation that the committee substitute do pass, and with the recommendation that second reference of the bill to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for H. B. 3096) to the Committee on Finance was abrogated.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2820, Abolishing the Alcohol Beverage Control Commissioner,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 2820) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 3028, Relating to the Comprehensive Substance Use Reduction Act,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Health and Human Resources.

In accordance with the former direction of the Speaker, the bill (H. B. 3028) was referred to the Committee on Health and Human Resources.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 2724, Relating to responsibilities and functions of the Herbert Henderson Office of Inclusion,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2724 – “A Bill to amend and reenact §5-26-1 and §5-26-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-26-3, all relating to the Herbert Henderson Office of Minority Affairs; requiring the office to report to the Select Committee on Minority Affairs; requiring the director to review and consider any recommendations of the Select Committee on Minority Affairs; continuing the Minority Affairs Fund; establishing a community-based pilot demonstration project; providing for funding of a pilot project; setting forth objectives for the pilot project; and requiring the leveraging of existing resources,”

H. B. 2804, Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2804 – “A Bill to amend and reenact §30-1-7a of the Code of West Virginia, 1931, as amended, relating to continuing education requirements; removing continuing education requirements; and removing outdated provisions,”

H. B. 2838, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2838 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-24-8, relating to qualifications of emergency medical technicians; establishing an application; allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician; requiring additional training if a certain amount of time has elapsed; and providing for reexamination in certain circumstances,”

And,

H. B. 2846, Including high school students participating in a competency based pharmacy technician education and training program as persons qualifying to be a pharmacy technician trainee,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2846 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-5-11a, all relating to pharmacy technician trainees; establishing qualifications; requiring a criminal background check; providing rulemaking authority; and providing emergency rulemaking authority,”

With the recommendation that the committee substitutes each do pass.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 2745, Adding the examination of Advanced Care Technician,

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

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 2187, Establishing an advisory council on rare diseases,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 2187) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 3010, Making it a felony to knowingly expose another individual to HIV,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 3010) was referred to the Committee on the Judiciary.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 3018, Adding definition of correctional employee to the list of persons against whom an assault is a felony,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2941, Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2941 – “A Bill to amend and reenact §17-2A-7 and §17-2A-8 of the Code of West Virginia, 1931, as amended, all relating to the Division of Highways utilization of the Attorney General for legal services; requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services; and providing for exceptions,”

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2850, Relating to product liability actions,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2850 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-31, relating to product liability actions; limiting product liability action against seller other than the manufacturer of the product except in certain circumstances; defining terms; and providing an effective date,”

H. B. 3064, Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 3064 – “A Bill to amend and reenact §17C-17-11 of the Code of West Virginia, 1931, as amended, relating to permitting the Commissioner of Highways to issue permits allowing vehicles of a size and weight exceeding certain specifications to operate over routes specified by the commissioner; requiring an engineering analysis; providing for maximum gross vehicle weight of 120,000; limiting routes to specified roads; and authorizing additional terms and conditions set by the Public Service Commission and the Commissioner of Highways,”

And,

H. B. 2948, Establishing timelines for taking final action on certain permits,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2948 – “A Bill to amend and reenact §17C-17A-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-1A-3a of said code; to amend and reenact §19-2A-4 of said code; to amend and reenact §19-9A-3 of said code; to amend and reenact §19-12D-7 of said code; to amend and reenact §19-15-2 of said code; to amend and reenact §19-34-6 of

said code; to amend and reenact §19-35-3 of said code; to amend and reenact §20-3-5 of said code; to amend and reenact §20-7A-5 of said code; to amend and reenact §21-10-7 of said code; to amend and reenact §21-12-7 of said code; to amend and reenact §21-15-10 of said code; to amend and reenact §24A-3-3 of said code; to amend and reenact §29-3-12 of said code; to amend and reenact §29-29-4 of said code; to amend and reenact §47-1A-10 of said code, all relating generally to establishing timelines for taking final action on certain permits,”

With the recommendation that the committee substitutes each do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on Judiciary has had under consideration:

H. B. 2218, H. B. 2219, H. B. 2220, H. B. 2232, H. B. 2233, H. B. 2234, H. B. 2235, H. B. 2236, H. B. 2237, H. B. 2239, H. B. 2240, H. B. 2241, H. B. 2242, H. B. 2243, H. B. 2244, H. B. 2245, H. B. 2246, H. B. 2247, H. B. 2248, H. B. 2249, H. B. 2264, H. B. 2265, H. B. 2266, H. B. 2272, H. B. 2273, H. B. 2274, H. B. 2275, H. B. 2276, H. B. 2277, H. B. 2278, H. B. 2281, H. B. 2282, H. B. 2285, H. B. 2286, H. B. 2287, H. B. 2288, H. B. 2289, H. B. 2290, H. B. 2291, H. B. 2292, H. B. 2293, H. B. 2294, H. B. 2295, H. B. 2296, H. B. 2297, H. B. 2298 and H. B. 2299.

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2219 – “A Bill to amend and reenact §64-9-1, §64-9-2, §64-9-3, §64-9-4, §64-9-5, §64-9-6, §64-9-7, §64-9-8, §64-9-9, §64-9-10 §64-9-11, §64-9-12, §64-9-13, §64-9-14, §64-9-15, §64-9-16, §64-9-17, §64-9-18, §64-9-19, §64-9-20 and §64-9-21 of the Code of West Virginia, 1931, as amended, all relating generally to the promulgation of administrative rules by various executive or administrative agencies of the state; authorizing certain agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register;

authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with amendments recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to dangerous wild animals; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to livestock care standards; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to captive cervid; authorizing the Board of Architects to promulgate a legislative rule relating to the registration of architects; authorizing the Athletic Commission to promulgate a legislative rule relating to administrative rules of the West Virginia State Athletic Commission; authorizing the Athletic Commission to promulgate a legislative rule relating to regulation of mixed martial arts; authorizing the Auditor's Office to promulgate a legislative rule relating to standards for requisitions for payment issued by state officers on the Auditor; authorizing the Auditor's Office to promulgate a legislative rule relating to the procedure for local levying bodies to apply for permission to extend time to meet as levying body; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to qualifications, training, examination and certification of instructors in barbering and cosmetology; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to licensing schools of barbering, cosmetology, nail technology and aesthetics; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to operational standards for schools of barbering, cosmetology, hair styling, nail technology and aesthetics; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to the operation of barber, beauty, nail and aesthetic shops/salons and schools of barbering and beauty culture; authorizing the Board of

Barbers and Cosmetologists to promulgate a legislative rule relating to a schedule of fees; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to continuing education; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to barber apprenticeships; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to waxing specialists; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselor fees; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselor license renewal and continuing professional education requirements; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapist fees; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapist license renewal and continuing professional education requirements; authorizing the Dangerous Wild Animal Board to promulgate a legislative rule relating to dangerous wild animals; authorizing the board of Dentistry to promulgate a legislative rule relating to the board; authorizing the Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures: physicians; podiatrists; authorizing the Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures, continuing education, physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to the dispensing of legend drugs by practitioners; authorizing the Board of Optometry to promulgate a legislative rule relating to continuing education; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to mail-order and non-resident pharmacies; authorizing the Board of Pharmacy to promulgate a legislative rule, relating to the registration of pharmacy technicians; authorizing the Board of

Pharmacy to promulgate a legislative rule, relating to a controlled substances monitoring program; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapist and physical therapist assistant; authorizing the Public Service Commission to promulgate a legislative rule relating to telephone conduit occupancy; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure and conduct constituting professional misconduct; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to limited prescriptive authority for nurses in advanced practice; authorizing the State Board of Sanitarians to promulgate a legislative rule relating to practice of public health sanitation; authorizing the Secretary of State to promulgate a legislative rule relating to voter registration at the division of motor vehicles; authorizing the Secretary of State to promulgate a legislative rule relating to voter registration list maintenance by the Secretary of State; authorizing the Board of Social Work Examiners to promulgate a legislative rule relating to continuing education for social workers and providers; authorizing the Board of Speech-Language Pathology and Audiology to promulgate a legislative rule relating to licensure of speech-pathology and audiology; authorizing the Treasurer's Office to promulgate a legislative rule relating to procedures for deposit of moneys with the State Treasurer's Office by state agencies; authorizing the Treasurer's Office to promulgate a legislative rule relating to selection of state depositories for disbursement accounts through competitive bidding; authorizing the Treasurer's Office to promulgate a legislative rule relating to selection of state depositories for receipt accounts; authorizing the Treasurer's Office to promulgate a legislative rule relating to procedures for processing payments from the state treasury; authorizing the Treasurer's Office to promulgate a legislative rule relating to the procedure for fees in collections by charge, credit or debit card or by electronic payment; authorizing the Treasurer's Office to promulgate a legislative rule relating to procedures for providing services to political subdivisions; and authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to standards of practice.”

With the recommendation that the committee substitute do pass.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 2004, on First Reading, Special Calendar, to the House Calendar, and Com. Sub. for H. B. 2702, on First Reading, House Calendar, to the Special Calendar.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 2300, Regulating step therapy protocols.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 2766, Establishing a new special revenue fund, designated the Adult Drug Court Participation Fund.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate amendment:

On page one, section nine-a, line ten, by striking out the word “Fee”.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 136**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hicks.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2766) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 27 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-35-5, relating to permitting sale of home-based, micro-processed foods at farmers’ markets; requiring seventy percent from vendor’s garden or farm; requiring recordkeeping and labeling; clarifying foods requiring permit and exempted foods; establishing permit requirements and limitations; setting forth permit inspections and fees; and limiting sales to seven hundred fifty units per year”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 36 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22d, relating to opioid antagonists; allowing schools to voluntarily maintain and use opioid antagonist; providing for the administration of an antagonist by a school nurse or other trained and authorized nonmedical school personnel for emergency care or treatment of an adverse opioid event; setting forth notice requirements; setting forth immunity from liability for schools, school nurses and trained and authorized nonmedical school personnel; providing for data collection and reporting requirements; and setting forth rule-making authority to effectuate

the provisions of the section”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 216 – “A Bill to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §46A-6-107a and §46A-6-107b, all relating generally to warranties for used motor vehicles; providing that a consumer who purchases a used motor vehicle may waive a warranty as to a particular defect or malfunction which the merchant has disclosed in writing to the consumer; providing that a waiver of warranties is not effective unless the waiver satisfies certain requirements; providing that a used motor vehicle may only be sold ‘as is’ under certain circumstances; providing certain disclosure requirements for ‘as is’ sales of used motor vehicles; providing that a consumer shall sign and date the disclosure for an ‘as is’ sale in order for the disclosure to be effective; providing that a merchant disclose in writing certain defects or malfunctions when selling a used motor vehicle ‘as is’; providing that the merchant shall provide the consumer a copy of a nationally recognized vehicle history report for the used motor vehicle; and providing that an ‘as is’ sale of a used motor vehicle waives implied warranties but does not waive any express warranties”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 219 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating generally to conspiracy to commit violations of the Uniform Controlled Substances Act; creating the felony offense of conspiracy to violate controlled substances law; creating distinct felony offenses of conspiracy to manufacture,

deliver or possess with intent to manufacture or deliver heroin, cocaine or cocaine base, phencyclidine, lysergic acid diethylamide and methamphetamine distinguished by the weight of the controlled substance; and providing criminal penalties”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 341 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, §11-13DD-2, §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-13DD-6, §11-13DD-7, §11-13DD-8, §11-13DD-9 and §11-13DD-10, all relating to establishing a West Virginia business growth in low-income communities tax credit; providing title; defining terms; establishing amount of credit allowed; transferability; certification of qualified equity investment; recapture of tax credits; notice of noncompliance; letter rulings; new capital requirement; and reporting”; which was referred to the Committee on Small Business, Entrepreneurship and Economic Development then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 468 – “A Bill to amend and reenact §29-22-9 of the Code of West Virginia, 1931, as amended, relating to removing restrictions on where certain traditional lottery games may be played”; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 480 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6 and §5B-2I-7, all relating to authorizing local units of government to adopt local energy efficiency partnership programs and to create districts to promote use of energy efficiency improvements by owners of certain real property; providing for financing of programs through voluntary property assessments, commercial lending and other means; authorizing local unit of government to issue bonds, notes and other evidences of indebtedness and to pay the cost of energy efficiency improvements from the proceeds thereof; providing for repayment of bonds, notes and other evidences of indebtedness; authorizing certain fees; prescribing the powers and duties of certain governmental officers and entities; and providing remedies”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 547 – “A Bill to amend and reenact §59-1-2 and §59-1-2b of the Code of West Virginia, 1931, as amended, all relating to modifying fees to be paid to the Secretary of State; making fees for limited liability companies to be consistent with corporations; adding a voluntary fee for businesses to expedite services to be provided by the Secretary of State; providing that the Secretary of State may set fees by legislative rule; and removing statutory caps imposed on retaining funds of the office”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 548 – “A Bill to amend and reenact §36-8-1 of the Code of West Virginia, 1931, as amended; and to amend

said code by adding thereto a new section, designated §36-8-2a, all relating to providing for the specific escheat of United States savings bonds and all rights and legal title thereto; and defining terms”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 564 – “A Bill to amend and reenact §18-10M-2, §18-10M-4, §18-10M-6, §18-10M-7 and §18-10M-8 of the Code of West Virginia, 1931, as amended, all relating to the Statewide Independent Living Council; making changes required by amendments to the federal Rehabilitation Act of 1973; modifying the powers and duties of the council; altering the manner in which appropriations are administered; specifying funding eligibility criteria; and making conforming amendments”; which was referred to the Committee on Government Organization.

Petitions

Delegate Hamilton presented a petition signed by his constituents requesting the protection of water and air quality; which was referred to the Committee on Agriculture and Natural Resources.

Special Calendar

Unfinished Business

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

H. C. R. 10, John Cameron Brown Bridge,

H. C. R. 19, U. S. Army PFC Freeman Ray Meade Memorial Road,

H. C. R. 20, U. S. Army PVT James Earl Pelfrey Memorial Bridge,

H. C. R. 21, 1SG Carl J. Crabtree Memorial Road,

H. C. R. 22, U. S. Air Force MSgt Johnny Baxter Clark and U. S. Air Force MSgt Carl Richard (Dick) Clark Memorial Bridge,

H. C. R. 23, U. S. Army SSG Styish R. Morris Memorial Road,

H. C. R. 30, U. S. Army PFC Cornelious Wiley Memorial Bridge,

H. C. R. 35, Arnold Miller Memorial Bridge,

H. C. R. 49, U. S. Army PFC Donald Ray Cochran Memorial Bridge,

H. C. R. 51, Toby Runyon Memorial Bridge,

H. C. R. 54, U. S. Army PVT Preston D. Vanscoy Memorial Bridge,

H. C. R. 56, U. S. Army CPL George Browning Memorial Road,

H. C. R. 62, Webster County Veterans Highway,

H. C. R. 63, William B. Burgess Memorial Road,

H. C. R. 68, James Earl Gibson Memorial Road,

And,

H. C. R. 73, U. S. Army Air Corps PVT William James Irwin, Memorial Bridge.

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

Third Reading

Com. Sub. for H. B. 2827, Updating the all payor claims database; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 137**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2827) passed.

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

Com. Sub. for H. B. 2840, Reorganizing the departments, agencies and commissions within the executive branch of state government; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 138**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Pyles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2840) passed.

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

H. B. 2856, Declaring public policy and legislative intent for improving the marketing, quality and frequency of passenger rail service of the Cardinal Passenger Train; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 139**), and there were—yeas 95, nays 5, absent and not voting none, with the nays being as follows:

Nays: Folk, Howell, McGeehan, Paynter and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2856) passed.

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

Second Reading

Com. Sub. for S. B. 127, Authorizing Department of Revenue to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §64-7-1, §64-7-2, §64-7-3, §64-7-4 and §64-7-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE LEGISLATIVE RULES.

§64-7-1. Insurance Commissioner.

(a) The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the Insurance Commissioner (adoption of valuation manual, 114 CSR 98), is authorized.

(b) The legislative rule effective on May 16, 1997, authorized under the authority of section four, article twenty-five-a, chapter

thirty-three of this code, relating to the Office of the Insurance Commissioner (utilization management, 114 CSR 51), is repealed.

(c) The legislative rule effective on December 28, 1981, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the Office of the Insurance Commissioner (Medicare supplement insurance coverage, 114 CSR 17), is repealed.

§64-7-2. Racing Commission.

(a) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section two, article twenty-three, chapter nineteen of this code, modified by the Racing Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 19, 2016, relating to the Racing Commission (thoroughbred racing, 178 CSR 01), is authorized with the following amendment:

On pages 91 through 93, by striking out all of subdivision 49.3.m. and inserting in lieu thereof a new subdivision 49.3.m. to read as follows:

49.3.m. Multiple Medication Violations. A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with a Penalty Class A-~~D~~ C, as provided in the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI), Version 12.0 (revised ~~January~~ April 8, 2014 2016), set forth in table 178-1D at the end of this rule, shall be assigned points as follows:

Penalty Class	Points if Controlled Therapeutic Substance	Points if Non-Controlled Substance
Class A (except for Class 1 and 2 environmental contaminants which shall be determined by the stewards or the Commission based upon the facts of the case)	N/A	6
Class B	2	4
Class C	<u>± ½ for first violation with an additional ½ point for each additional violation within 365 days. Points for NSAID violations only apply when the primary threshold of the NSAID is exceeded. Points are not to be separately assigned for a stacking violation.</u>	<u>± 1 for first violation with an additional ½ point for each additional violation within 365 days.</u>
Class D	<u>½ 0</u>	<u>± 0</u>

49.3.m.1. If the stewards or the Commission determine that the violation is due to environmental contamination, they may assign lesser or no points against the trainer based upon the specific facts of the case.

~~49.3.m.1~~ 49.3.m.2. The points assigned to a medication violation by the stewards' or the Commission's ruling shall be included in the Association of Racing Commissioners International official database. ~~and the~~ The Association of Racing Commissioners International shall ~~assign~~ record points consistent with the table set forth under subdivision 49.3.m. ~~for advisory purposes for medication violations where points have not been assigned by regulatory action~~ including, when appropriate, a designation that the points have been suspended for the medication violation. Points assigned by such regulatory ruling ~~or by the Association of Racing Commissioners International~~ shall reflect, in the case of multiple positive tests as described in paragraph 49.3.m.3, whether they shall ~~thereafter~~ constitute a single violation. The stewards' or the Commission's ruling shall be posted on the official website of the Commission and within the official database of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.

~~49.3.m.2~~ 49.3.m.3. A trainer's cumulative points for violations in all racing jurisdictions shall be maintained by the Association of Racing Commissioners International. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official Association of Racing Commissioners International record and shall be considered by the stewards or the Commission in their determination to subject the trainer to the mandatory enhanced penalties as provided in this rule.

~~49.3.m.3.~~ 49.3.m.4. Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the stewards or the Commission may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the stewards or the Commission may treat each substance found as an individual violation for which points will be assigned, depending upon the facts and circumstances of the case.

~~49.3.m.4.~~ 49.3.m.5. The official Association of Racing Commissioners International record shall be used to advise the

stewards or the Commission of a trainer's past record of violations and cumulative points. Nothing in this rule shall be construed to confer upon a trainer the right to appeal a violation for which the remedies have been exhausted or for which the appeal time has expired as provided by West Virginia Code §§ 19-23-16(c) and 19-23-17.

~~49.3.m.5.~~ 49.3.m.6. The stewards or the Commission shall consider all points for violations in all racing jurisdictions as contained in the trainers' official Association of Racing Commissioners International record when determining whether the mandatory enhancements provided in this rule shall be imposed.

~~49.3.m.6.~~ 49.3.m.7. In addition to the penalty for the underlying offense, the following enhancements shall be imposed upon a trainer based upon the cumulative points contained in his or her official Association of Racing Commissioners International record:

Points	Suspension in days
3-5. <u>5-5.5</u>	<u>15 to 30</u>
6-8.5	<u>45 to 60</u>
9-10.5	<u>90 to 180</u>
11 or more	<u>180 to 360</u>

~~49.3.m.7.~~ 49.3.m.8. The multiple medication violation penalty system is not a substitute for the penalty system otherwise set forth in this rule and is intended to be an additional uniform penalty when a permit holder:

~~49.3.m.7.A.~~ 49.3.m.8.A. Has more than one violation for the relevant time period; and

~~49.3.m.7.B.~~ 49.3.m.8.B. Exceeds the permissible number of points.

49.3.m.9. The stewards and the Commission shall consider aggravating and mitigating factors, including the trainer's prior record for medication violations, when determining the appropriate penalty for the underlying offense. The multiple medication violation penalty is intended to be a separate and additional penalty for a pattern of violations.

~~49.3.m.8.~~ 49.3.m.10. The suspension periods as provided in the table set forth under paragraph 49.3.m.6. shall run consecutive to any suspension imposed for the underlying offense.

~~49.3.m.9.~~ 49.3.m.11. The stewards' or the Commission's ruling shall distinguish between the penalty for the underlying offense and any enhancement based upon a stewards' or Commission review of a trainer's cumulative points and regulatory record, which may be considered an aggravating factor in a case.

~~49.3.m.10.~~ 49.3.m.12. ~~Any trainer who has received a medication violation may petition the Association of Racing Commissioners International to expunge the points received for the violation for the purpose of the multiple medication violation penalty system only. The points shall be expunged by the Association of Racing Commissioners International or upon request of the trainer~~ Points shall expire as follows:

Penalty Classification	Time to Expungement
A	Permanent <u>3 years</u>
B	3 <u>2</u> years
C	2 <u>1</u> years
D	1 year

49.3.m.-13. In the case of a medication violation that results in a suspension, any points assessed expire on the anniversary date of the date the suspension is completed.

(b) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section six, article twenty-three, chapter nineteen of this code, modified by the Racing Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 19, 2016, relating to the Racing Commission (pari-mutuel wagering, 178 CSR 05), is authorized.

§64-7-3. Lottery Commission.

The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section four hundred two, article twenty-two-b, chapter twenty-nine of this code, modified by the Lottery Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 7, 2016, relating to the Lottery Commission (limited video lottery, 179 CSR 5), is authorized with the following amendments:

On page 4, subdivision 2.12.1., after the words ‘straight-line feet from’, by inserting the words “the closest exterior wall of”;

On page 4, subdivision 2.12.1., after the word “engine”, by inserting the words “as determined by the commission during the license application review”;

On page 4, paragraph 2.12.2.a., following the designation ‘(ii)’, by striking out the word ‘with’ and inserting in lieu thereof the word “has”;

On page 4, paragraph 2.12.2.b., following the words “requirement in”, by striking out the words “section 2.12.2.” and inserting in lieu thereof the words “this subdivision 2.12.2. of this subsection.”;

On page 4, after paragraph 2.12.2.b., before the words ‘The provisions of any’ by inserting “2.12.3.”;

And,

On page 4, subdivision 2.12.3., by striking out “2.12”.

§64-7-4. Tax Division.

(a) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (listing of interests in natural resources for purposes of first statewide appraisal, 110 CSR 1B), is repealed.

(b) The legislative rule effective on May 13, 1987, authorized under the authority of section twenty-nine-a, article one-a, chapter eleven of this code, relating to the Tax Division (guidelines for assessors to assure fair and uniform nonutility personal property values, 110 CSR 1C), is repealed.

(c) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review by circuit court on certiorari, 110 CSR 1D), is repealed.

(d) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review of appraisals by the county commission sitting as an administrative appraisal review board, 110 CSR 1E), is repealed.

(e) The legislative rule effective on May 13, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (additional review and implementation of property appraisals, 110 CSR 1F), is repealed.

(f) The legislative rule effective on May 13, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review by circuit court on certiorari, 110 CSR 1G), is repealed.

(g) The legislative rule effective on June 29, 1964, authorized under the authority of article one, chapter eleven of this code, relating to the Tax Division (revision of levy estimates, 110 CSR 8), is repealed.

(h) The legislative rule effective on September 16, 1966, authorized under the authority of article ten, chapter eleven of this code, relating to the Tax Division (inheritance and transfer tax, 110 CSR 11), is repealed.

(i) The legislative rule effective on January 1, 1974, authorized under the authority of section five-a, article ten, chapter eleven of this code, relating to the Tax Division (annual tax on incomes of certain carriers, 110 CSR 12A), is repealed.

(j) The legislative rule effective on April 4, 1988, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Tax Division (telecommunications tax, 110 CSR 13B), is repealed.

(k) The legislative rule effective on May 1, 1996, authorized under the authority of section three, article thirteen-i, chapter eleven of this code, relating to the Tax Division (tax credit for employing former members of Colin Anderson Center, 110 CSR 13I), is repealed.

(l) The legislative rule effective on May 1, 1999, authorized under the authority of section seven, article thirteen-m, chapter eleven of this code, relating to the Tax Division (tax credits for new value-added, wood manufacturing facilities, 110 CSR 13M), is repealed.

(m) The legislative rule effective on May 1, 1999, authorized under the authority of section seven, article thirteen-n, chapter eleven of this code, relating to the Tax Division (tax credits for new steel, aluminum and polymer manufacturing operations, 110 CSR 13N), is repealed.

(n) The legislative rule effective on May 1, 1995, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Tax Division (business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit, 110 CSR 13C), is repealed.

(o) The legislative rule effective on April 4, 1988, authorized under the authority of section one, article one-a, chapter eleven of

this code, relating to the Tax Division (appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes, 110 CSR 1), is repealed.

§64-7-5. Banking Commissioner.

(a) The legislative rule effective on April 23, 1982, authorized under the authority of section four, article three, chapter thirty-one-a of this code, relating to the Banking Commissioner (West Virginia Consumer Credit and Protection Act, 106 CSR 8), is repealed.

(b) The procedural rule effective on January 10, 1975, authorized under the authority of section two, article three, chapter thirty-one-a of this code, relating to the Banking Commissioner (West Virginia Board of Banking and Financial Institutions, 107 CSR 5), is repealed.”

The bill was ordered to third reading.

The following bills on second reading, coming up in regular order, were each read a second time and ordered to engrossment and third reading:

Com. Sub. for H. B. 2519, Medicaid program compact,

Com. Sub. for H. B. 2808, The West Virginia Assisted Outpatient Treatment Act,

Com. Sub. for H. B. 2857, West Virginia Safer Workplaces Act,

H. B. 3009, Relating to access by the Office of Health Facility Licensure and Certification to the Controlled Substances Monitoring Program database,

And,

Com. Sub. for H. B. 3061, Encouraging mastery-based education through the Innovation In Schools program.

H. B. 3089, Relating to the adoption of instructional resources for use in the public schools; on second reading, coming up in regular order, was read a second time.

Delegate Fast moved to amend the bill page two, section ten, line fifteen, following the words “by the state board” and the period, by striking out the words “The state board shall establish a policy setting forth the criteria required to be included instructional resources adopted by county boards.”

Delegate Fast then asked and obtained unanimous consent to offer a reformed amendment on page two, section ten, line fifteen, following the words “by the state board” and the period, by striking out the words “The state board shall establish a policy setting forth the criteria required to be included in instructional resources adopted by county boards.”

The amendment having been adopted, the bill was ordered to engrossment and third reading.

First Reading

Com. Sub. for S. B. 306, Supplemental appropriation of federal funds from Treasury to Workforce West Virginia; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2180, Authorizing the issuance of special “In God We Trust” motor vehicle registration plates; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2208, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2366, Relating to selling Jackie Withrow Hospital; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2475, Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2494, Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2524, Improving the focus on school-level continuous improvement processes; on first reading, coming up in regular order, was read a first time.

Delegate Rowe moved, pursuant to the provisions of House Rule 103, that Com. Sub. for H. B. 2524 be rejected on First Reading.

The Speaker propounded, “Shall the bill be rejected?”

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

The yeas and nays having been ordered, they were taken (**Roll No. 140**), and there were—yeas 36, nays 64, absent and not voting none, with the yeas being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

So, a majority of the members present and voting not having voted in the affirmative, the motion that the bill be rejected on First Reading was not adopted.

The bill was ordered to second reading.

Com. Sub. for H. B. 2679, Relating to the possession of firearms in parks and park facilities; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2709, Authorizing the City of South Charleston to levy a special district excise tax; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2702, Relating to excused absences for personal illness from school; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2734, Authorizing a method for the collection and remittance of property taxes related to dealers' heavy equipment inventory; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 2774, Defining special aircraft property; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2805, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2871, Eliminating the mandated employer versus employee cost share of eighty percent employer, twenty percent employee for Public Employee Insurance Agency; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 3093, Establishing Broadband Enhancement and Expansion Policies; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Miscellaneous Business

Delegate Folk asked and obtained unanimous consent that the remarks of Delegate Hill during Remarks by Members today be printed in the Appendix to the Journal.

Delegate Westfall filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2180 and H. B. 2980.

Delegate Overington filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 3020.

At 12:34 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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The House of Delegates was called to order by The Honorable Tim Armstead, Speaker.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 8, Dr. Roy and Marian Eshenaur Bridge,

H. C. R. 25, U. S. Army PVT Charles E. Ellis and U. S. Army PVT Ira V. Ellis Memorial Bridge,

H. C. R. 27, U. S. Army 1LT Patricia Simon Bridge,

H. C. R. 46, Blue Demon Bridge,

H. C. R. 48, U. S. Army SPC David H. Stamper Memorial Bridge,

H. C. R. 58, William C. Campbell Memorial Highway,

H. C. R. 66, Sustainability of the state's current system of higher education,

And,

H. C. R. 87, Deputy Sheriff SGT Justin Alan Thompson Memorial Highway,

And reports the same back with the recommendation that they each be adopted.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2763, Relating to the approval by the Council for Community and Technical College Education of acquisitions,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2763 – “A Bill to amend and reenact §18B-19-13 of the Code of West Virginia, 1931, as amended, relating to the approval by the Council for Community and Technical College Education of acquisitions, bequests, donations, construction of new buildings, repairs, renovations or lease payments over the lifetime of the lease which exceed \$1 million, if made or accepted by the institution's research corporation or an affiliated foundation,”

H. B. 2841, Requiring board members to have attended a board meeting in order to be compensated for the meeting,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2841 – “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §5F-2-8, relating to requiring board members to have attended a board meeting in order to be compensated for the meeting; requiring the member to attest to his or her attendance and it be witnessed; and requiring records be kept for at least five years,”

And,

H. B. 2980, Relating to civil lawsuit filing fees for multiple defendant civil action,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2980 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24d; and to amend and reenact §59-1-11 of said code, all relating to fees for services rendered by circuit clerks in certain civil actions; imposing additional fees in certain civil actions that include two or more named defendants, respondents or third-party defendants; providing for distribution of the additional fees; and creating a special revenue account for the purpose of the deposit of portion of the fees,”

With the recommendation that the committee substitutes each do pass.

Delegate Hanshaw, Chair of 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 22nd day of March, 2017, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 301, Supplemental appropriation of federal funds from Treasury to State Board of Education, School Lunch Program,

And,

S. B. 330, Relating to WV Workplace Freedom Act.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2788, Allowing military veterans with certain military ratings to qualify for examinations required of a probationary firefighter,

And,

H. B. 3053, Relating to motor vehicle lighting,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

H. B. 2346, Relating to motor vehicle license plates,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2346 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-3-14a, relating to motor vehicle license plates; requiring the Commissioner of the Division of Motor Vehicles to conduct a study on the cost effectiveness of flat license plates; to study the privatization of the creation and issuance of license plates; and requiring a report to the Legislative Oversight Commission on Department of Transportation Accountability,"

H. B. 2515, West Virginia Monument and Memorial Protection Act of 2017,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2515 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-1-8c, relating to the West Virginia Monument and Memorial Protection Act of 2017; prohibiting the removal, renaming, alteration, or relocation, of any statue, monument, memorial, nameplate, plaque, school, street, bridge, building, park, preserve, or reserve recognized by the West Virginia State Historic Preservation Office and which is located on public property and has been erected for, or named, or dedicated in honor of certain historical military, labor, civil rights, and Native American events, figures, and organizations; prohibiting any person from preventing the governmental entity having responsibility for maintaining the items, structures, or areas from taking proper measures to protect, preserve, care for, repair, or restore the items, structures, or areas recognized by the West Virginia State Historic Preservation Office; and authorizing the West Virginia State Historic Preservation Office to grant waivers under certain circumstances,”

H. B. 2897, Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2897 - “A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended, to amend and reenact §8-16-5 of said code; to amend and reenact §16-12-11 of said code; to amend and reenact §16-13-3 of said code; to amend and reenact §16-13A-7 of said code; to amend and reenact §21-1D-5; and to amend and reenact §21-11-11 of said code, all relating to competitive bidding in construction contracts,”

H. B. 2935, Relating to state flood protection planning,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2935 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §4-15-1; and to amend said code by adding thereto a new article, designated §29-30-1, §29-30-2, §29-30-3 and §29-30-4, all relating to state flood protection planning; providing legislative findings; defining terms; establishing the state Flood Protection Planning Council; describing certain duties; requiring reports; and establishing a Joint Legislative Committee on Flooding.”

And,

H. B. 2949, Exempting specified Division of Natural Resources’ contracts for some replacement, repair or design for repairs to facilities from review and approval requirements,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2949 - “A Bill to amend and reenact §20-1-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-5-15 of said code, all relating to exempting Division of Natural Resources’ contracts for the replacement, repair or design of repairs to revenue-producing facilities and related infrastructure where protecting public safety or public enjoyment and use of the facilities from the Purchasing Division; and exempting intergovernmental cooperative agreements and operational contracts for Prickett’s Fort from review and approval requirements of the Purchasing Division,”

With the recommendation that the committee substitutes each do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 3101, Creating a misdemeanor for violation of catching, taking or killing fish within two hundred feet of agency personnel stocking fish into public waters,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2794, Relating to the means of giving notice to a debt collector of a consumer's representation by legal counsel,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2794 – “A Bill to amend and reenact §46A-2-128 of the Code of West Virginia, 1931, as amended, relating to the means of giving notice to a debt collector of a consumer's representation by legal counsel,”

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2799, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2799 – “A Bill to amend and reenact §21-6-3 of the Code of West Virginia, 1931, as amended, all relating generally to the issuance of a minor's work permit; prohibiting the superintendent of schools from requiring a physical examination to be included with the application for a minor's work permit unless required by the prospective employer; and removing the requirement that the superintendent of schools certify that the

minor personally appeared before him or her prior to the issuance, modification, or rejection of a work permit,”

And,

H. B. 3020, Relating to criminal penalties for the offenses of hunting, trapping or fishing on the lands of another person,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 3020 – “A Bill to amend and reenact §20-7-9 of the Code of West Virginia, 1931, as amended, relating to criminal penalties for the offense of hunting, trapping or fishing on the lands of another person; criminal penalties for the offense of entering on to posted lands; criminal penalties for the offense of destroying posted land signs; and setting those criminal penalties for such offenses to be equivalent to those of the offense of criminal trespass,”

With the recommendation that the committee substitutes each do pass.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 243 – “A Bill to amend and reenact §48-6-301 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-9-205 and §48-9-206 of said code, all relating to domestic relations; removing language related to child support from code section governing the awarding of spousal support and separate maintenance; directing court to consider certain factors to decide amount and duration of spousal support and separate maintenance; providing alimony guideline worksheet for calculating monthly payments; permitting court to disregard or adjust guideline-based award for good cause shown; requiring court to state reason for deviation on record and in writing; setting forth purpose of requiring

court to give reason for deviation; removing the 24-month timeframe for a description of the allocation of caretaking and other parenting responsibilities performed from the matters contained in permanent parenting plan; directing court to allocate custodial responsibility so that custodial time spent with each parent achieves certain objectives; directing courts to consider which parent will encourage and accept a positive relationship between child and other parent and which parent is more likely to keep other parent involved in child's life and activities; and eliminating language prohibiting court from considering divisions of functions arising from temporary arrangements after separation in determining proportion of caretaking functions each person previously performed for child"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 288 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8D-1a; and to amend and reenact §61-8D-2a of said code, all relating to naming the law and increasing the penalty for death of child by a parent, guardian, custodian or other person by child abuse to an indeterminate term of fifteen years to life”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 360 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5Z-1, §16-5Z-2, §16-5Z-3, §16-5Z-4, §16-5Z-5 and §16-5Z-6, all relating to creating the Legislative Coalition on Diabetes Management; setting forth findings and purpose; providing for administrative functions of the coalition to be performed by legislative staff; setting forth membership of the coalition; providing for appointments to be made by the President of the Senate and the Speaker of the House of Delegates; setting forth powers and duties of the coalition; setting forth required reporting; setting forth reporting

data elements; requiring state entities to cooperate with the coalition in its duties; providing for compensation of members; and providing a sunset date”; which was referred to the Committee on Health and Human Resources then Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 398 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-30-1, §29-30-2, §29-30-3, §29-30-4, §29-30-5, §29-30-6, §29-30-7, §29-30-8, §29-30-9, §29-30-10 and §29-30-11, all relating to creating the Emergency Volunteer Health Practitioners Act; defining terms; providing for applicability of the article; regulating the practice of volunteer health practitioners during an emergency; creating a registration system; granting reciprocity to licenses issued to volunteer health practitioners in other states during an emergency; allowing for credentialing and privileges of a volunteer health practitioner; providing for sanctions; relating article to other laws of the state; providing for limitation of liability; allowing volunteer health practitioners to collect workers’ compensation; and providing for rulemaking by the Secretary of the Department of Health and Human Resources”; which was referred to the Committee on Health and Human Resources then the Judiciary.

At 5:29 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, March 23, 2017.

Thursday, March 23, 2017

FORTY-FOURTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Wednesday, March 22, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 2871, on Second Reading, Special Calendar, to the House Calendar.

Committee Reports

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2936, Requiring competitive bidding for all state purchases of commodities, printing and service,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2936 – “A Bill to repeal §5A-3-10e of the Code of West Virginia, 1931, as amended; and to amend and reenact §5A-3-11 of said code, all relating to requiring competitive bidding for all state purchases of commodities, printing and services of \$25,000 or less in cost; repealing the provision for master contracts and approved vendors; requiring purchases to be

made at the lowest retail cost for the desired level of quality of the commodities, printing and services; eliminating requirements for written bids for purchases of \$2,500 or less; requiring purchases to be made at the lowest retail price available for the commodities, printing and services at the level of quality sought by the spending unit.”

With the recommendation that the committee substitute do pass.

On motion for leave, bills were introduced (Originating in the Committee on Finance and reported with the recommendation that they each do pass), which were read by their titles, as follows:

By Delegates Frich and Butler:

H. B. 3107 - “A Bill to amend and reenact §19-23-7, §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-3, §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d, §29-22A-10e and §29-22A-12 of said code; and to amend and reenact §29-22C-3, §29-22C-8, §29-22C-10, §29-22C-27 and §29-22C-27a of said code, all relating generally to horse and dog racing lottery; discontinuing the West Virginia Racing Commission special account known as the West Virginia Greyhound Breeding Development Fund; transferring all moneys in the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that upon transfer of moneys from the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund, a certain amount be withheld and deposited in the special account known as the Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs to include Spaying and Neutering Account; requiring that all moneys previously required to be directed to the West Virginia Greyhound Breeding Development Fund be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that all moneys previously required to be directed into any fund or paid for the purpose of funding purses, awards or providing any other funding

for greyhound races be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to qualify for such license; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to contract to receive telecasts and accept wagers; providing that a dog racetrack is required to hold a racing license to conduct simulcast racing regardless of whether the racetrack continues to conduct live dog racing; authorizing the West Virginia Racing Commission to promulgate rules, including emergency rules, regarding licensure of dog racetracks conducting only simulcast racing; eliminating the requirement that a video lottery licensee at a dog track must hold a racing license to renew a video lottery license or racetrack table games license; requiring the Lottery Commission to transfer a percentage of gross terminal revenue derived from racetrack video lottery at thoroughbred racetracks, and deducted for administrative costs and expenses, to the Racing Commission's general administrative account; eliminating the requirement that an applicant for a video lottery license or license renewal at a dog racetrack must provide evidence of the existence of an agreement regarding proceeds from lottery terminals with certain parties; providing that a percentage of net terminal income originating at dog racetracks will be deposited in the State Excess Lottery Revenue Fund; providing that a percentage of net terminal income originating at thoroughbred racetracks will be deposited in the West Virginia Thoroughbred Development Fund; permitting a dog racetrack to continue to operate operational video lottery and racetrack table games in a location where live racing was previously conducted or in another location within the county as approved by the Lottery Commission; and eliminating the requirement that a racetrack table games licensee at a dog racetrack must race a minimum number of dates,"

And,

By Delegates Nelson, C. Miller, Boggs, Westfall, Anderson, Frich and Hartman:

H. B. 3108 - "A Bill to amend and reenact §23-2C-3 of the Code of West Virginia, 1931, as amended; and to amend and

reenact §29-22A-10d and §29-22A-10e of said code, all relating to authorizing the redirection of certain amounts to the General Revenue Fund; authorizing the redirection of amounts collected from certain surcharges and assessments on workers' compensation insurance policies for periods prior to July 1, 2018; and authorizing the redirection of amounts collected from certain deposits of revenues from net terminal income for periods prior to July 1, 2018.”

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2815, Relating to higher education governance,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 2815) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 398, Creating Emergency Volunteer Health Practitioners Act,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 398) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 3028, Relating to the Comprehensive Substance Use Reduction Act,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 3028 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-1-20, relating to the Office of Drug Control Policy; creating the Office of Drug Control Policy; requiring the office to develop a strategic plan; requiring the office to coordinate with other entities; coordinating funding; requiring data sharing; providing emergency rule-making authority; providing rule-making authority; creating a plan to add treatment beds; creating a special revenue account; and required reporting,”

With the recommendation that the committee substitute do pass.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2711, Abolishing regional educational service agencies and providing for the transfer of property and records,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (H. B. 2711) was referred to the Committee on Finance.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2939, Relating to the sale of items in the State Police Academy post exchange to the public,

And reports back a committee substitute therefor, with a new title as follows:

Com. Sub. for H. B. 2939 - "A Bill to amend and reenact §15-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-2E-3 and §15-2E-5 of said code, all relating to the sale of items in the State Police Academy post exchange to the public,"

With the recommendation that the committee substitute do pass, and with the recommendation that second reference of the bill to the Committee on the Judiciary be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for H. B. 2939) to the Committee on the Judiciary was abrogated.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2548, Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer,

And,

H. B. 2869, Providing for paid leave for certain state officers and employees during a declared state of emergency,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 113, Authorizing DEP promulgate legislative rules,

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

Resolutions Introduced

Delegates McGeehan, Hamilton and Folk offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 96 – “Requesting the Division of Highways to name Bridge Number 05-1/8-0.03 (05A079) (40.36929, -80.54590), locally know as Colliers Way Bridge, carrying County Route 1/8 over Harmon Creek in Brooke County, West Virginia, the ‘U. S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge’.”

Whereas, Mark Douglas Cool of Colliers, West Virginia, was born January 7, 1949, and grew up to become a United States Marine; and

Whereas, Mark Douglas Cool was trained as a mortarman and served with the H&S Company, 1st Battalion, 26th Marines, 3rd Marine Division in Vietnam, reaching the rank of corporal; and

Whereas, Cpl Mark Douglas Cool died at the age of nineteen, March 2, 1968, from wounds received in hostile action in Quang Tri Province in South Vietnam; and

Whereas, Cpl Mark Douglas Cool’s name is found at Panel 42E, Line 28 on the Vietnam Veterans Memorial; and

Whereas, Cpl Mark Douglas Cool was awarded the Purple Heart, National Defense, Vietnam Service and Vietnam Campaign Medals; and

Whereas, It is appropriate to provide a memorial to this Colliers, West Virginia citizen who sacrificed his life for his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 05-1/8-0.03 (05A079) (40.36929, -80.54590), locally know as Colliers Way Bridge, carrying County Route 1/8 over Harmon Creek in Brooke County, West Virginia, the “U. S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “U. S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Eldridge, Maynard, C. Miller, Hornbuckle, C. Romine, Lovejoy, R. Miller, Rodighiero, Lane, White, Rohrbach, Ambler, Anderson, Arvon, Baldwin, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Dean, Deem, Diserio, Ellington, A. Evans, Fast, Ferro, Fleischauer, Fluharty, Frich, Sypolt, Hamrick, Hartman, Hill, Iaquinta, Isner, Kelly, Longstreth, Lynch, Marcum, O’Neal, Paynter, Phillips, Pushkin, Pyles, Queen, Robinson, R. Romine, Rowan, Rowe, Sponaule, Summers, Walters, Ward, Williams, Wilson and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 97 – “Requesting the Joint Committee on Government and Finance to study the feasibility of building a road to connect Lincoln County to Cabell County, similar to a road planned to connect Boone County to surrounding regions via U.S. Route 119.”

Whereas, Lincoln County, West Virginia has long been an economically depressed area; and

Whereas, Lincoln County lacks easy access to nearby counties; and

Whereas, The isolation suffered by residents of Lincoln County, West Virginia, contributes to the economic depression of the area; and

Whereas, Construction of a roadway providing convenient and safe access to nearby Cabell County, which offers interstate, railway, airport and river transportation, could stimulate economic development and enable individuals in Lincoln County to commute into the Huntington area; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the feasibility of building a road to connect Lincoln County to Cabell County, similar to a road planned to connect Boone County to surrounding regions via U.S. Route 119; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, 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.

Delegates Gearheart, Criss, Storch, Longstreth, Westfall, Hamrick, Phillips, Overington, C. Miller, Walters and Ambler offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 98 – “Requesting the Division of Highways to name bridge number 20-77-83.31 (20A612) (38.19472, -81.47715),

carrying I-77 (West Virginia Turnpike) over the CSX Railroad in Kanawha County, the ‘John H. Reed, Jr. Memorial Bridge’.”

Whereas, John H. Reed, Jr. was born on October 25, 1919, in Craddock, Virginia, the oldest child of John H. Reed, Sr. and Nellie Grey Hutchison Reed; and

Whereas, John H. Reed, Jr. grew up in South Charleston, and was graduated from South Charleston High School in 1937, where he excelled in the classroom and on the football field; he then attended Kanawha College where he met the love of his life and future wife, Lottie L. Miller; he graduated from New River State College in 1941, where he was a member of the football, basketball and baseball teams; and

Whereas, In November, 1941, John enlisted in the U. S. Army, and served throughout World War II as a Lieutenant in the 40th Combat Engineer Regiment, in North Africa, Sicily, Italy, France and also in Germany, where he was one of the first Allied troops to enter and liberate the Nazi concentration camp at Dachau; and

Whereas, In 1949, John graduated from Washington & Lee University College of Law, having completed law school in just two years, and returned to South Charleston where he opened a private practice and also became an adjunct professor at Morris Harvey College; and

Whereas, In the early 1950’s, John H. Reed, Jr. served as counsel to the West Virginia Turnpike Commission and oversaw the title acquisition of property for the right-of-way for the West Virginia Turnpike; and

Whereas, In 1958, John H. Reed, Jr. became the first elected municipal judge for the City of South Charleston and during his four year term, no fatal automobile accidents occurred on U. S. Route 60, then the main thoroughfare through South Charleston; and

Whereas, After World War II, John continued his military service in the U. S. Army Reserve and attained the rank of Lieutenant Colonel; he retired in 1970 as the Commander of the

38th Ordinance Group of Troop Units then located in South Charleston, which included command of all the U. S. Army Reserve components in the state; and

Whereas, John H. Reed, Jr. maintained a private law practice in South Charleston and in Hurricane, West Virginia for over 50 years, including being the senior partner of the law firm of Reed & Reed; and

Whereas, John H. Reed, Jr. also served his community and profession as a former state committeeman and parliamentarian of the Association of Trial Lawyers of America, former officer of the West Virginia Trial Lawyers Association, former chairman of the Unlawful Practice Committee of the West Virginia State Bar, former president of the Spring Hill chapter of the Civitans and as a member of various other organizations; and

Whereas, John H. Reed, Jr. departed this life on November 16, 2004, and is survived by his daughter, Donna Reed Turner and her husband, J. Thomas Turner, of South Charleston, West Virginia; son, John H. Reed, III and his wife, Jane Ann Reed, of Hurricane, West Virginia; son, Ellis Miller Reed of New Smyrna, Florida; grandchildren, David Turner, Joanna Elizabeth Wilder, Leah Anne Vecchione, Jeffrey Reed and Ellisa Reed, and five great-grandchildren; and

Whereas, It is fitting to honor John H. Reed, Jr. for his service to his community, his state and his country by naming the said bridge the “John H. Reed, Jr. Memorial Bridge”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-77-83.31 (20A612) (38.19472, -81.47715), carrying I-77 (West Virginia Turnpike) over the CSX Railroad in Kanawha County, the “John H. Reed, Jr. Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying said bridge as the “John H. Reed, Jr. Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation.

Delegates Eldridge, Maynard, R. Romine, C. Romine, Hornbuckle, C. Miller, R. Miller, Rodighiero, Marcum, Atkinson and Storch offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 99 – “Requesting the Division of Highways to erect signs at U. S. Route 119 (38.000000, -81.896312), U. S. Route 52 (38.000000, -82.497784), U. S. Route 19 (38.000000, -81.142790), U. S. Route 60 (38.000000, -80.752096; 38.000000, -80.736475; 38.000000, -80.878236) and U. S. Route 219 (38.000000, -80.364615) designating that the motorist is crossing the 38th parallel north in honor of the Veterans of the Korean War and particularly in memory of the thousands who died in the pursuit of freedom for all mankind.”

Whereas, The 38th parallel north is a circle of latitude that is 38 degrees north of the earth’s equatorial plane; and

Whereas, The 38th parallel north has been especially important in recent history as the dividing line between the countries of North and South Korea; and

Whereas, The military struggle fought on the Korean Peninsula began in 1950 with the invasion of North Korea crossing the 38th parallel into South Korea; and

Whereas, The 38th parallel was the place where the cease-fire was called that effectively ended the Korean War in July 1953, after more than three years of the conflict; and

Whereas, As a fitting tribute to those who fought against communist aggression in Korea, and especially the thousands who were killed, a sign designating that the motorist is crossing the 38th parallel north should be erected on U. S. Route 119, U. S. Route 52, U. S. Route 19, U. S. Route 60 and U. S. 219; therefore, be it

Resolved by the Legislature of West Virginia:

That the Secretary of the Department of Transportation is hereby requested to erect signs on U. S. Route 119 (38.000000, -81.896312), U. S. Route 52 (38.000000, -82.497784), U. S. Route 19 (38.000000, -81.142790), U. S. Route 60 (38.000000, -80.752096; 38.000000, -80.736475; 38.000000, -80.878236) and U. S. Route 219 (38.000000, -80.364615) designating that the motorist is crossing the 38th parallel north in honor of the Veterans of the Korean War and particularly in memory of the thousands who died in the pursuit of freedom for all mankind; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have signs containing bold and prominent letters erected on U. S. Route 119, U. S. Route 52, U. S. Route 19, U. S. Route 60 and U. S. Route 219, designating to motorists that they are crossing the 38th parallel north in honor of the Veterans of the Korean War; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation.

Special Calendar

Unfinished Business

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

H. C. R. 8, Dr. Roy and Marian Eshenaur Bridge,

H. C. R. 25, U. S. Army PVT Charles E. Ellis and U. S. Army PVT Ira V. Ellis Memorial Bridge,

H. C. R. 27, U. S. Army 1LT Patricia Simon Bridge,

H. C. R. 46, Blue Demon Bridge,

H. C. R. 48, U. S. Army SPC David H. Stamper Memorial Bridge,

H. C. R. 58, William C. Campbell Memorial Highway,

H. C. R. 66, Sustainability of the state's current system of higher education,

And,

H. C. R. 87, Deputy Sheriff SGT. Justin Alan Thompson Memorial Highway.

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

Third Reading

Com. Sub. for S. B. 127, Authorizing Department of Revenue to promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 141**), and there were—yeas 92, nays 6, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Frich, Hollen, Marcum, C. Romine, Sobonya and Mr. Speaker, Mr. Armstead.

Absent and Not Voting: Hornbuckle and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 127) passed.

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

Com. Sub. for S. B. 127 – “A Bill to amend and reenact §64-7-1, §64-7-2, §64-7-3, §64-7-4 and §64-7-5 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain department of revenue legislative rules; repealing certain legislative, procedural or interpretive rules promulgated by certain

agencies and boards under the Department of Revenue which are no longer authorized or are obsolete; authorizing the Insurance Commissioner to promulgate a legislative rule relating to adoption of a valuation manual; repealing the Office of the Insurance Commissioner legislative rule relating to utilization management; repealing the Office of the Insurance Commissioner legislative rule relating to Medicare supplement insurance coverage; authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing; authorizing the Racing Commission to promulgate a legislative rule relating to pari-mutuel wagering; authorizing the Lottery Commission to promulgate a legislative rule relating to limited video lottery; repealing the Tax Division legislative rule relating to listing of interests in natural resources for purposes of first statewide appraisal; repealing the Tax Division legislative rule relating to guidelines for assessors to assure fair and uniform nonutility personal property values; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to review of appraisals by the county commission sitting as an administrative appraisal review board; repealing the Tax Division legislative rule relating to additional review and implementation of property appraisals; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to revision of levy estimates; repealing the Tax Division legislative rule relating to inheritance and transfer tax; repealing the Tax Division legislative rule relating to annual tax on incomes of certain carriers; repealing the Tax Division legislative rule relating to the telecommunications tax; repealing the Tax Division legislative rule relating to tax credit for employing former members of Colin Anderson Center; repealing the Tax Division legislative rule relating to tax credits for new value-added, wood manufacturing facilities; repealing the Tax Division legislative rule relating to tax credits for new steel, aluminum and polymer manufacturing operations; repealing the Tax Division legislative rule relating to the business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit; repealing the Tax Division legislative rule relating to appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes;

repealing the Banking Commissioner legislative rule relating to the West Virginia Consumer Credit and Protection Act; and repealing the Banking Commissioner procedural rule relating to West Virginia Board of Banking and Financial Institutions.”

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

On this question, the yeas and nays were taken (**Roll No. 142**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle and White.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 127) takes effect from its passage.

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

Com. Sub. for H. B. 2519, Medicaid program compact; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 143**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2519) passed.

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

Com. Sub. for H. B. 2808, The West Virginia Assisted Outpatient Treatment Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 144**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Folk, Isner and McGeehan.

Absent and Not Voting: Hamilton, Hornbuckle and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2808) passed.

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

Com. Sub. for H. B. 2857, West Virginia Safer Workplaces Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 145**), and there were—yeas 80, nays 19, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Caputo, Diserio, E. Evans, Fleischauer, Fluharty, Hicks, Hornbuckle, Longstreth, Lovejoy, Lynch, Miley, R. Miller, Pushkin, Pyles, Robinson, Rodighiero and Thompson.

Absent and Not Voting: White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2857) passed.

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

Com. Sub. for H. B. 2857 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-3E-1, §21-3E-2, §21-3E-3, §21-3E-4, §21-3E-5, §21-3E-6, §21-3E-7, §21-3E-8, §21-3E-9, §21-3E-10, §21-3E-11, §21-3E-12, §21-3E-13, §21-3E-14, §21-3E-15 and §21-3E-16, all relating to creating West Virginia Safer Workplace Act; permitting employers to test employees and prospective employees for drugs and alcohol; providing a short title; defining terms; declaring public policy; clarifying exceptions to the applicability of the West Virginia Safer Workplace Act for employers covered by other drug and alcohol testing statutes; determining a collection of samples, scheduling of tests and testing procedures; providing for ability to request split sample be tested to challenge a positive test result; establishing responsibility for cost of split sample testing; setting forth testing policy requirements; providing for disciplinary procedures; providing for sensitive employees; providing protection from liability; prohibiting certain causes of action for employers who have established a program in accordance with the West Virginia Safer Workplace Act; providing exceptions; providing for confidentiality; providing for termination of employment; providing for forfeiture of certain benefits; clarifying that the drug and alcohol testing provisions of the West Virginia Safer Workplace Act cannot be used to show intoxication pursuant to section two, article four, chapter twenty-three of this code; and requiring employers to have drug and alcohol testing policies and procedures when implementing drug and alcohol testing.”

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

H. B. 3009, Relating to access by the Office of Health Facility Licensure and Certification to the Controlled Substances Monitoring Program database; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 146**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 3009) passed.

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

Com. Sub. for H. B. 3061, Encouraging mastery-based education through the Innovation In Schools program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 147**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3061) passed.

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

H. B. 3089, Relating to the adoption of instructional resources for use in the public schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 148**), and there were—yeas 68, nays 31, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Hicks,

Hornbuckle, Iaquinta, Isner, Longstreth, Lovejoy, Lynch, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 3089) passed.

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

Second Reading

Com. Sub. for S. B. 306, Supplemental appropriation of federal funds from Treasury to Workforce West Virginia; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 2180, Authorizing the issuance of special "In God We Trust" motor vehicle registration plates; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2208, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2366, Relating to selling Jackie Withrow Hospital; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2475, Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Nelson and Butler, the bill was amended on page two, section three, line fourteen, following the words “consideration for offset”, by striking out the period and inserting the words “and shall certify to the Auditor that all applicable due process requirements have been met”, followed by a period.

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2494, Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2524, Improving the focus on school-level continuous improvement processes; on second reading, coming up in regular order, was read a second time.

Delegate Rowe moved to amend the bill on page one, by striking out everything after the enacting clause, and inserting in lieu thereof the following:

“That §10-5-2a of the Code of West Virginia, 1931, as amended; be repealed; that §18-2I-3 of said code be repealed; that §18A-3-2d of said code be repealed; that §18A-3A-1, §18A-3A-2, §18A-3A-2b, §18A-3A-3 and §18A-3A-5 of said code be repealed; that §18B-1-5a, §18B-11-4 and §18B-11-6 of said code be repealed; that §18-2I-1, §18-2I-2 and §18-2I-4 of said code be amended and reenacted; that §18A-2-9 and §18A-2-12 of said code be amended and reenacted; that §18A-3-1, §18A-3-1d, §18A-3-2c and §18A-3-8 of said code be amended and reenacted; that §18A-3C-1, §18A-3C-2 and §18A-3C-3 of said code be amended and reenacted; that §18B-16-5 and §18B-16-8 of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2I. STATE-LEVEL LEADERSHIP FOR PROFESSIONAL DEVELOPMENT SYSTEM.

§18-2I-1. Professional development coordination and delivery; system goals.

The purpose of this article is to establish clear state-level leadership for professional development for all West Virginia public school educators and administrators. As the state institution charged with the general supervision of the state school system, the state board shall institute a system for the coordination and delivery of high-quality professional development. The system shall clearly define the goals for professional development and delineate roles and responsibilities among the various state and regional professional development providers of the various state, regional, school district and individual school levels for the delivery of high-quality professional development. The state board shall include among the goals for the system of professional development the following:

(1) The instructional leadership skills of principals are developed to ensure that each school is led by a principal who is knowledgeable of continuous improvement processes and capable of leading effective improvement efforts. The principal also must understand the value of fair and accurate personnel performance evaluations as an effective, continuous improvement effort to drive professional learning at the school level;

(2) Professional development is among the array of supports and processes necessary under a performance-based accreditation system to build the capacity of schools to impact student performance and well-being by increasing staff individual and collective skills, competencies and abilities. It should be based on a thorough analysis of accountability data and strategic planning for continuous improvement that addresses those areas that must be a priority for individual school support, including an analysis of personnel evaluation data in order to target individualized professional learning at the school level;

(3) The school is the unit of change. Local, regional, and state resources, policies and procedures must focus on assisting the improvement of each West Virginia school and on differentiating supports according to need and level of performance, including the

implementation of school-based professional development programs that address the unique needs of staff and students; and

(4) Professional development should be delivered using techniques, school schedules or time in a manner that does not diminish student learning by the absence of their classroom teacher.

§18-2I-2. Legislative findings.

The Legislature finds:

(1) That high-quality professional development is critical in supporting improved practice, assuring teacher quality and raising student achievement;

(2) That professional development is vital in the state's overall school improvement efforts;

(3) That the state board ~~should~~ shall assure the efficient delivery of high-quality professional development programs and ~~assure~~ that the duplication of efforts be minimized; ~~and~~

(4) That the state board shall assure all stakeholders are appropriately involved in the planning and implementing of programs to meet requisite needs and that high-quality professional development programs be provided to public school educators of West Virginia in the most efficient and cost effective manner; ~~and~~

~~(4) It should be the goal that professional development occur outside of scheduled instructional time so student learning is not interrupted by the absence of their classroom teacher.~~

(5) That continuous improvement is the on-going process of planning, determining, implementing and refining efforts to improve student performance and well-being. It is the collective staff process of analyzing student performance data, studying current school and classroom practices, determining root causes, researching solutions and implementing processes outlined in the school's strategic plan; and

(6) That the capacity for excellence resides in every school. Schools are responsible for creating school-wide and classroom conditions that produce student success. Every school needs quality leadership and the flexibility and support to make the decisions that will lead to the achievement of all students.

§18-2I-4. Coordination, development and evaluation of professional development programs.

(a) On or before ~~June 1, 2013~~ June 1, 2017, the state board shall promulgate an emergency rule in accordance with article three-b, chapter twenty-nine of this code to ensure the coordination, development and evaluation of high-quality professional development programs. On or before ~~November 1, 2013~~ November 1, 2017, the state board shall promulgate a legislative rule for the same purpose. The rules shall include, but are not limited to, the following:

(1) Standards for quality professional development that all professional development providers shall use in designing, implementing and evaluating professional development that shall become part of the statewide professional development plan system for the coordinated delivery of high-quality professional development established by the state board;

(2) Processes for aggregating information, in part from school and school district strategic plans, to determine areas of common need for professional development, as well as those more varied, to assist in the design of the most effective and efficient method and level of delivery;

~~(2)~~ (3) Processes for assuring professional development resources are appropriately allocated to identified areas of need;

~~(3) Processes for approval by state board of all professional development plans/offerings;~~

(4) Processes for evaluating the effectiveness, efficiency, and impact of the professional development;

(5) Processes for ensuring all stakeholders, including affected principals and classroom teachers, have a voice in the identification of needed professional development and various delivery models;

(6) Processes for collaboration among West Virginia Department of Education, ~~Center for Professional Development~~ RESAs, county boards, principals and classroom teachers; and

(7) Processes for ensuring that the expertise and experience of state institutions of higher education with teacher preparation programs are included in developing and implementing professional development programs.

~~(b) The state board approval of the proposed professional development plans/offerings shall establish a Master Plan for Professional Development which shall be submitted by the state board to the affected agencies and to the Legislative Oversight Commission on Education Accountability. The Master Plan shall include the state board approved plans for professional development by the state Department of Education, the Center for Professional Development, the state institutions of higher education and the regional educational service agencies to meet the professional development goals of the state board~~

(b) To assist in the delivery of high quality professional development for teachers, principals and other school employees, the state board shall incorporate within the department of education a Center for Professional Development whose general mission shall be under the direction of the state board to advance the quality of teaching and learning in the schools of West Virginia through:
(1) The implementation primarily of statewide training, professional staff development, including professional staff development for at least teachers, principals and paraprofessionals;
(2) providing technical assistance programs and practices as recommended by the state board to assure the highest quality of teaching and instructional leadership; and (3) providing technical and other assistance and support to schools and school systems to address locally identified needs for professional development and training programs to meet their locally identified needs in a manner that is cost effective consistent with best practices. Additionally,

the center shall perform other duties assigned to it by the state board. Nothing in this article requires any specific level of funding by the Legislature.

(c) The state board shall submit a status report on or before December 1 of each year on the professional development needs and the effectiveness, efficiency and impact of the statewide professional development plan programs delivered to the Legislative Oversight Commission on Education Accountability.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-9. Duties and responsibilities of school principals; assistant principals.

(a) Upon the recommendation of the county superintendent of schools, the county board of education shall employ and assign, through written contract, public school principals who shall be the principal instructional leader of the school and shall supervise the management and the operation of the school or schools to which they are assigned to improve student performance and progress. ~~Such~~ The principals shall hold valid administrative certificates appropriate for their assignments.

(b) Beginning on ~~July 1, 1994~~ July 1, 2018, the prerequisites for issuance of an administrative certificate for principals shall include that the person has successfully completed at least six credit hours of approved course work in public school instructional leadership and management techniques at an accredited institution of higher education, including, but not limited to, the standards for high quality schools, the school accreditation process and strategic planning for continuous improvement. ~~And~~

(c) Prior to employment as a principal or assistant principal, or in another administrative position the duties of which require conducting personnel performance evaluations, the principal, assistant or administrator has successfully completed education and training in evaluation skills ~~through the center for professional~~

~~development, or equivalent education and training in evaluation skills approved by the state board.~~

(d) Under the supervision of the superintendent and in accordance with the rules and regulations of the county board of education, the principal:

(1) Shall assume administrative and instructional ~~supervisory leadership~~ responsibility for the planning, management, operation and evaluation of the total educational program of the school or schools to which he or she is assigned.

(2) ~~The principal~~ May submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the school or schools under said principal's control. ~~Such~~ The recommendations shall be submitted in writing as prescribed by the superintendent; and

(3) ~~The principal~~ Shall perform such other duties as may be assigned by the superintendent pursuant to the rules and regulations of the county board of education.

(e) Upon recommendation of the county superintendent of schools, the county board of education shall, when needed, employ and assign, through written contract, assistant principals who shall work under the direction of the school principal. Such assistant principals shall hold valid administrative certificates appropriate for their assignments.

(f) ~~On or before July 1, 1989, and continuing thereafter~~ The assignment of principals and assistant principals by each county board of education shall assign is subject to the following:

(1) A certificated principal shall be assigned to each school; ~~and no~~

(2) A principal may not be assigned more than two schools: ~~Provided, That where enrollment exceeds four hundred students there will be~~

(3) No additional schools may be assigned to that the principal of a school where enrollment exceeds four hundred students.

~~(4) No~~ A principal assigned to more than one school may not be assigned any teaching duties except on a temporary emergency basis. No county shall have more teaching principalships or multischool principalships than was present on January 1, 1988

~~On or before July 1, 1993, and continuing thereafter, each county board of education shall employ a full-time supervising~~

(5) A principal shall be assigned full-time at each school whose net enrollment equals or exceeds one hundred seventy students. A principal assigned to a school with a net enrollment equal to or greater than one hundred seventy students and may not be assigned any teaching duties except on a temporary emergency basis.

~~(6) When~~ A principal assigned on a full-time basis to a school whose net enrollment is more than seventy-five students but less than one hundred seventy students such principal shall have a minimum of twenty hours per week for nonteaching duties.

(7) A principal assigned on a full-time basis to a school with seventy-five students or less shall have a minimum of ten hours per week for nonteaching duties. *Provided, That*

(8) Nothing in this section prohibits a county board of education from assigning a full-time supervising principal to a school with a net enrollment of less than one hundred seventy students.

~~Nothing contained in this section shall be construed to reduce or limit the rights and privileges of principals and assistant principals as teachers under the provisions of section one, article one, chapter eighteen of the Code of West Virginia as amended; section one, article one, chapter eighteen a; and other provisions of this code: *Provided, That* on or before July 1, 1993, the State Board of Education shall not deny a county board of education the right to place a principal in a school with less than one hundred seventy students.~~

§18A-2-12. Performance evaluations of school personnel; professional personnel evaluation process; restrictions on requirements on lesson plans and record keeping by classroom teachers.

(a) The state board shall adopt a written system for the evaluation of the employment performance of personnel, which system shall be applied uniformly by county boards in the evaluation of the employment performance of personnel employed by the board.

(b) The system adopted by the state board for evaluating the employment performance of professional personnel shall be in accordance with the provisions of this section.

(c) For purposes of this section, ‘professional personnel’, ‘professional’ or ‘professionals’, means professional personnel and other professional employees, as defined in section one, article one of this chapter but does not include classroom teachers, principals and assistant principals subject to the evaluation processes established pursuant to section two, article three-c of this chapter.

~~(d) In developing the professional personnel performance evaluation system, and amendments thereto, the state board shall consult with the Center for Professional Development created in article three a of this chapter. The center shall participate actively with the state board in developing written standards for evaluation which clearly specify satisfactory performance and the criteria to be used to determine whether the performance of each professional meets those standards.~~

~~(e)~~ (d) The performance evaluation system shall contain, but not be limited to, the following information:

(1) The professional personnel positions to be evaluated;

(2) The frequency and duration of the evaluations, which shall be of such frequency and duration as to insure the collection of a sufficient amount of data from which reliable conclusions and findings may be drawn, but at least annually;

(3) The evaluation shall serve the following purposes:

(A) Serve as a basis for the improvement of the performance of the personnel in their assigned duties;

(B) Provide an indicator of satisfactory performance for individual professionals;

(C) Serve as documentation for a dismissal on the grounds of unsatisfactory performance; and

(D) Serve as a basis for programs to increase the professional growth and development of professional personnel;

(4) The standards for satisfactory performance for professional personnel and the criteria to be used to determine whether the performance of each professional meets those standards and other criteria for evaluation for each professional position evaluated. Professional personnel, as appropriate, shall demonstrate competency in the knowledge and implementation of the technology standards adopted by the state board. If a professional fails to demonstrate competency in the knowledge and implementation of these standards, he or she will be subject to an improvement plan to correct the deficiencies; and

(5) Provisions for a written improvement plan, which shall be specific as to what improvements, if any, are needed in the performance of the professional and shall clearly set forth recommendations for improvements, including recommendations for additional education and training during the professional's recertification or license renewal process.

~~(f)~~ (e) A professional whose performance is considered to be unsatisfactory shall be given notice of deficiencies. A remediation plan to correct deficiencies shall be developed by the employing county board and the professional. The professional shall be given a reasonable period of time for remediation of the deficiencies and shall receive a statement of the resources and assistance available for the purposes of correcting the deficiencies.

~~(g)~~ (f) No person may evaluate professional personnel for the purposes of this section or professional educator for the purposes of section two, article three-c of this chapter unless the person has an administrative certificate issued by the state superintendent and has successfully completed education and training in evaluation skills through the center for professional development, or equivalent education training approved by the state board, which will enable the person to make fair, professional, and credible evaluations of the personnel whom the person is responsible for evaluating. After July 1, 1994, no person may be issued an administrative certificate or have an administrative certificate renewed unless the state board determines that the person has successfully completed education and training in evaluation skills through the center for professional development or equivalent education and training approved by the state board.

~~(h)~~ (g) Any professional whose performance evaluation includes a written improvement plan shall be given an opportunity to improve his or her performance through the implementation of the plan. If the next performance evaluation shows that the professional is now performing satisfactorily, no further action may be taken concerning the original performance evaluation. If the evaluation shows that the professional is still not performing satisfactorily, the evaluator either shall make additional recommendations for improvement or may recommend the dismissal of the professional in accordance with the provisions of section eight of this article.

(i) (h) This subsection applies to all classroom teachers irrespective of the process under which they are evaluated.

(1) Lesson plans are intended to serve as a daily guide for teachers and substitutes for the orderly presentation of the curriculum. Lesson plans may not be used as a substitute for observations by an administrator in the performance evaluation process. A classroom teacher, as defined in section one, article one of this chapter, may not be required to post his or her lesson plans on the Internet or otherwise make them available to students and parents or to include in his or her lesson plans any of the following:

(A) Teach and reteach strategies;

(B) Write to learn activities;

(C) Cultural diversity;

(D) Color coding; or

(E) Any other similar items which are not required to serve as a guide to the teacher or substitute for daily instruction;

(2) The Legislature finds that classroom teachers must be free of unnecessary paper work so that they can focus their time on instruction. Therefore, classroom teachers may not be required to keep records or logs of routine contacts with parents or guardians;

(3) Nothing in this subsection may be construed to prohibit classroom teachers from voluntarily posting material on the Internet; and

(4) Nothing in article three-c of this chapter may be construed to negate the provisions of this subsection.

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

§18A-3-1. Teacher preparation programs; program approval and standards; authority to issue teaching certificates.

(a) The education of professional educators in the state is under the general direction and control of the state board after consultation with the Secretary of Education and the Arts and the Chancellor for Higher Education who shall represent the interests of educator preparation programs within the institutions of higher education in this state as defined in section two, article one, chapter eighteen-b of this code.

The education of professional educators in the state includes all programs leading to certification to teach or serve in the public schools. The programs include the following:

(1) Programs in all institutions of higher education, including student teaching and teacher-in-residence programs as provided in this section;

(2) Beginning teacher induction programs;

(3) Granting West Virginia certification to persons who received their preparation to teach outside the boundaries of this state, except as provided in subsection (b) of this section;

(4) Alternative preparation programs in this state leading to certification, including programs established pursuant to the provisions of sections one-a, one-b, one-c, one-d, one-e, one-f, one-g, one-h and one-i of this article and programs which are in effect on the effective date of this section; and

(5) Continuing professional education, professional development and in-service training programs for professional educators employed in the public schools in the state.

(b) After consultation with the Secretary of Education and the Arts and the Chancellor for Higher Education, the state board shall adopt standards for the education of professional educators in the state and for awarding certificates valid in the public schools of this state. The standards include, but are not limited to the following:

(1) A provision for the study of the history and philosophical foundations of Western Civilization and the writings of the founders of the United States of America;

~~(1)~~ (2) A provision for the study of multicultural education. As used in this section, multicultural education means the study of the pluralistic nature of American society including its values, institutions, organizations, groups, status positions and social roles;

~~(2)~~ (3) A provision for the study of classroom management techniques, including methods of effective management of disruptive behavior including societal factors and their impact on student behavior; and

~~(3)~~ (4) A teacher from another state shall be awarded a teaching certificate for a comparable grade level and subject area valid in the public schools of this state, subject to section ten of this article, if he or she has met the following requirements:

(A) Holds a valid teaching certificate or a certificate of eligibility issued by another state;

(B) Has graduated from an educator preparation program at a regionally accredited institution of higher education or from another educator preparation program;

(C) Possesses the minimum of a bachelor's degree; and

(D) Meets all of the requirements of the state for full certification except employment.

(c) The state board may enter into an agreement with county boards for the use of the public schools in order to give prospective teachers the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the West Virginia public schools.

(d) An agreement established pursuant to subsection (c) of this section shall recognize student teaching as a joint responsibility of the educator preparation institution and the cooperating public schools. The agreement shall include the following items:

(1) The minimum qualifications for the employment of public school teachers selected as supervising teachers, including the requirement that field-based and clinical experiences be supervised by a teacher fully certified in the state in which that teacher is supervising;

(2) The remuneration to be paid to public school teachers by the state board, in addition to their contractual salaries, for supervising student teachers;

(3) Minimum standards to guarantee the adequacy of the facilities and program of the public school selected for student teaching;

(4) Assurance that the student teacher, under the direction and supervision of the supervising teacher, shall exercise the authority of a substitute teacher;

(5) A provision requiring any higher education institution with an educator preparation program to document that the student teacher's field-based and clinical experiences include participation and instruction with multicultural, at-risk and exceptional children at each programmatic level for which the student teacher seeks certification; and

(6) A provision authorizing a school or school district that has implemented a comprehensive beginning teacher induction program, to enter into an agreement that provides for the training and supervision of student teachers consistent with the educational objectives of this subsection by using an alternate structure implemented for the support, supervision and mentoring of beginning teachers. The agreement is in lieu of any specific provisions of this subsection and is subject to the approval of the state board.

(e) *Teacher-in-residence programs.* —

(1) In lieu of the provisions of subsections (c) and (d) of this section and subject to approval of the state board, an institution of higher education with a program for the education of professional educators ~~in the state~~ approved by the state board may enter into an agreement with county boards for the use of teacher-in-residence programs in the public schools.

(2) A 'teacher-in-residence program' means an intensively supervised and mentored residency program for prospective teachers during their senior year that refines their professional practice skills and helps them gain the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the West Virginia public schools.

(3) The authorization for the higher education institution and the county board to implement a teacher-in-residence program is

subject to state board approval. The provisions of the agreement include, but are not limited to, the following items:

(A) A requirement that the prospective teacher in a teacher-in-residence program has completed all other preparation courses and has passed the appropriate basic skills and subject matter test or tests required by the state board for teachers to become certified in the area for which licensure is sought;

(B) A requirement that the teacher-in-residence serve only in a teaching position in the county which has been posted and for which no other teacher fully certified for the position has been employed;

(C) Specifics regarding the program of instruction for the teacher-in-residence setting forth the responsibilities for supervision and mentoring by the higher education institution's educator preparation program, the school principal, and peer teachers and mentors, and the responsibilities for the formal instruction or professional development necessary for the teacher-in-residence to perfect his or her professional practice skills. The program also may include other instructional items as considered appropriate.

(D) A requirement that the teacher-in-residence hold a teacher-in-residence permit qualifying the individual to teach in his or her assigned position as the teacher of record;

(E) A requirement that the salary and benefit costs for the position to which the teacher-in-residence is assigned shall be used only for program support and to pay a stipend to the teacher-in-residence as specified in the agreement, subject to the following:

(i) The teacher-in-residence is a student enrolled in the teacher preparation program of the institution of higher education and is not a regularly employed employee of the county board;

(ii) The teacher-in-residence is included on the certified list of employees of the county eligible for state aid funding the same as an employee of the county at the appropriate level based on their permit and level of experience;

(iii) All state-aid-funding due to the county board for the teacher-in-residence shall be used only in accordance with the agreement with the institution of higher education for support of the program as provided in the agreement, including costs associated with instruction and supervision as set forth in paragraph (C) of this subdivision;

(iv) The teacher-in-residence is provided the same liability insurance coverage as other employees; and

(v) All state aid funding due to the county for the teacher-in-residence and not required for support of the program shall be paid as a stipend to the teacher-in-residence: *Provided*, That the stipend paid to the teacher-in-residence shall be no less than sixty-five percent of all state aid funding due the county for the teacher-in-residence.

(F) Other provisions that may be required by the state board.

(f) In lieu of the student teaching experience in a public school setting required by this section, an institution of higher education may provide an alternate student teaching experience in a nonpublic school setting if the institution of higher education meets the following criteria:

(1) Complies with the provisions of this section;

(2) Has a state board approved educator preparation program;
and

(3) Enters into an agreement pursuant to subdivisions (g) and (h) of this section.

(g) At the discretion of the higher education institution, an agreement for an alternate student teaching experience between an institution of higher education and a nonpublic school shall require one of the following:

(1) The student teacher shall complete at least one half of the clinical experience in a public school; or

(2) The educator preparation program shall include a requirement that any student performing student teaching in a nonpublic school shall complete the following:

(A) At least two hundred clock hours of field-based training in a public school; and

(B) A course, which is a component of the institution's state board approved educator preparation program, that provides information to prospective teachers equivalent to the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the public schools in West Virginia. The course also shall include instruction on at least the following elements:

(i) State board policy and provisions of this code governing public education;

(ii) Requirements for federal and state accountability, including the mandatory reporting of child abuse;

(iii) Federal and state mandated curriculum and assessment requirements, including multicultural education, safe schools and student code of conduct;

(iv) Federal and state regulations for the instruction of exceptional students as defined by the Individuals with Disabilities Education Act, 20 U.S.C. §1400 *et seq.*; and

(v) Varied approaches for effective instruction for students who are at-risk.

(h) In addition to the requirements set forth in subsection (g) of this section, an agreement for an alternate student teaching experience between an institution of higher education and a nonpublic school shall include the following:

(1) A requirement that the higher education institution with an educator preparation program shall document that the student teacher's field-based and clinical experiences include participation and instruction with multicultural, at-risk and exceptional children

at each programmatic level for which the student teacher seeks certification; and

(2) The minimum qualifications for the employment of school teachers selected as supervising teachers, including the requirement that field-based and clinical experiences be supervised by a teacher fully certified in the state in which that teacher is supervising.

(i) The state superintendent may issue certificates as provided in section two-a of this article to graduates of educator preparation programs and alternative educator preparation programs approved by the state board. The certificates are issued in accordance with this section and rules adopted by the state board. ~~after consultation with the Secretary of Education and the Arts and the Chancellor for Higher Education~~

(1) A certificate to teach may be granted only to a person who meets the following criteria:

(A) Is a citizen of the United States, except as provided in subdivision (2) of this subsection;

(B) Is of good moral character;

(C) Is physically, mentally and emotionally qualified to perform the duties of a teacher; and

(D) Is at least eighteen years of age on or before October 1 of the year in which his or her certificate is issued.

(2) A permit to teach in the public schools of this state may be granted to a person who is an exchange teacher from a foreign country or an alien person who meets the requirements to teach.

(j) In consultation with the Secretary of Education and the Arts and the Chancellor for Higher Education Institutions of higher education approved for educator preparation may cooperate with each other, ~~with the center for professional development and~~ with one or more county boards and with one or more regional education service agencies to organize and operate centers to provide selected

phases of the educator preparation program. The phases include, but are not limited to the following:

(1) Student teaching and teacher-in-residence programs;

(2) Beginning teacher induction programs;

(3) Instruction in methodology; and

(4) Seminar programs for college students, teachers with provisional certification, professional support team members and supervising teachers.

By mutual agreement, the institutions of higher education, ~~the center for professional development and~~ county boards and regional education service agencies may budget and expend funds to operate the centers through payments to the appropriate fiscal office of the participating institutions, ~~the center for professional development~~ and the county boards and regional education service agencies.

(k) The provisions of this section do not require discontinuation of an existing student teacher training center or school which meets the standards of the state board.

(l) All institutions of higher education approved for educator preparation in the 1962-63 school year continue to hold that distinction so long as they meet the minimum standards for educator preparation. Nothing in this section infringes upon the rights granted to any institution by charter given according to law previous to the adoption of this code.

(m) *Definitions.* — For the purposes of this section, the following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) ‘Nonpublic school’ means a private school, parochial school, church school, school operated by a religious order or other nonpublic school that elects to meet the following conditions:

(A) Comply with the provisions of article twenty-eight, chapter eighteen of this code;

(B) Participate on a voluntary basis in a state operated or state sponsored program provided to this type school pursuant to this section; and

(C) Comply with the provisions of this section;

(2) 'At-risk' means a student who has the potential for academic failure, including, but not limited to, the risk of dropping out of school, involvement in delinquent activity or poverty as indicated by free or reduced lunch status; and

(3) 'Exceptional child' or 'exceptional children' has the meaning ascribed to these terms pursuant to section one, article twenty, chapter eighteen of this code, but, as used in this section, the terms do not include gifted students.

§18A-3-1d. Alternative program rules; necessary contents.

(a) *Alternative program rules.* –

(1) The State Board shall promulgate a legislative rule or rules in accordance with article three-b, chapter twenty-nine-a of this code containing procedures for the approval and operation of alternative teacher education programs as provided in this article. The State Board shall promulgate separate procedures for alternative programs for classroom teachers, alternative programs for highly qualified special education teachers, and additional alternative programs to prepare highly qualified special education teachers. These procedures shall be separate from the state board's other procedures for approving standard teacher education programs.

(2) Before promulgating a rule or rules, the state Board shall consult with the Secretary of Education and the Arts and the Chancellor of the Higher Education Policy Commission.

(3) Before adopting a rule or rules, the state board shall submit its proposed rule or rules to the Legislative Oversight Commission on Education Accountability for review.

(b) *Necessary contents.* – The state board’s rule or rules shall include, at a minimum, the following elements:

(1) An orderly set of deadlines, forms and guidance to govern:

(A) A partnership’s process for applying to become an approved education provider;

(B) The state board’s process for reviewing and acting on a partnership’s application;

(C) An approved education provider’s process for seeking persons to enroll in an alternative program; and

(D) A person’s process for enrolling in an approved education provider’s alternative program;

(2) Procedures for determining whether a partnership agreement complies with sections one-b and one-c of this article;

(3) Procedures for determining whether a partnership agreement complies with any additional requirements contained in the state board’s rule or rules;

(4) Standards for how often and for what lengths of time an alternative program teacher must observe in a mentor’s classroom;

(5) Guidelines for determining what tuition or other charges an approved education provider may impose relating to an alternative program;

(6) A list of the test or tests that a person must pass if he or she seeks a certification to teach American Sign Language; and

(7) A list of the test or tests that a person must pass if he or she seeks a certification to teach in selected vocational and technical areas.

§18A-3-2c. Minimum qualities, proficiencies and skills required of principals; state board rule.

~~(a) *Principal training and professional development required.* After the effective date of this section and subject to the provisions of subsection (c) of this section, every principal shall complete training and professional development through the principals academy as provided in subsection (b) of this section.~~

~~(b) *Principal training and professional development through the academy.* The academy and the persons required to complete training and professional development through the academy shall adhere to the following guidelines:~~

~~(1) All persons assigned as a principal for the first time in a West Virginia school after July 1, 2002, shall complete specialized training and professional development for newly appointed principals through the academy within the first twelve months following assignment;~~

~~(2) All principals of schools which have been designated as seriously impaired, in accordance with section five, article two e, chapter eighteen of this code, shall complete specialized training and professional development through the academy specifically designed to assist the principal to improve school performance commencing as soon as practicable following receipt of the designation;~~

~~(3) All principals who are subject to an improvement plan, in accordance with section twelve, article two of this chapter, shall complete specialized training and professional development through the academy specifically designed for principals subject to an improvement plan. The specialized training and professional development shall be completed within twelve months from the date that the principal is first subject to the improvement plan;~~

~~(4) All principals who transfer to a school with a significantly different grade configuration shall complete specialized training and professional development for principals in schools with the~~

~~grade configuration to which they transferred through the academy within the first twelve months following transfer; and~~

~~(5) All persons serving as school principals shall complete training and professional development through the academy designed to build the qualities, proficiencies and skills required of all principals as determined by the state board.~~

~~(c) *Academy and requirements to complete training and professional development subject to funding.* — The requirement that principals complete training and professional development through the academy shall be subject to the availability of funds for the principals academy from legislative appropriation and from other sources. If these funds are insufficient to provide for the total cost of the training and professional development required by subsection (b) of this section, then the academy shall provide training and professional development for the persons described in subdivisions (1) through (5), inclusive, subsection (b) of this section according to the priority in which the subdivisions appear in said subsection. If such funds are insufficient to provide for the training and professional development of all the persons described in one or more of subdivisions (1) through (5), inclusive, subsection (b) of this section, the academy is authorized to determine which persons described within the subdivision or subdivisions shall be admitted and which shall not be admitted: *Provided*, That the principals academy shall make every effort to ensure that all principals receive training and professional development through the academy at least once every six years effective July 1, 2002, and thereafter: *Provided, however*, That nothing in this section shall be construed to require any specific level of funding by the Legislature.~~

~~(d) *Establishment of standards.* — On or before October 1, 1996 October 1, 2017, the state board shall approve and promulgate rules in accordance with article three-b, chapter twenty-nine-a of this code regarding the minimum qualities, proficiencies and skills that will be required of principals after January 1, 1997 July 1, 2018. The state board shall promulgate and may, from time to time, amend such rules. The rules promulgated by the state board shall address at least the following:~~

(1) Instructional leadership and management techniques, including, but not limited to, the standards for high quality schools, the school accreditation process and strategic planning for continuous improvement;

(1) (2) Staff relations, including, but not limited to, the development and use of skills necessary to make a positive use of faculty senates, manage faculty and staff with courtesy and mutual respect, coach and motivate employees, and build consensus as a means of management;

(2) (3) School community leadership qualities, including, but not limited to, the ability to organize and leverage community initiative, communicate effectively, work effectively with local school improvement councils, manage change, resolve conflict and reflect the highest personal values;

(3) (4) Educational proficiencies, including, but not limited to, knowledge of curriculum, instructional techniques, student learning styles, student assessment criteria, school personnel performance, evaluation skills and family issues; and

(4) Administrative skills, including, but not limited to, organizational, fiscal, public policy and total quality management skills and techniques.

~~(e) *Waivers.*— Any person desiring to be relieved of the requirements of all or any part of this section may apply in writing to the state board for a waiver. Upon a showing of reasonable cause why relief should be granted, the state board may grant a waiver, upon such terms and conditions as the state board shall determine proper, as to all or any part of this section.~~

~~(f) *Failure to comply.*— Any person who fails or refuses to complete training and professional development through the academy, as required by the provisions of this section, and who fails to obtain a waiver, as described in subsection(e) of this section, shall be ineligible to be employed as, or serve in the capacity of, a principal.~~

~~(g) Tracking of requirement.~~— On or before January 1, 1997, the state board shall establish a system to track the progress of each person required to complete training through the academy and shall regularly advise such persons of their progress.

~~(h) Payment of reasonable and necessary expenses and stipends.~~— The center for professional development shall reimburse persons attending the academy for reasonable and necessary expenses. A person may not be required to complete training and professional development through the principals academy before September 15, and after June 1, of the school year. The center for professional development shall utilize alternative methods of instructional delivery and scheduling, including electronic delivery, as considered appropriate to minimize the amount of time principals completing training and professional development through the academy are required to be away from their school duties. Nothing in this section shall be construed to require any specific level of funding by the Legislature.

§18A-3-8. County professional staff development councils.

The Legislature finds the professional expertise and insight of the classroom teacher to be an invaluable ingredient in the development and delivery of staff development programs which meet the needs of classroom teachers.

Therefore, a professional staff development council comprised of proportional representation from the major school levels and from vocational, special education and other specialties in proportion to their employment numbers in the county shall be established in each school district in the state in accordance with rules adopted by the State Board of Education. Nominations of instructional personnel to serve on the county staff development council may be submitted by the faculty senates of the district to the county superintendent who shall prepare and distribute ballots and tabulate the votes of the counties instructional personnel voting on the persons nominated. Each county staff development council shall consist of between nine and fifteen members at the discretion of the county superintendent based on the size of the county. The councils have final authority to propose staff development

programs for their peers based upon ~~rules established by statute and the council on professional education~~ an analysis of the individual and collective needs of the schools of the county as indicated by their strategic plans.

The county superintendent or a designee has an advisory, nonvoting role on the council. The county board shall make available an amount equal to one tenth of one percent of the amounts provided in accordance with section four, article nine-a, chapter eighteen of this code and credit the funds to an account to be used by the council to fulfill its objectives. The local board has final approval of all proposed disbursements.

Any funds credited to the council during a fiscal year, but not used by the council, shall be carried over in the council account for use in the next fiscal year. These funds are separate and apart from, and in addition to, those funds to be credited to the council pursuant to this section. At the end of each fiscal year, the council shall report to each faculty senate chairperson the amount of funds carried over into the next fiscal year.

~~The professional staff development project of the center for professional development shall assist in the development and delivery of staff development programs by the county staff development councils and shall coordinate staff development efforts statewide.~~

ARTICLE 3C. IMPROVING TEACHING AND LEARNING.

§18A-3C-1. Findings; purposes and definition.

(a) The Legislature makes the following findings:

(1) Processes set forth in this article for the performance evaluation of professional personnel ~~teacher~~ and the induction and professional growth ~~is of teachers and leaders~~ are not intended to make up for substandard initial preparation, ~~of teachers~~, but instead ~~is~~ are intended to build on a solid foundation created by the teacher and principal preparation programs. Therefore, the Legislature expects the teacher preparation programs to graduate teachers and leaders who can perform at a level that increases student

achievement. The Legislature expects that the processes set forth in this article will allow a teacher and principal to excel beyond that level in the classroom and school leadership positions;

(2) The comprehensive system of support provided ~~for~~ in this article should be implemented in a way that, ~~as compared with the beginning teacher internship system, much more~~ effectively provides for the professional growth of teachers and principals;

(3) In order for the comprehensive system of support to much more effectively provide for the professional growth for of teachers and principals, ~~funding should be greatly increased over and above what has been provided for the beginning teacher internship system~~ professional development resources must be focused in the most cost effective manner on the unique needs of individual schools, including their professional personnel evaluation data, to increase the school's capacity to improve student performance and progress; and

(4) Although the quality of the teacher in the classroom is extremely important to the academic achievement of students, students cannot learn if they are not in the classroom. Therefore, attending school on a regular basis is of utmost importance to the academic success of students.

(b) The purpose of this article is to create a comprehensive infrastructure that routinely supports a continuous process for improving teaching and learning. Its focus is on developing strong teaching and school leadership, without which effective learning does not occur. The general components of this infrastructure include the following:

(1) High-quality teacher and principal preparation, induction and evaluation;

(2) Universal support for emerging teachers and principals including comprehensive ~~new teacher~~ induction and support for (A) Beginning teachers, student teachers, teachers teaching in assignments for which they have less than a full professional credential and teacher candidates pursuing certification through an

alternative route; and (B) Beginning principals, assistant principals and vocational administrators, and principals beginning a new assignment at a school with a significantly different grade level configuration;

(3) Evaluation of the performance of teachers and leaders in demonstrating high quality professional practice, leadership and collaboration and the resulting growth in student learning;

(4) Focused improvement in teaching and learning through the use of evaluation data to inform the delivery of professional development and additional supports to improve teaching based on the evaluation results and to inform the need for improvements in teacher preparation programs; and

(5) The creation of a leadership culture that seeks and builds powerful alliances among all stakeholders focused on continuous growth in student learning.

(c) For purposes of this article ‘professional personnel’ includes classroom teachers, assistant principals and principals as defined in section one, article one chapter eighteen-a of this code.

§18A-3C-2. Performance evaluations of professional personnel.

~~(a) The intent of the Legislature is to allow for a multistep statewide implementation of performance evaluations for professional personnel pursuant to this section consistent with sound educational practices and resources available resulting in full state wide implementation by no later than the school year 2013-2014. Beginning with the schools included in the evaluation processes for professional personnel piloted by the Department of Education during the 2011-2012 school year, additional schools or school systems shall be subject to the provisions of this article in accordance with a plan established by the state board to achieve full statewide implementation by no later than the school year 2013-2014. For schools and school systems subject to the provisions of this article, the provisions of this article shall govern~~

when they are in conflict with other provisions of this chapter and chapter eighteen of this code. Specifically

(a) The provisions of this ~~article~~ section govern for the performance evaluation of classroom teachers, principals and assistant principals employed in ~~these~~ public schools and school systems. To the extent that this ~~article~~ section conflicts with the provisions of section twelve, article two of this chapter relating to professional personnel performance evaluations, this ~~article~~ section shall govern. ~~The state board shall submit a report on its plan for the phased implementation of this article to the Legislative Oversight Commission on Education Accountability at the Commission's July interim meeting in each year of the phased implementation. The report shall include an update on the implementation of this article including, but not limited to the evaluation process and a list of the schools and school systems subject to the provisions of this article. To assist the Legislative Oversight Commission on Education Accountability in monitoring the implementation of this article, the state board shall report to the Commission upon its request throughout the implementation process, including but not limited to, reports on the results of surveys of teachers and principals on the implementation and use of the new evaluation system, the adequacy of the professional development given to employees on the purposes, instruments and procedures of the evaluation process, the time consumed by the evaluation process and the various tasks required for employees of different levels of experience, the aggregate results of the evaluations and any recommendations for changes in the process or other aspects of the duties of affected employees to improve the focus on the core mission of schools of teaching and learning~~

(b) Before ~~July 1, 2013~~ July 1, 2017, the state board shall adopt a legislative rule in accordance with article three-b, chapter twenty-nine-a of this code, for annually evaluating the performance of each professional person. ~~each year. The state board shall submit a draft of the proposed rule to the Legislative Oversight Commission on Education Accountability by February 15, 2013, and a final draft proposed rule prior to adoption. The rule shall provide for performance evaluations of professional personnel to be conducted~~

in accordance with this section in each school and school system.
~~beginning with the 2013-14 school year~~

(c) (1) The process adopted by the state board for evaluating the performance of classroom teachers shall incorporate at least the following:

(A) Alignment with the West Virginia Professional Teaching Standards adopted by the state board that establish the foundation for educator preparation, teacher assessment and professional development throughout the state;

(B) Employment of the professional teaching standards to provide explicit and extensive measures of the work of teaching and what teachers must know and be able to do and provide evaluative measures of educator performance; and

(C) The use of two pieces of evidence at two points in time over the instructional term to demonstrate student learning as an indicator of educator performance. ~~and~~

~~(D) The use of school's school-wide student learning growth as measured by the state wide summative assessment as an evaluative measure of all educators employed in the school~~

(2) Eighty percent of the evaluation shall be based on an appraisal of the educator's ability to perform the critical standard elements of the professional teaching standards. The appraisal shall include conferences with the evaluator reinforced through observation. ~~Fifteen~~ Twenty percent of the evaluation shall be based on evidence of the learning of the students assigned to the educator in accordance with paragraph (C), subdivision (1) of this subsection. ~~and five percent of the evaluation shall be based on student learning growth measured by the school-wide score on the state summative assessment in accordance with paragraph (D), subdivision (1) of this subsection~~

(d) (1) The process adopted by the state board for evaluating the performance of principals and assistant principals shall include at least the following:

(A) Alignment with the West Virginia Professional Leadership Standards adopted by the state board establishing the responsibility of principals for the collective success of their school including the learning, growth and achievement of students, staff and self;

(B) Employment of the professional leadership standards to provide explicit and extensive measures of the work of school leadership focused on the continuous improvement of teaching and learning. The process shall include conferences and goal setting with the superintendent or his or her designee and the use of a survey of stakeholders to assist in identifying the needs and establishing the goals for the school and the principal. The survey shall be distributed to at least the following stakeholders: Students, parents, teachers and service personnel. The evaluative measures shall include the use of data, evidence and artifacts to confirm the principal's performance on achieving the goals established by the principal and superintendent; and

(C) The use of two pieces of evidence at two points in time over the instructional term to demonstrate the growth in student learning at the school. ~~and~~

~~(D) The use of the school's school wide student learning growth as measured by the state wide summative assessment as an evaluative measure of all educators employed in the school~~

(2) Eighty percent of the evaluation shall be based on an appraisal of the principal's or the assistant principal's ability to perform the critical standard elements of the professional leadership standards and achieve the goals established for the principal and the school. ~~Fifteen~~ Twenty percent of the evaluation shall be based on evidence of the learning of the students assigned to the school in accordance with paragraph (C), subdivision (1) of this subsection, ~~and five percent of the evaluation shall be based on student learning growth measured by the school-wide score on the state summative assessment in accordance with paragraph (D), subdivision (1) of this subsection.~~

(e) Evaluations of the performance of professional personnel shall serve the following purposes:

(1) Serve as a basis for the improvement of the performance of the professional personnel in their assigned duties;

(2) Serve as the basis for providing professional development specifically targeted on the area or areas identified through the evaluation process as needing improvement. If possible, this targeted professional development should be delivered at the school-site using collaborative processes, mentoring or coaching or other approaches that maximize use of the instructional setting;

(3) Serve as the basis for establishing priorities for the provision of county-level professional development when aggregate evaluation data from the county's schools indicates an area or areas of needed improvement;

(4) Serve as a basis for informing the teacher preparation programs in this state of an area or areas of needed improvement in the programs, or informing a specific program of needed improvement, when state-level aggregate evaluation data indicates that beginning teachers who have graduated from the program have specific weaknesses;

(5) Provide an indicator of level of performance of the professional personnel;

(6) Serve as a basis for programs to increase the professional growth and development of professional personnel; and

(7) Serve as documentation for a dismissal on the grounds of unsatisfactory performance.

(f) The rule adopted by the state board shall include standards for performance of professional personnel and the criteria to be used to determine whether their performance meets the standards. The rule also shall include guidance on best practices for providing time within the school day for teachers subject to performance evaluations under this section to participate in the collaborative mentoring or coaching and planning processes necessary for execution of the performance evaluation process and achieving advanced levels of performance.

(g) The rule adopted by the state board shall include provisions for written improvement plans when necessary to improve the performance of the professional personnel. The written improvement plan shall be specific as to what improvements are needed in the performance of the professional personnel and shall clearly set forth recommendations for improvements including recommendations for additional education and training of professionals subject to recertification. Professional personnel whose performance evaluation includes a written improvement plan shall be given an opportunity to improve his or her performance through the implementation of the plan.

(h) A professional person whose performance is considered to be unsatisfactory shall be given written notice of his or her deficiencies. A written improvement plan to correct these deficiencies shall be developed by the employing county board and the employee. The professional person shall be given a reasonable period of time, not exceeding twelve months, to accomplish the requirements of the improvement plan and shall receive a written statement of the resources and assistance available for the purposes of correcting the deficiencies. If the next performance evaluation shows that the professional is now performing satisfactorily, no further action may be taken concerning the original performance evaluation. If the evaluation shows that the professional is still not performing satisfactorily, the evaluator either shall make additional written recommendations for improvement or may recommend the dismissal of the professional personnel in accordance with the provisions of section eight, article two of this chapter.

(i) No person may evaluate professional personnel for the purposes of this section unless the person has an administrative certificate issued by the state superintendent and has successfully completed education and training in evaluation skills ~~through the center for professional development, or equivalent education training~~ approved by the state board, which will enable the person to make fair, professional, and credible evaluations of the personnel whom the person is responsible for evaluating.

(j) Prior to implementation of the evaluation process pursuant to this section at a school, each affected employee shall be given

training to ensure that the employees have a full understanding of the purposes, instruments and procedures used in evaluating their performance. Thereafter, this training shall be held annually at the beginning of the employment term.

§18A-3C-3. Comprehensive system for teacher and leader induction and professional growth.

(a) The intent of the Legislature is to allow for a multistep statewide implementation of a comprehensive system of support for building professional practice ~~of beginning teachers, specifically those on the initial and intermediate progressions,~~ consistent with sound educational practices and resources available. In this regard, it is the intent of the Legislature that the ~~transition of schools and school systems to a comprehensive system of support that includes~~ shall incorporate support for improved professional performance that is targeted on deficiencies identified through the educator personnel evaluation process and incorporated into the strategic plans for continuous improvement of schools and school systems. ~~will be implemented concurrent with the first year that a school or system receives final evaluation results from the performance evaluation process pursuant to section two of this article~~ Further, because of significant variability among the counties, not only in the size of their teaching force, distribution of facilities and available resources, but also because of their varying needs, the Legislature intends for the implementation of this section to be accomplished in a manner that provides adequate flexibility to the counties to design and implement a comprehensive system of support for improving professional performance that best achieves the goals of this section within the county. Finally, because of the critical importance of ensuring that all teachers perform at the accomplished level or higher in the delivery of instruction that at least meets the West Virginia Professional Teaching Standards and because achieving this objective at a minimum entails providing assistance to address the needs as indicated by the data informed results of annual performance evaluations, including the self-assessed needs of the teachers themselves, the Legislature expects the highest priority for county, regional and state professional development will be on

meeting these needs and that the transition to a comprehensive system of support for improving professional practice will reflect substantial redirection of existing professional development resources toward this highest priority.

(b) On or before ~~July 1, 2012~~ July 1, 2017, the state board shall publish guidelines on the design and implementation of a comprehensive system of support for improving professional practice. The purpose of the guidelines is to assist the county board with the design and implementation of a system that best achieves the goals of this section within the county. The guidelines may include examples of best practices and resources available to county boards to assist them with the design and implementation of a comprehensive system.

~~(c) For schools and school systems subject to the provisions of this article, the provisions of this article govern when they are in conflict with section two b, article three of this chapter relating to beginning teacher internships, or in conflict with other provisions of this chapter and chapter eighteen of this code~~

~~(d)~~ (c) Effective for the school year beginning ~~July 1, 2013~~ July 1, 2017, and thereafter, a county board is not eligible to receive state funding appropriated for the purposes of this section or any other provision of law related to beginning teacher and principal internships and mentor teachers and principals unless it has adopted a plan for implementation of a comprehensive system of support for improving professional practice, the plan has been verified by the state board as meeting the requirements of this section and the county is implementing the plan. The plan shall address the following:

(1) The manner in which the county will provide the strong school-based support and supervision that will assist beginning teachers in developing instructional and management strategies, procedural and policy expertise, and other professional practices they need to be successful in the classroom and perform at the accomplished level. Nothing in this subdivision prohibits a school or school system that was granted an exception or waiver from section two-c, article three of this chapter prior to the effective date

of this section from continuing implementation of the program in accordance with the exception or waiver;

(2) The manner in which the county will provide the strong support and supervision that will assist beginning principals in developing instructional leadership, supervisory and management strategies, procedural and policy expertise, and other professional practices they need to be successful in leading continuous school improvement and performing at the accomplished level or above;

~~(2)~~ (3) The manner in which the county in cooperation with the teacher preparation programs in this state will provide strong school-based support and assistance necessary to make student teaching a productive learning experience;

~~(3)~~ (4) The manner in which the county will use the data from the educator performance evaluation system to serve as the basis for providing professional development specifically targeted on the area or areas identified through the evaluation process as needing improvement. If possible, this targeted professional development should be delivered at the school-site using collaborative processes, mentoring or coaching or other approaches that maximize use of the instructional setting;

(4) (5) The manner in which the county will use the data from the educator performance evaluation system to serve as the basis for establishing priorities for the provision of county-level professional development when aggregate evaluation data from the county's schools indicates an area or areas of needed improvement;

~~(5)~~ (6) If a county uses master teachers, mentors, academic coaches or any other approaches using individual employees to provide support, supervision or other professional development or training to other employees for the purpose of improving their professional practice, the manner in which the county will select each of these individual employees based upon demonstrated superior performance and competence as well as the manner in which the county will coordinate support for these employees. *Provided, That the employment of persons for these positions shall adhere to the posting and other provisions of section seven a,*

~~article four of this chapter utilizing subsection (c) of said section seven a to judge the qualifications of the applicants~~ If the duties of the position are to provide mentoring to an individual teacher at only one school, then priority shall ~~being~~ be given to applicants employed at the school at which those duties will be performed;

~~(6)~~ (7) The manner in which the county will use local resources available, including, but not limited to, funds for professional development and academic coaches, to focus on the priority professional development goals of this section;

~~(7)~~ (8) The manner in which the county will adjust its scheduling, use of substitutes, collaborative planning time, calendar or other measures as may be necessary to provide sufficient time for professional personnel to accomplish the goals of this section as set forth in the county's plan; and

~~(8)~~ (9) The manner in which the county will monitor and evaluate the effectiveness of implementation and outcomes of the county system of support for improving professional practice.

~~(e)~~ (d) Effective the school year beginning ~~July 1, 2013~~ July 1, 2017, and thereafter, appropriations for beginning teacher and principal mentors and internships and any new appropriation which may be made for the purposes of this section shall be expended by county boards only to accomplish the activities as set forth in their county plan pursuant to this section. Effective the school year beginning July 1, ~~2013~~ 2017, and thereafter, no specific level of compensation is guaranteed for any employee service or employment as a mentor and such service or employment is not subject to the provisions of this code governing extra duty contracts. ~~except as provided in subdivision (5), subsection (c) of this section~~

~~(f)~~ (e) The Legislative Oversight Commission on Education Accountability shall review the progress of the implementation of this article and may make any recommendations it considers necessary to the Legislature during the ~~2013~~ 2018 regular legislative session.

CHAPTER 18B. HIGHER EDUCATION.**ARTICLE 16. HEALTH CARE EDUCATION.****§18B-16-5. Powers and duties of the vice chancellor.**

In addition to all other duties assigned to the vice chancellor by the ~~board of trustees~~ Higher Education Policy Commission, the vice chancellor shall:

(a) Provide assistance to communities in planning an educational and clinical component for the primary health care education sites;

(b) Coordinate and approve the provision of faculty members, students, interns and residents at the education sites;

(c) Report directly to the ~~board of trustees~~ Higher Education Policy Commission regarding the rural health initiative;

(d) Oversee the administration of the Kellogg foundation grant;

(e) Coordinate the rural health initiative with the allied health care education programs within the state college ~~system~~ and community college systems;

(f) Prepare the budget for the rural health initiative and submit the budget to the ~~board of trustees~~ Higher Education Policy Commission for their approval;

(g) Distribute the funds which were appropriated to the ~~board of trustees and the secretary of the Department of Education and the arts , by the Legislature~~ and the Higher Education Policy Commission for the rural health initiative;

(h) Mediate any disputes between the institutions of higher education regarding the rural health initiative;

(i) ~~Approve the plan submitted by the board of directors under section three, article three of this chapter;~~

~~(j)~~ (i) Consult with the ~~joint commission for vocational-technical occupational education established under section one, article three a~~ Council for Community and Technical College Education established under section three, article two-b of this chapter on the coordination of the education of student practical nurses with the rural health initiative; and

~~(k)~~ (j) Perform such other duties as may be prescribed by this article or as may be necessary to effectuate the provisions of this article.

§18B-16-8. Allocation of appropriations.

(a) The primary health care education sites established under this article shall be supported financially in part from line item appropriations to the university of West Virginia health sciences account. Funds shall be distributed to the state's schools of medicine upon consideration of the recommendations of the vice chancellor. Appropriations to the university of West Virginia health sciences account to support the rural health initiative shall be by line item, with at least one line item designated for primary health education program support at the schools of medicine and at least one line item designated for rural health initiative site support.

(b) The vice chancellor shall require each school of medicine to submit a detailed proposal which shall state, with specificity, how each school of medicine will be working to further the goals and meet the criteria set forth in this article and the amount of appropriation which would be needed by each school to implement the proposal.

The vice chancellor shall, giving consideration to ~~such~~ the proposals, prepare a comprehensive plan to be presented to the board of trustees, which plan shall include a recommendation for allocations of moneys appropriated for program support and a recommendation for the allocation of moneys designated for support of the primary health care education sites commensurate with each school's level of participation in such sites.

(c) Notwithstanding the provisions of section twelve, article three, chapter twelve of this code, any funds appropriated to the ~~board of trustees~~ Higher Education Policy Commission in accordance with the provisions of this section that remain unallocated or unexpended at the end of any fiscal year ~~shall~~ may not expire, shall remain in the line item to which they were originally appropriated and shall be available in the next fiscal year to the board of trustees or a school of medicine for allocation or expenditure for the purposes of this article.

~~(d) The rural health initiative shall also be supported, in part, from appropriations made to the secretary of the Department of Education and the arts, under a separate line item for the board of directors of the state college system for the rural health initiative, for distribution to participating health education programs under the board of directors. Appropriations shall not be expended or allocated until the required plan has been approved by the vice chancellor in accordance with section three, article three of this chapter.~~

~~Notwithstanding the provisions of section twelve, article three, chapter twelve of this code, any funds appropriated to the board of directors in accordance with the provisions of this section that remain unallocated or unexpended at the end of any fiscal year shall not expire, shall remain in the line item to which they were originally appropriated and shall be available in the next fiscal year to the board of directors for allocation or expenditure for the purposes of this article~~

(e) ~~(d)~~ Additional financial support shall come from fees generated by services, from grants and contracts, and from community resources. Any fees so generated shall be paid to and expended by the facility established as a primary health care education site unless an alternative fee arrangement is mutually agreed upon by the chief administrator of the site and the vice chancellor for health sciences.”

On the adoption of the amendment, Delegate Rowe demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 149**), and there were—yeas 39, nays 60, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Thompson, Ward and Williams.

Absent and Not Voting: White.

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

On motion of Delegates Nelson and Espinosa, the bill was amended on page thirty-five, section four, line eighteen, following the subdivision designation “(4)”, by striking out the word “Five” and inserting in lieu thereof the word “Six”.

And,

On page thirty-five, section four, line twenty, following the paragraph designation “(A)”, by striking out the word “Two” and inserting in lieu thereof the word “Three”.

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2679, Relating to the possession of firearms in parks and park facilities; on second reading, coming up in regular order, was read a second time.

Delegate Pushkin moved to amend the bill on page one, by striking out the enacting section and inserting in lieu thereof, the following:

“That §20-2-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows” and a colon.

And,

On page one, by striking out §7-11-5 in its entirety.

On the adoption of the amendment, Delegate Marcum demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 150**), and there were—yeas 7, nays 92, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Caputo, Fleischauer, Hornbuckle, Lane, Pushkin, Pyles and Rowe.

Absent and Not Voting: White.

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

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2702, Relating to excused absences for personal illness from school; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Cowles, the bill was amended on page two, section four, line twelve, by striking out subparagraph (ii) in its entirety and inserting in lieu thereof a new subparagraph (ii) to read as follows:

“(ii) Personal illness or injury of the student’s parent, guardian, custodian, or family member: *Provided*, That the excuse must provide a reasonable explanation for why the student’s absence was necessary and caused by the illness or injury in the family: *Provided, however*, That the principal may request additional documentation including, but not limited to, a statement from a medical, osteopathic or chiropractic physician, physician’s assistant, or nurse practitioner confirming the existence of the family member’s illness or injury” and a semicolon.

On page two, section four, line thirty-two, by striking out subdivision (4) in its entirety and inserting in lieu thereof a new subdivision (4) to read as follows:

“(4) All documentation relating to absences shall be provided to the school not later than three instructional days after the first day the student returns to school.”

And,

On page three, section four, line forty-seven, by striking the word “shall” and inserting in lieu thereof the word “may”.

On motion of Delegate Summers, the bill was amended on page two, section four, line thirty-four, by striking out subsection (b) in its entirety and re-lettering the remaining subsections accordingly.

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2709, Authorizing the City of South Charleston to levy a special district excise tax; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2734, Authorizing a method for the collection and remittance of property taxes related to dealers’ heavy equipment inventory; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2774, Defining special aircraft property; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2805, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3093, Establishing Broadband Enhancement and Expansion Policies; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

At 1:24 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

Evening Session

The House of Delegates was called to order by The Honorable Tim Armstead, Speaker.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 347, Com. Sub. for H. B. 2763, Com. Sub. for H. B. 2794, Com. Sub. for H. B. 2799, Com. Sub. for H. B. 2804, Com. Sub. for H. B. 2850, H. B. 2878, Com. Sub. for H. B. 2897, Com. Sub. for H. B. 2941 and Com. Sub. for H. B. 3096 on First Reading, Special Calendar, to the House Calendar.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for H. B. 2219, Agriculture, Department of, Livestock Care Standards,

Com. Sub. for H. B. 2346, Relating to motor vehicle license plates,

Com. Sub. for H. B. 2515, West Virginia Monument and Memorial Protection Act of 2017,

Com. Sub. for H. B. 2721, Removing the cost limitation on projects completed by the Division of Highways,

Com. Sub. for H. B. 2722, Eliminating the financial limitations on utilizing the design-build program for highway construction,

Com. Sub. for H. B. 2724, Relating to creating a pilot program under the Herbert Henderson Office of Minority Affairs,

H. B. 2745, Adding the examination of Advanced Care Technician,

H. B. 2788, Allowing military veterans with certain military ratings to qualify for examinations required of a probationary firefighter,

Com. Sub. for H. B. 2838, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician,

Com. Sub. for H. B. 2841, Requiring board members to have attended a board meeting in order to be compensated for the meeting,

Com. Sub. for H. B. 2846, Including high school students participating in a competency based pharmacy technician education and training program as persons qualifying to be a pharmacy technician trainee,

Com. Sub. for H. B. 2935, Relating to state flood protection planning,

Com. Sub. for H. B. 2948, Establishing timelines for taking final action on certain permits,

Com. Sub. for H. B. 2949, Exempting specified Division of Natural Resources' contracts for some replacement, repair or design for repairs to facilities from review and approval requirements,

Com. Sub. for H. B. 2980, Relating to civil lawsuit filing fees for multiple defendant civil action,

H. B. 3018, Adding definition of correctional employee to the list of persons against whom an assault is a felony,

Com. Sub. for H. B. 3020, Relating to criminal penalties for the offenses of hunting, trapping or fishing on the lands of another person,

H. B. 3053, Relating to motor vehicle lighting,

Com. Sub. for H. B. 3064, Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes,

H. B. 3101, Creating a misdemeanor for violation of catching, taking or killing fish within two hundred feet of agency personnel stocking fish into public waters,

H. B. 3105, Relating to the Licensed Racetrack Modernization Fund,

And,

H. B. 3106, Relating to increasing the number of limited video lottery terminals.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 90, Study on the feasibility of light fidelity (“Li-Fi”),

H. C. R. 91, Alleen Ledson Memorial Bridge,

And,

H. C. R. 92, U.S. Army SGT Eugene Dawson Memorial Highway,

And reports the same back with the recommendation that they each be adopted.

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. R. 10, Relating to empowering the House Committee on the Judiciary to investigate allegations of impeachable offenses against Steven O. Callaghan, Circuit Judge-Elect of the Twenty-Eighth Judicial Circuit,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on the Judiciary.

The resolution (H. R. 10) was referred to the Committee on the Judiciary.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2966, Creating the West Virginia Sentencing Commission,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2966 – “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 and §15-9C-5, all relating to creating the West Virginia Sentencing Commission; establishing the commission as a standing subcommittee of the Governor’s committee on crime, delinquency and correction; authorizing commission to seek and utilize funding and grants; setting forth legislative findings; establishing composition and membership of commission; setting forth the powers and duties of the commission;

setting forth objectives for the commission; directing commission provide annual assessment and recommendations to the Legislature; and authorizing commission to make additional recommendations to the Legislature,”

With the recommendation that the committee substitute do pass.

Delegate Hanshaw, 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 23rd day of March, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 302, Supplemental appropriation of federal funds from Treasury to Division of Human Services.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

Com. Sub. for H. B. 2028, Relating to the venue for suits and other actions against the State.

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

Senators Smith, Rucker and Woelfel.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Hanshaw, Moore and Isner.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

Com. Sub. for H. B. 2099, Defining the act of leaving the scene of a crash involving death or serious bodily injury as a felony; Erin's Law.

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

Senators Weld, Maynard and Jeffries.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Zatezalo, Hollen and Canestraro.

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

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate White.

Miscellaneous Business

Delegate Hamilton announced that he was absent today when the vote was taken on Roll No. 144, and that had he been present, he would have voted “Yea” thereon.

Delegate Summers filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 2453.

Delegate Rohrbach filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 2755.

At 5:24 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, March 24, 2017.

Friday, March 24, 2017

FORTY-FIFTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Thursday, March 23, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 2004, Com. Sub. for H. B. 2763, Com. Sub. for H. B. 2799, Com. Sub. for H. B. 2850 and Com. Sub. for H. B. 3096 on First Reading, House Calendar, to the Special Calendar.

Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2704, Prohibiting persons convicted of sexual offenses against children with whom they hold positions of trust from holding certification or license valid in public schools,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2704 – “A Bill to amend and reenact §18A-3-6 and §18A-3-10 of the Code of West Virginia, 1931, as amended, all relating generally to the licensure or certification of

teachers, providing that a teacher convicted under chapter sixty-one, article eight-d, section five shall have his or her certificate or license automatically revoked and permitting the West Virginia Department of Education to require a licensee submit to fingerprints that may be analyzed by the State Police for a state criminal history record check through the central abuse registry and then forwarded to the federal bureau of investigation for a national criminal history record check when the licensee has lived outside of the State of West Virginia for a period of one year or more since his or her licensure, or the West Virginia Department of Education or the school administrator has a reasonable belief that the licensee has not notified the school administrator of any felony conviction, conviction of any offense under chapter sixty-one, article eight-b of this Code, or offenses of similar nature to those in chapter sixty-one, article eight-b of this Code that have been established under any other state or the United States,”

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2109, Relating to the West Virginia Land Reuse Agency Authorization Act,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2109 – “A Bill to amend and reenact §31-18E-9 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Land Reuse Agency Authorization Act; including a municipal land bank as an agency that may acquire property; providing that a municipal land bank may have the right of first refusal to buy certain tax delinquent property, within municipal limits, for taxes owed and any related fees before the tax delinquent property is placed for public auction at tax sales,”

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2520, Prohibiting the use of a tanning device by a person under the age of eighteen,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2520 – “A Bill to amend and reenact §16-45-3 of the Code of West Virginia, 1931, as amended, relating to prohibiting the use of a tanning device by a person under the age of eighteen,”

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2654, Expanding county commissions’ ability to dispose of county or district property,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2654 – “A Bill to amend and reenact §7-3-3 of the Code of West Virginia, 1931, as amended, relating to expanding county commissions’ ability to dispose of county or district property; adding the ability of county commissions to grant such property to 501(c)(3) tax exempt organizations operated exclusively for charitable, educational or scientific purposes; noting that such sales are not required to be made considering the property’s present commercial or market value; setting a minimum value for such sales; revising the requirement that property

conveyed to volunteer fire department or volunteer ambulance service reverts back to county commission following termination of use to account for the 501(c)(3) tax exempt organizations operated exclusively for charitable, educational or scientific purposes; and, to provide that such reversionary right may be disclaimed by the county commission,”

And,

H. B. 2781, Requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2781 – “A Bill to amend and reenact §3-1-34 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-2-11 of said code, all relating to voting procedures; setting forth the effective date for voter identification requirements passed in the 2016 Legislative session; removing the requirement that the Division of Motor Vehicles forward information of persons who decline voter registration to the Secretary of State; amending the effective date for voter registration requirements passed in the 2016 Legislative session; and, providing that the Division of Motor Vehicles shall report to the Joint Committee on Government and Finance by January 1, 2018 with a full and complete list of all infrastructure they require to achieve certain purposes,”

With the recommendation that the committee substitutes each do pass.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2720, Allowing the School Building Authority to transfer funds allocated into the School Construction Fund,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2720 – “A Bill to amend and reenact §18-9D-3 and §18-9D-9 of the Code of West Virginia, 1931, as amended, all relating to the funding of the School Building Authority operational costs; continuing a special revenue account,”

H. B. 2776, Creating of special revenue funding sources for the Division of Labor,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2776 – “A Bill to amend and reenact §21-3-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-3C-11 of the said code; to amend and reenact §21-3D-8 of said code; to amend and reenact §21-5-5c of said code; to amend and reenact §21-14-9 of said code; to amend and reenact §21-16-10 of said code; to amend and reenact §47-1-8, §47-1-20, §47-1-21 and §47-1-22 of said code; and to amend and reenact §47-1A-10 and §47-1A-14 of said code, all relating generally to the Division of Labor; establishing “Steam Boiler Fund”; establishing “HVAC Fund”; establishing “Plumbing Work Fund”; establishing “Psychophysiological Examiners Fund”; establishing “Bedding and Upholstery Fund”; requiring the commissioner to charge certain fees for steam boilers; authorizing the commissioner to promulgate legislative and emergency rules to administer and enforce fees on service persons and service agencies and businesses using weighing and measuring devices; directing civil penalty fees to the Weights and Measures Fund; removing requirement that the commissioner approve applications for sterilization permits held in states other than West Virginia only after personal inspection of such sterilizer or disinfectant; increasing maximum fees for the issuance of certificates of operation of elevators; establishing certain late fees; establishing certain reissuance fees for revoked or expired permits; increasing certain fees for sterilizers, manufacturers, shippers or sellers of bedding or upholstery, upholsters and renovators; and authorizing the commissioner to promulgate legislative rules,”

H. B. 2961, Relating generally to charitable bingo games and charitable raffles,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 2961 – “A Bill to amend and reenact §47-20-23 and §47-20-31 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-21-21 and §47-21-30 of said code, all relating to appeals of certain administrative actions taken by the Tax Commissioner affecting certain charitable bingo or charitable raffle licensees,”

H. B. 3048, Relating to collection of Tier II fees for chemical inventories,

And reports back a committee substitute therefore, with the same title, as follows:

Com. Sub. for H. B. 3048 – “A Bill to amend and reenact §15-5A-5 of the Code of West Virginia, 1931, as amended, relating to collection of Tier II fees for chemical inventories,”

And,

H. B. 3102, Relating to selling Hopemont Hospital,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 3102 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-26, relating to the selling of a certain state owned health care facility and appurtenances by the Secretary of the Department of Health and Human Resources; ensuring the transfer of existing patients and the construction of a replacement facility; exempting certain laws; creating a fund; implementing a benefits package for employees; and providing statutory construction,”

With the recommendation that the committee substitutes each do pass.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2963, Eliminating tax lien waiver requirement for estates of nonresidents,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2962, Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors,

H. B. 2967, Relating generally to administration of estates and trusts,

And,

H. B. 3091, Relating generally to employer withholding taxes,

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

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 23, 2017, he approved **Com. Sub. for H. B. 2167, Com. Sub. for H. B. 2301, H. B. 2431, Com. Sub. for H. B. 2542, H. B. 2590 and H. B. 2594.**

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 339 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-52-1, §16-52-2, §16-52-3, §16-52-4, §16-52-5 and §16-52-6, all relating to creating a legislative coalition on chronic pain management; setting forth findings and purpose; providing for administrative functions of the coalition to be performed by legislative staff; setting forth membership of the coalition; providing for appointments to be made by the President of the Senate and the Speaker of the House of Delegates; setting forth powers and duties of the coalition; setting forth required reporting; setting forth reporting data elements; providing for compensation of members; and providing a sunset date”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 362 – “A Bill to amend and reenact §23-2C-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-22A-10d and §29-22A-10e of said code, all relating to authorizing the redirection of certain amounts to the General Revenue Fund; authorizing the redirection of amounts collected from certain surcharges and assessments on workers’ compensation insurance policies for periods prior to July 1, 2018; changing the amount of premium surcharge to be paid by the self-insured employer community into the Workers’ Compensation Debt Reduction Fund; and authorizing the redirection of amounts collected from certain deposits of revenues from net terminal income for periods prior to July 1, 2018.”

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 362) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 382 – “A Bill to amend and reenact §17-24A-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17A-4-10 of said code, all relating to certificates of title and registration for motor vehicles; allowing licensed automobile auctions to obtain title to abandoned or junked motor vehicles; making technical corrections; allowing insurance companies to obtain salvage certificates, cosmetic total loss salvage certificates or nonrepairable motor vehicle certificates to motor vehicles for which a total loss claim was paid; allowing licensed automobile auction to obtain salvage certificates or nonrepairable motor vehicle certificates to certain vehicles; specifying application requirements that require the Division of Motor Vehicles to issue certificates; and requiring applicant to indemnify and hold harmless the division from liability due to error or misrepresentation of applicant”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 414 – “A Bill to repeal §17-16B-1, §17-16B-2, §17-16B-3, §17-16B-4, §17-16B-5, §17-16B-6, §17-16B-7, §17-16B-7a, §17-16B-7b, §17-16B-8, §17-16B-9, §17-16B-10, §17-16B-11, §17-16B-12, §17-16B-13, §17-16B-14, §17-16B-15, §17-16B-16, §17-16B-17, §17-16B-18, §17-16B-19, §17-16B-20, §17-16B-21 and §17-16B-22 of the Code of West Virginia, 1931, as amended; to repeal §29-2A-1, §29-2A-2, §29-2A-3, §29-2A-3a, §29-2A-4, §29-2A-5, §29-2A-6, §29-2A-7, §29-2A-8, §29-2A-9, §29-2A-10, §29-2A-11, §29-2A-11a, §29-2A-11b, §29-2A-11c, §29-2A-11d, §29-2A-11e, §29-2A-11f, §29-2A-12, §29-2A-13, §29-2A-14, §29-2A-17, §29-2A-18, §29-2A-19, §29-2A-20, §29-2A-21, §29-2A-22, §29-2A-23, §29-2A-24, §29-2A-25, §29-2A-26, §29-2A-27 and §29-2A-28 of said code; to repeal §29-18-1, §29-18-2, §29-18-3, §29-18-4, §29-18-4a, §29-18-5, §29-18-6, §29-18-7, §29-18-8, §29-18-9, §29-18-10, §29-18-11, §29-18-12, §29-18-13, §29-18-14, §29-18-15, §29-18-16, §29-18-17, §29-18-18, §29-18-19, §29-18-20, §29-18-21, §29-18-22, §29-18-23, §29-18-24 and §29-18-25 of said code; to

amend and reenact §5F-2-1 of said code; and to amend said code by adding thereto a new article, designated §17-16F-1, §17-16F-2, §17-16F-3, §17-16F-4, §17-16F-5, §17-16F-6, §17-16F-7, §17-16F-8, §17-16F-9, §17-16F-10, §17-16F-11, §17-16F-12, §17-16F-13, §17-16F-14, §17-16F-15, §17-16F-16, §17-16F-17, §17-16F-18, §17-16F-19, §17-16F-20, §17-16F-21, §17-16F-22, §17-16F-23, §17-16F-24, §17-16F-25, §17-16F-26, §17-16F-27, §17-16F-28, §17-16F-29, §17-16F-30, §17-16F-31, §17-16F-32, §17-16F-33, §17-16F-34, §17-16F-35 and §17-16F-36, all relating to creating the Division of Multimodal Transportation; combining the powers and duties and eliminating certain references to the Public Port Authority, the West Virginia State Rail Authority and the state Aeronautics Commission; providing for legislative findings and creation of the division; transferring employees, equipment, assets, liabilities, contracts, agreements, functions and duties to the division; providing for all property currently held by the Public Port Authority, the West Virginia State Rail Authority and the state Aeronautics Commission to be transferred to the division; authorizing the Secretary of the Department of Transportation to appoint the director; providing for qualifications for the director; establishing general powers and duties of the director; defining terms; establishing the powers and duties of the division generally; requiring division to promote, supervise and support safe, adequate and efficient transportation, preserve rail, water and airway facilities and promote economic development and tourism; authorizing division to work cooperatively with similar entities within and without the state; providing for siting, development and operation of facilities; authorizing employment of trained and qualified staff and consultants and compensating therefor; providing the right to enter into contracts and agreements; authorizing acquisition of various types and interests in property to be held in the name of the state; authorizing use of eminent domain; authorizing acquisition and disposal of property by various means; authorizing interagency cooperation; authorizing division to act on behalf of the state in planning, financing, development, construction and operation of port, railroad and aeronautic projects or facilities; reporting annually to Legislature on status of projects, operations, finances and related information; authorizing study and assessment of state transportation needs; authorizing use of various financing options including issuing revenue bonds and receipt of grants and loans;

authorizing division to make grants and loans to governmental agencies and persons for multimodal transportation projects; permitting collection of reasonable fees and charges connected to making and servicing loans, notes, bonds and other obligations; granting rule-making authority to the division; continuing all rules, policies and orders of the combined entities until revised and reissued by the division; requiring strategic plan and reports to the Governor and the Legislature; requiring collection and analysis of shipping through state ports; providing for confidentiality of collected information and providing criminal penalty for violation; providing that division employees may not have direct or indirect financial interest in contracts, sale of property of the division and providing criminal penalty for violation; providing that activities of division are for public purpose; authorizing the division to use certain property or facilities of a public utility, common carrier, public road or railroad for certain public projects; requiring the division to relocate any such property or facilities; providing for rules regarding relocation or removal of railroad or public utility located on division property; requiring the division to pay for said relocation or removal; encouraging participation of private enterprise in construction and operation of facilities; authorizing lease back to division; authorizing development of foreign trade zones, free trade zones, ports of entry and customs zones; providing for specific duties related to port projects; authorizing the division to act on behalf of the state in developing, operating, improving and maintaining ports; authorizing the division to coordinate and cooperate with other port entities; creating the West Virginia Multimodal Operations Fund and transference of funds and liabilities of the West Virginia Public Port Authority Operations Fund; eliminating local port authority districts; providing for specific duties related to rail projects; authorizing the exercise of powers necessary to qualify for federal subsidies; authorizing various means to carry out rail projects that are consistent with state plan with other entities; providing authority for the division to establish, fund, construct, reconstruct, acquire, repair, replace, operate, maintain and make available to other entities railroad projects; providing that research and development of railroads may be conducted; providing that contracts may be entered into to acquire various rolling stock, equipment or trackage and providing the requirements therefor; providing for the authority to enter into

agreements that are beneficial to railroad projects notwithstanding other code provisions, including the authority to reject bids; authorizing division to purchase various types of insurance; authorizing the collection of fees for use of rail projects; providing for the administration and coordination of a state plan, including the distribution of federal subsidies; providing for investigation, research, promotion and development with public participation; authorizing the provision of fiscal assurances and adoption of accounting procedures necessary to continue subsidies; authorizing compliance with applicable federal regulations; authorizing all actions necessary to maximize federal assistance for rail subsidies; providing powers necessary to coordinate with the Maryland Transit Administration for continued operation in the state, including negotiation and contracting authority; providing that any commuter rail operation agreement will meet certain service standards; providing that any track access fees to be paid pursuant to the agreement shall be paid from the West Virginia Commuter Rail Access Fund; authorizing sale or transfer of interest in rail property with federal approval when required; authorizing assistance to entities seeking federal railroad service certification, including the provision of any necessary assurances or guarantees; authorizing division to retain attorney or others to title ownership of rail properties within the state; requiring rail properties offered for sale within the state to be offered first to the state; providing that division may acquire railroad rights in other states and may cooperate with other states in so purchasing any rail properties; providing for the division to give consideration to county or municipality interest in acquiring abandoned property interest and providing for the division to acquire any such abandoned property for subsequent conveyance to a county or municipality; authorizing the division to apply for and utilize federal funds or loans in carrying out its purposes of this article; authorizing the purchase of any railroad rolling stock, equipment and machinery necessary for the operation and maintenance of state rail properties and authorizing contracts with the Division of Highways for maintenance or purchase of vehicles; authorizing maintenance, rebuilding or relocation of state rail properties and authorizing expenditures for the modernization, rebuilding and relocation of any rail properties owned by the state or private carrier; providing for contracting with domestic or foreign entities to provide, maintain or improve rail transportation service on state rail properties; providing

for transfer of rail properties to other entities within the state when permitted by the Governor; authorizing the division to resolve conflicts when multiple entities want to utilize the same rail property; providing for proceeds from the sale of state rail property to be deposited in Railroad Maintenance Fund; terminating Railroad Maintenance Authority Fund and creating a Railroad Maintenance Fund for proceeds and expenditures related to division's purpose; authorizing expenditure from any fund for study of proposed rail projects and use of funds from Railroad Maintenance Fund for study and engineering costs; authorizing the issuance of railroad maintenance revenue bonds and notes for costs of rail projects, including issuance of renewal notes and bond refund, with aggregate amount of all issues of bonds and notes outstanding at one time not exceeding amount capable of being serviced by revenues received; providing that issues of bonds or notes are negotiable instruments and are obligations of the division and are payable out of the revenues which are pledged for such payment; providing for maturity date, terms of execution, sale, redemption and delivery; authorizing the establishment of various conditions necessary to secure sufficient funds to protect bonds or notes; providing that person executing bonds or notes is not personally liable therefor; providing for trust agreement to secure bonds issued by division and creating conditions therefor, not including mortgage of any rail project; allocating expenses of bond issuance or trust agreement to rail projects; providing for civil action for bondholders seeking to enforce rights granted; providing that bonds are payable from division revenues and are not a debt of state or political subdivision; restricting division from incurring debt on behalf of state or political subdivision; authorizing use of proceeds from bonds to carry out division's powers and prohibiting commingling with other funds; providing for the investment of excess funds by West Virginia State Board of Investments; authorizing division to collect rents or revenues for use of rail projects; providing for cooperation with other governmental agencies to effect acquisition of rail project or bond issuance; authorizing division to maintain rail projects in good repair; providing that railroad maintenance bonds are lawful investments for various entities; continuing West Virginia Commuter Rail Access Fund which is administered by division director; requiring division to establish a state rail plan that complies with federal requirements for funding; providing for specific duties

related to aeronautics projects; authorizing division to advance development of aeronautics in cooperation with municipalities; authorizing rules necessary for public safety related to airports and aeronautics; providing for the expenditure of funds for various needs of Civil Air Patrol; authorizing division to fund grants for public airport authorities; authorizing division to receive federal funding to support airports or air navigation facilities; providing for procedures and conditions for use of federal funds; requiring a federal license to operate an aircraft; allowing for the use of state and municipal facilities and services; disposing of fees collected under this code section; and a severability clause”; which was referred to the Committee on Roads and Transportation then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 461 – “A Bill to amend and reenact §5A-3-1 and §5A-3-3 of the Code of West Virginia, 1931, as amended, all relating to exempting the West Virginia State Police from state purchasing requirements; requiring the Legislative Auditor to audit purchasing made by the West Virginia State Police and report the findings to the Joint Committee on Government and Finance; and requiring the West Virginia State Police report to the Joint Committee on Government and Finance on the effects of exempting said agency from state purchasing requirements”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 467 – “A Bill to amend and reenact §29-22B-903 and §29-22B-1408 of the Code of West Virginia, 1931, as amended, all relating generally to limited video lottery; increasing the maximum wager permitted per limited video lottery game; removing restrictions on bill denominations accepted by limited video lottery terminals; and fixing the state’s share of gross

terminal income at fifty percent”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 472 – “A Bill to amend and reenact §20-2-22a, §20-2-23, §20-2-24 and §20-2-26 of the Code of West Virginia, 1931, as amended, all relating to outfitters and guides; setting forth license fees; creating special bear outfitter guide license for certain areas; clarifying when license may be issued; and making technical corrections”; which was referred to the Committee on Agriculture and Natural Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 479 – “A Bill to amend and reenact §60-3-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-3A-17, §60-3A-18 and §60-3A-25 of said code, all relating to the regulation of liquor sales; providing for the days on which state stores and agencies may be open; eliminating the prohibition on the sale of liquor by retail licensees on any Sundays; providing for when retail licensees may not sell liquor on Sundays and other days; and providing that the wholesale markup on all liquor, other than wine, shall be a maximum of twenty-eight percent”; which was referred to the Committee on Government Organization then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 499 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §14-1A-1, §14-1A-2 and §14-1A-3, all relating to creating the Debt Resolution Services Division within the Auditor’s office; providing for powers and duties of the division; defining terms; providing for administration of division; authorizing the offset of a payment due to a vendor, contractor or taxpayer from the state to satisfy an outstanding obligation owed by them to the state; authorizing the administration of the United States Treasury Offset Program; providing for responsibilities of the State Tax Commissioner and spending units of the state; providing for the adoption of procedures, forms, and agreements; and directing the deposit of moneys offset”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 523 – “A Bill to amend and reenact §4-2A-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §11B-2-12 of said code; to amend and reenact §12-3-12a and §12-3-13b of said code; to amend and reenact §15-2-5 of said code; to amend and reenact §18-3-1 of said code; to amend and reenact §20-1-5 of said code; to amend and reenact §20-7-1 of said code; to amend and reenact §22C-1-4 of said code; to amend and reenact §24-1-3 of said code; to amend and reenact §24A-6-6 of said code; to amend and reenact §24B-5-2 of said code; to amend and reenact §25-1-19 of said code; to amend and reenact §31-19-4 of said code; to amend and reenact §33-2-2 of said code; to amend and reenact §50-1-8 and §50-1-9 of said code; to amend and reenact §51-7-3 and §51-7-5 of said code; to amend and reenact §51-8-2 of said code; and to amend and reenact §62-12-5 of said code, all relating to converting to a biweekly pay cycle from a monthly or semimonthly cycle for state employees; modifying pay cycle of members of the legislature; submitting expenditure schedules to the Secretary of the Department of Revenue; modifying pay cycle of employees of the Higher

Education Policy Commission, Council for Community and Technical College Education and institutions which they govern; modifying pay cycle of the West Virginia State Police; modifying pay cycle of the State Superintendent of Schools; modifying pay cycle of the Division of Natural Resources; modifying pay cycle of the Water Development Authority; modifying pay cycle of the Public Service Commission; modifying pay cycle of the Division of Corrections; modifying pay cycle of West Virginia Community Infrastructure Authority; modifying pay cycle of the Insurance Commissioner; modifying pay cycle of magistrate courts; modifying pay cycle of official court reporters; modifying pay cycle of state law librarian and assistants; and modifying pay cycle of probation officers and clerical assistants”; which was referred to the Committee on Government Organization then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 533 – “A Bill to amend and reenact §8-13-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3-9d of said code; and to amend and reenact §60-4-3b of said code, all relating to the collection of taxes on wine and intoxicating liquors; providing that no wine or liquor excise tax shall be collected on purchases of wine or intoxicating liquors in the original sealed package for the purpose of resale if the final purchase of such wine or intoxicating liquor is subject to the excise tax; and defining terms”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 572 – “A Bill to amend §3-1-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said code; to amend and reenact §3-5-13 and §3-5-13a of said code; to amend and reenact §3-10-1 and §3-10-8 of said

code; and to amend said code by adding thereto a new section, designated §3-10-8a, all relating to providing for the nonpartisan election of county surveyors; providing that county surveyors are to be elected on a nonpartisan basis beginning with the general election of 2020; clarifying ballot placement for nonpartisan election for county surveyor; clarifying ballot heading for nonpartisan election for county surveyor; and specifying manner of appointment of a successor when an elected county surveyor vacates office”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 585 – “A Bill to repeal §24-3-1b of the Code of West Virginia, 1931, as amended, relating to locomotive crew size”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 595 – “A Bill to amend and reenact §11-4-2 of the Code of West Virginia, 1931, as amended, relating to authorizing county assessors to make separate entries in their landbooks when real property is partly used for exempt, and partly for nonexempt, purposes”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 684 – “A Bill to amend and reenact §15-2-10 and §15-2-24 of the Code of West Virginia, 1931, as amended, all relating generally to the West Virginia State Police; and correcting agency

referrals and code citations relating to the West Virginia State Police”; which was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Phillips, Eldridge and Maynard offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 100 – “Requesting the Division of Highways to name a portion of West Virginia Route 10, near McConnell in Logan County, beginning at a point, latitude 37.823846, longitude -81.958422, and ending at a point, latitude 37.833712, longitude -81.966816, the ‘U. S. Air Force CMSGT Charlie Randolph Hopkins and U. S. Air Force MSGT James Paul Hopkins Road’.”

Whereas, Chief Master Sergeant Charlie Randolph Hopkins was born January 25, 1954, in Stollings, before moving to McConnell later in the year; and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins attended McConnell Grade School, Logan East Junior High School, and graduated from Logan High School on June 3, 1971. He joined the Boy Scouts in the 7th grade, was a member of Troop 99, which met at the Presbyterian Church in Logan and his Scoutmaster was Wilburn D. White, and achieved the rank of Eagle Scout during first year of high school. For doing that Chief Master Sergeant Charlie Randolph Hopkins’ parents sent him to the 1969 Boy Scout National Jamboree held at Farragut State Park, Coeur d’Alene, Idaho; and

Whereas, One week after completing high school, at age seventeen, Chief Master Sergeant Charlie Randolph Hopkins (and twelve other Logan High school graduates) was on his way to Air Force Basic Training. He was the youngest person his recruiter (then Technical Sergeant Gale L. Redden) ever put in the Air Force. Basic Training lasted six weeks and on the morning of July 26, 1971, he was put on a bus heading for Keesler Air Force Base in Biloxi, Mississippi where he started the basic electronics course, completing it at the Christmas break. The second portion of the school was called “Sets” and was to allow trainees to get hands-on experience with some of the

equipment they'd work on in the field. Chief Master Sergeant Charlie Randolph Hopkins graduated the Ground Radio Maintenance Technician course on April 4, 1972, and reported to Bedford Air Force Station, Virginia on April 26. Bedford was a 98-man aircraft control and warning (technically referred to as AC&W) radar site that was located on the Blue Ridge Parkway. Once the radio maintenance work center closed in 1975, Chief Master Sergeant Charlie Randolph Hopkins was tasked with NonCommissioned Officer of the Day (NCO) duties. Most pertained to site security. He was stationed there for 39 months, working with the man who had recruited him, now Master Sergeant Redden; and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins' next assignment took him to another AC&W radar site in northern Minnesota. This site was located 75 miles north of Duluth, just a couple of miles from a small town, Finland. Where he spent 49 weeks before departing for his first overseas assignment. Originally scheduled to go to the 1982nd Communications Squadron, Kunsan Air Base, Korea, Chief Master Sergeant Charlie Randolph Hopkins was diverted to Kwang Ju Air Base after arrival. He had been there about four months when his Operating Location (OL) Chief told him he had received the Air Force Commendation Medal for work in Minnesota. He was informed that it was being held because the Air Force Communications Service (AFCS) Commander, Major General Rupert Burris, was scheduled to visit and he wanted the decoration to be pinned on by the Major General. Later Chief Master Sergeant Charlie Randolph Hopkins found out the decoration was approved and signed by General Daniel "Chappie" James, the first African-American to make General (four-star) in the Air Force. The medal was pinned on February 22, 1977; and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins left Korea on September 3, 1977, and arrived at Fort Riley, Kansas on September 26. He had made Staff Sergeant in Korea and was now in charge of the radio maintenance work center at the Air Force unit at Fort Riley. The unit provided close air support for the First Infantry Division, "The Big Red One", as it was known. His unit only had 25 personnel: 8 officers and 17 enlisted. He was there for 38 months and

then went back to Korea, where he was stationed to Osan Air Base and the 2146th Communications Group; and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins was in Korea this time for 18 months and it was during this tour he met the love of his life, Chong Ok Ahn, and got married. Chief Master Sergeant Charlie Randolph Hopkins was the first American to be married at the Korea House in Seoul and the wedding was published in a Korean magazine, "Wife's Life". He departed Korea on May 13, 1982, heading for a small 14-man high-frequency receiver site in the middle of nowhere, Schriber State Airfield, Nebraska. While there he was sent to a 10-week course on the new equipment, and was recognized as an Honor Graduate. They were only in Nebraska for 12 and 1/2 months; and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins departed on July 14, 1983, going back to Osan, where they stayed only 12 months. His next assignment took them to Shaw Air Force Base, South Carolina where his brother, Master Sergeant James Paul Hopkins, was also stationed. It was the only time in their careers they were stationed together. At Shaw, Chief Master Sergeant Charlie Randolph Hopkins attended the Air Force Non-Commissioned Officer's Academy, where he made Master Sergeant (first time eligible), earned an Associate's in Applied Science (AAS) in Radio Systems Technology degree, an Associate of Arts (AA) degree in Liberal Arts, and a Bachelor of Arts (BA) degree in Human Resources Development, graduating Summa Cum Laude; and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins was at Shaw for 38 and 1/2 months and departed for the 1982nd Communications Squadron, Kunsan Air Base, Korea, learning on St. Patrick's Day 1988 that he had been selected for promotion to Chief Master Sergeant (first time eligible). He was also selected as a primary attendee for the Air Force Senior Non-Commissioned Officer's Academy (AFSNCOA), but had to wait almost a year to pin on his next rank, on February 28, 1989, with the rank being effective March 1. The pin-on was done by his unit commander, Major John Goodman and wing commander, Colonel Joseph Hurd; and

Whereas, He received an assignment to Osan and a class date for the AFSNCOA. Chief Master Sergeant Charlie Randolph Hopkins would go to the school, then report back for a new assignment. Chief Master Sergeant Charlie Randolph Hopkins' best friend in the Air Force, Senior Master Sergeant Randy L. Winn, and he attended together. Winn was already at Osan and they made the trip together. Their class was from May to July 1989. Chief Master Sergeant Charlie Randolph Hopkins then took some leave to visit his parents, this ended up being his longest assignment in his Air Force career: 61 months. One of their Wing Commanders (1994-95) during this assignment was Brigadier General Robert H. "Doc" Foglesong from Williamson. During this assignment, he was involved with a lot of volunteer work and in 1993 was recognized as the Seventh Air Force Volunteer of the Year for 1992. Seventh Air Force covers all Air Force personnel in Korea; and

Whereas, In August 1994, Chief Master Sergeant Charlie Randolph Hopkins moved to Kelly Air Force Base, Texas. He was in the 93rd Intelligence Squadron, his first and only assignment with the Air Intelligence Agency. Chief Master Sergeant Charlie Randolph Hopkins made his final Air Force promotion, Chief Master Sergeant (Chief), while with this unit. Because there was no Chief position for him in the 93rd, he moved to the 67th Support Squadron on Security Hill and was in this unit a total of 8 and 1/2 months. During that time, he did a one-month temporary duty assignment back to Korea to work with two electrical engineers in the completion of an electromagnetic compatibility survey and a three-month deployment to Saudi Arabia and the 4416th Intelligence Squadron (Provisional); and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins was the Chief of Maintenance and responsible for all the ground and aircraft communications maintenance for the unit. The aircraft being the RC-135 (Rivet Joint) which was an intelligence gathering plane and flew the "box" between northern Saudi Arabia and southern Iraq. As the Chief of Maintenance, he was allowed to fly on one of the missions and observe the operations first-hand. While in Saudi Arabia he was selected for reassignment to Camp Zama, Japan where he became the Communications Station Chief, somewhat like an enlisted commander. It was a small unit with only 50 personnel but had the

responsibility for all the long-haul communications in the Kanto Plains (Tokyo area). It was proving to be a great assignment. However, he ended up putting in for a humanitarian reassignment because of his father-in-law. So, after only 9 and 1/2 months they were moving again, back to Korea; and

Whereas, This time Chief Master Sergeant Charlie Randolph Hopkins was going to a tactical communications unit that provided close air support for the Second Infantry Division, stationed 26 miles north of Seoul and within artillery range of North Korea. During this assignment, Chief Master Sergeant Charlie Randolph Hopkins had the opportunity to be the acting Seventh Air Force Command Chief Master Sergeant, the highest-ranking Air Force enlisted position in Korea. It was only for two weeks in January 1999. The Seventh Air Force Commander at that time was Lieutenant General Joseph Hurd (the same Colonel Hurd that pinned his Senior Master Sergeant stripes on 10 years earlier). At the end of the first week there was a banquet to attend at Kunsan. As the general and Chief Master Sergeant Charlie Randolph Hopkins were walking Chief Master Sergeant Charlie Randolph Hopkins told him, "Sir, we're going home." He said, "Chief, what do you mean?" He replied, "Well, sir, I was stationed at Kunsan when you were the Wing Commander and you actually pinned on his Senior Master Sergeant stripes." He then said, "Chief, I guess we're going home"; and

Whereas, In July 1999, Chief Master Sergeant Charlie Randolph Hopkins received a call from the Command Chief asking if he was ready to come back, i.e., fill-in again. He asked where he was going this time, and was informed they were departing on a permanent change of station, and that Chief Master Sergeant Charlie Randolph Hopkins would be the interim Command Chief until his replacement arrived. Chief Master Sergeant Charlie Randolph Hopkins asked how long and he estimated 6-10 weeks and General Hurd had just left his office and Chief Master Sergeant Charlie Randolph Hopkins' name was the only one discussed. Chief Master Sergeant Charlie Randolph Hopkins surmised that he hadn't messed up in January if the general wanted him back. So, the last week of July Chief Master Sergeant Charlie Randolph Hopkins became the interim Command Chief. The

general even had his name placed on the Seventh Air Force Directory; and

Whereas, Being Command Chief was a great opportunity and afforded Chief Master Sergeant Charlie Randolph Hopkins numerous opportunities to work with younger airmen and NCOs. He departed Korea the first week of April 2000 for his final assignment in his Air Force career at the Air Force Space Command at Peterson Air Force Base, Colorado. Oddly, the Air Force Space Command had evolved from the old Aerospace Defense Command, the command Chief Master Sergeant started his Air Force career at Bedford Air Force Station. He only had 14 and 1/2 months left until mandatory retirement and knew that would go by quickly — and it did. Chief Master Sergeant Charlie Randolph Hopkins intentionally scheduled his ceremony for June 11, 2001, exactly 30 years from when he had reported to Basic Training. His retirement from active duty was effective July 1, 2001; and

Whereas, Thereafter, Chief Master Sergeant Charlie Randolph Hopkins was fortunate to be offered a position with Verizon Federal Network Services as a government contractor and Network Controller supporting the Defense Information Systems Agency at Scott Air Force Base, Illinois. Chief Master Sergeant Charlie Randolph Hopkins didn't have a background in network controlling but he did have a security clearance and he understood military "lingo" and was moved to a shift lead position after being in the network operations center (NOC) for 34 months. During that same time, he completed a dual Master of Arts degree in Computer Resources and Information Management (CRIM) and Human Resources Development (HRD), maintaining a 3.86 grade point average (GPA) for the CRIM portion and a 4.00 GPA for the HRD portion, culminating in an overall GPA of 3.89 for the dual degree; and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins interviewed for a government service position in Quality Assurance after eight years in the NOC and was selected out of 15 applicants. After the hiring offer he went to each of the members of the interview panel and asked how he did — all three said he did great, with one person telling him nobody even came close. Chief Master Sergeant Charlie Randolph Hopkins moved to the Quality

Assurance Branch the first week of November 2009 and is still serving in that branch as lead team chief and evaluator; and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins' decorations include: Defense Meritorious Service Medal, Meritorious Service Medal with five oak leaf clusters, Air Force Commendation Medal with four oak leaf clusters, Air Force Achievement Medal, Air Force Outstanding Unit Award with Valor device and seven oak leaf clusters, Air Force Organizational Excellence Award with one oak leaf cluster, Combat Readiness Medal, Air Force Good Conduct Medal with nine oak leaf clusters, National Defense Service Medal with star device, Armed Forces Expeditionary Medal, Korean Defense Service Medal, Humanitarian Service Medal, Military Outstanding Volunteer Service Medal with three oak leaf clusters, Air Force Overseas Ribbon (Short Tour) with eight oak leaf clusters, Air Force Overseas Ribbon (Long Tour), Air Force Longevity Award with six oak leaf clusters, Air Force NCO Professional Military Education Graduate with two oak leaf clusters, Small Arms Expert Marksmanship Ribbon with star device, Air Force Training Ribbon and Kuwait Liberation Medal (Emirate of Kuwait); and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins' awards include: In 1982 the Honor Graduate Scope Signal III High Frequency Global Communications System Course, in 1986 the Senior NCO of the Quarter, 2020th Information Systems Squadron, Shaw AFB, South Carolina, in 1986 the First Runner-Up Senior NCO of the Quarter, Shaw AFB, South Carolina, in 1989 the Senior NCO of the Quarter, 1982nd Communications Squadron, Kunsan AB, Korea, in 1989 the Senior NCO of the Year (for 1988) and unit nominee for the Twelve Outstanding Airmen of the Year (all Air Force), 1982nd Communications Squadron, Kunsan AB, Korea, in 1989 the Senior NCO of the Quarter, Pacific Communications Division, Hickam AFB, Hawaii, in 1991 the Senior NCO of the Quarter, 2146th Communications Group, Osan AB, Korea, in 1991 the Senior NCO of the Year (for 1991) and unit nominee for the Twelve Outstanding Airmen of the Year (all Air Force), 2146th Communications Group, Kunsan AB, Korea, in 1991 the Senior NCO of the Quarter, Pacific Communications

Division, Hickam AFB, Hawaii, and in 1993 the Seventh Air Force Volunteer of the Year for 1992; and

Whereas, Chief Master Sergeant Charlie Randolph Hopkins' other achievements include: Red Cross CPR Instructor (13 years), Volunteer Income Tax Assistant (28 years, and continuing), Red Cross First Aid Instructor (3 years), Red Cross Lifeguard Instructor (3 years), Military Affiliate (now Auxiliary) Radio System (MARS) Operator (31 years, and continuing); and

Whereas, Master Sergeant James Paul Hopkins was delivered by a Stork (A. Robert Stork, M.D.) on April 5, 1955 at home in McConnell. He attended elementary school at McConnell Grade School, junior high school at Logan East, and graduated from Logan High School May 1973; and

Whereas, Although his first name is James, Master Sergeant James Paul Hopkins went by his initials "JP" throughout the school years and later by the nickname "Jay" since graduation. During high school, he worked at Hopkins Brothers Roofing, Kroger grocery store and Logan Motorcycle Sales. After graduation, Master Sergeant James Paul Hopkins was hired by Mining Hydraulics and worked there until departing for the U.S. Air Force, signing up in early October 1973 with an active duty date of November 13, 1973; and

Whereas, Basic training lasted six weeks and Master Sergeant James Paul Hopkins graduated Air Force Basic Military Training at Lackland Air Force Base, Texas, in time to be home for Christmas. As a 6-year enlistee he was promoted to Airman First Class upon completing Basic Military Training. After Christmas vacation, he was off to Lowry Air Force Base Colorado (now closed) for Technical School. His career field was Munitions Systems Technician where he learned storage, maintenance, assembly and transportation of munitions that were used by the U.S. Air Force; and

Whereas, Master Sergeant James Paul Hopkins arrived at his first permanent duty station, Cannon Air Force Base, New Mexico, in April 1974 and was assigned to the 27th Munitions Maintenance

Squadron. While there he had the opportunity to pursue a dream...learning to fly. He was able to earn his private commercial pilot license before moving to a second assignment, Kunsan Air Base, Korea and was assigned to the 8th Munitions Maintenance Squadron; and

Whereas, Master Sergeant James Paul Hopkins studied Judo and was able to earn his first-degree Black Belt. Kunsan also had an aero club and continued flying in the Republic of South Korea. The year went by quickly before departing for Kunsan in July 1976. He and his brother, Chief Master Sergeant Charlie Randolph Hopkins, were both home on leave at the same time; and

Whereas, Master Sergeant James Paul Hopkins was next assigned to Langley Air Force Base, Virginia, with the 1st Tactical Fighter Wing. He spent a little over three years at Langley. During that time, he married Rebecca Rose Bailey from his home area in West Virginia. While at Langley, they had two children; a daughter Amy Rebecca Hopkins and a son Matthew Paul Hopkins. Master Sergeant James Paul Hopkins received an Instrument Rating Airplane while continuing his flight training. He made Staff Sergeant while there and volunteered for recruiting duty. He was accepted and went to USAF Recruiting School at Lackland Air Force Base; and

Whereas, Master Sergeant James Paul Hopkins was selected to go to a recruiting office in Pennsylvania but was contacted while home on leave and asked if he'd be interested in Fairmont. He accepted. Recruiting duty was a 4-year controlled tour. In 1983, at the end of those four years, he was assigned to the 19th Equipment Maintenance Squadron at Shaw Air Force Base, South Carolina. A year later his brother Chief Master Sergeant Charlie Randolph Hopkins would also report to Shaw. This was the only assignment they had together. He earned an FCC Amateur Radio Extra Class operator license during this assignment and was asked by the Recruiting Flight Supervisor if he'd like to go back to the Fairmont office. Again, he accepted; and

Whereas, In 1986, and after completing the USAF Recruiting School for a second time, Master Sergeant James Paul Hopkins

departed Shaw AFB for Fairmont. His first two years back in recruiting were the same, and then he became a medical services recruiter and was given a quota for all health professions: MDs, DOs, Veterinarians, Dentist, Dieticians, Physical Therapists, Pharmacists, Physician Assistants, Hospital and Medical Administrators, Social Workers and all related medical specialties except for registered nurses. With an office in Morgantown, he covered the areas of northern West Virginia, north east Ohio, south west Pennsylvania and western Maryland. After completion of that second Recruiting duty tour he was selected for assignment to Nellis Air Force Base, Nevada; and

Whereas, Master Sergeant James Paul Hopkins was in charge of the munitions section that supported aircraft participating in “Air Warrior live fire” training and exercises primarily supporting the U.S. Army in the Mojave Desert. There were several ranges and exercise locations well within flying distance of Nellis. One of the largest live fire training locations in the United States is Fort Irwin National Training Center. This installation is managed by the Army while used by all services and allied countries for live fire training. Many of their aircraft supported close air support training at Fort Irwin. During his last year at Nellis, Master Sergeant James Paul Hopkins’ commander asked if he’d be the interim First Sergeant for the unit. Master Sergeant James Paul Hopkins enjoyed the duty and challenges of being a First Sergeant. His commander was so impressed with his performance he wanted to send Master Sergeant James Paul Hopkins to the First Sergeant’s Academy and become his full-time First Sergeant. Due to family health conditions, he had already decided to retire and, thus, respectfully declined; and

Whereas, While on active duty Master Sergeant James Paul Hopkins earned two Associate Degrees from the Community College of the Air Force while on active duty. First was Munitions Systems Technology and Personnel Administration. He retired from the Air Force February 1, 1994 with 20 years, 2 months, and 17 days of active duty service time as an E-7 Master Sergeant; and

Whereas, After retirement Master Sergeant James Paul Hopkins earned a commercial driver’s license and drove long-haul trucks for J. B. Hunt for seven months. The reason for the short

tenure was because CSX Transportation Corporation (railroad) offered him a position to become a Trainman and Locomotive Engineer. As working on the railroad was also a life-long dream, and as his father had done same work for over 41 years, he was thrilled to have the same opportunity. Master Sergeant James Paul Hopkins has now been with employed CSX Transportation for over 21 1/2 years and has completed flight training earning an FAA Certified Flight Instructor for single engine, multi-engine and instrument flight training; and

Whereas, Master Sergeant James Paul Hopkins' decorations include: Air Force Commendation Medal with two oak leaf clusters. Air Force Outstanding Unit Award four oak leaf clusters, Air Force Good Conduct Medal with five oak leaf clusters, National Defense Service Medal with one bronze service, Armed Forces Expeditionary Medal, Air Force Overseas Ribbon (Short Tour), Air Force Longevity Award with four oak leaf clusters, Air Force NCO Professional Military Education Graduate with one oak leaf cluster, Small Arms Expert Marksmanship Ribbon with one bronze star and Air Force Training Ribbon; and

Whereas, Master Sergeant James Paul Hopkins' awards and other accomplishments include: in March 1991, Senior NCO Academy correspondence, in June 198 Noncommissioned Officer Academy, Barksdale AFB, Louisiana, in November 1976 Noncommissioned Officer Leadership School, Langley, AFB, Virginia and Military Affiliate Radio System (MARS) Operator Civil Air Patrol; and

Whereas, It is a fitting honor to name this road where these two outstanding brothers grew up before going on to have distinguished and remarkable careers while serving in the United States Air Force; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of West Virginia Route 10, near McConnell in Logan County, beginning at a point, latitude 37.823846, longitude -81.958422, and ending at a point, latitude 37.833712, longitude -81.966816, the

“U. S. Air Force CMSGT Charlie Randolph Hopkins and U. S. Air Force MSGT James Paul Hopkins Road”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the road as the “U. S. Air Force CMSGT Charlie Randolph Hopkins and U. S. Air Force MSGT James Paul Hopkins Road”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation, the Commissioner of Highways.

Delegates Iaquina, Hamrick and Queen offered the following resolution, which was read by its title and referred to the Committee on Agriculture and Natural Resources then Rules:

H. C. R. 101 – “Declaring and making the blackberry the official state berry of West Virginia.”

Whereas, It is hard to trace the exact origin since blackberries proliferate all over the globe, but it is likely the first were in Asia, North or South America or in Europe. Greeks and Romans used blackberries in medicine, and Native Americans used them for food, medicine and to dye animal skins. Blackberries are also known as bramble, brummel, brambleberry and bly; and

Whereas, The formal name of the blackberry is *Rubus fruticosus*, and there are more than 40 species. Blackberries were always considered wild, so in the early days they were not cultivated. Those who wanted the berries would travel to where a bush was growing and gather them. Development of the blackberry is relatively modern and was done mostly in America. Judge Logan began to breed blackberries in California and introduced loganberries, a relative of blackberries, in 1880. Identifying species is difficult because so many types of blackberry plants have crossbred by themselves. Luther Burbank attempted to develop a thornless berry in 1921, but the flavor lacked. Recently the Triple Crown berry was introduced and is a good-tasting, thornless berry; and

Whereas, The blackberry has been used to treat fever for more than 2,000 years. The berry was not often used in medicinal applications but the root, bark and leaf was. They were boiled in water and given as medicine for whooping cough. Other illnesses thought to be cured by blackberry were bites from venomous creatures, boils and sore throats. In 1771, it was documented that blackberry decoctions would cure ulcers; and

Whereas, Blackberries taste good and have been used to make all kinds of sweets or eaten plain for centuries. In 1696, the London Pharmacopoeia documented information about blackberries being used to make wine and cordials. Blackberry pie or crumble, and jam are a sweet favorite that goes back to the pioneer days; and

Whereas, Blackberries are also part of folklore as they were thought to protect against spells and curses if gathered during a certain phase of the moon. Children with hernias were known to pass through an arched area in the bramble to cure them. Boils were supposed to be cured when the sufferer crawled through the brambles. It is more likely the thorns simply lanced the boils; and

Whereas, Native Americans used blackberry canes and vines to make twine. Blackberry bushes were often planted around European villages to offer protection against enemies and large animals that would do harm. The brambles provide protection to wildlife, including deer and birds. The berries have been known to be used to make an indigo or purple dye; and

Whereas, In addition to having a long and illustrious history, blackberries have a long and colorful tradition in West Virginia as well. It is hard not to talk to someone about blackberries and not have them tell you the many memories they had of picking blackberries on the many hillsides of the state; and

Whereas, Many blackberry pickers began picking blackberries with their mothers and grandmothers on hillsides that had been partially cleared for grazing. They would put wire hangers in empty Karo syrup cans, pick them full of berries and empty them into large washtubs. The washtubs loaded with blackberries would then be carried home where they would be eaten, cobblers made,

canned, jams, jellies and even wine made from the luscious blackberry. The jams and jellies would be spread on biscuits baked in wood cook stoves and canned berries would be eaten or baked in pies as a treat during the harsh mountain winters when pleasures were few; and

Whereas, While forests have overtaken many of the hillsides where blackberries once were king, they continue to thrive throughout the state and are worth their weight in gold to those who venture out seeking the succulent fruit. In fact, as late as the 1980s, blackberries grew wild along the banks of the Kanawha River on either side of the State Capitol; and

Whereas, There is no berry so ubiquitous in West Virginia as the blackberry and none that has meant more to its history, culture and traditions; therefore, be it

Resolved by the Legislature of West Virginia:

To declare and make the blackberry the official state berry of West Virginia; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to Kent Leonhardt, Commissioner, West Virginia Department of Agriculture, the West Virginia Future Farmers of America, the Editor of Goldenseal, the magazine of West Virginia traditional life, the West Virginia University Extension Service and the West Virginia Farmers Market Association.

Delegates G. Foster, Isner, Marcum, Wagner, Upson, N. Foster, Householder, Phillips, Dean, Zatezalo and Eldridge offered the following resolution, which was read by its title and referred to the Committee on the Judiciary then Rules:

H. C. R. 102 – “Requesting the Joint Committee on Government and Finance study imposing a presumption in West Virginia Family Courts that 50/50 shared parenting be awarded in child custody cases.”

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study imposing a presumption in West Virginia Family Courts that 50/50 shared parenting be awarded in child custody cases; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, 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.

Delegates A. Evans, Hamilton, Rowan and R. Romine offered the following resolution, which was read by its title and referred to the Committee on Rules.

H. C. R. 103 – “Requesting the Division of Highways to name bridge number 12-3-0.02 (12A003) (39.11719, -79.16785), locally known as Maysville Bridge, carrying County Route 3 over Lunice Creek in Grant County, the ‘U. S. Army PFC Tracy Victor Rohrbaugh Memorial Bridge’.”

Whereas, Tracy Victor Rohrbaugh was born October 27, 1922, in Martin, Grant County, West Virginia, son of Victor Adam Rohrbaugh and Dovie Clara Rohrbaugh; and

Whereas, Tracy was later joined by three brothers and five sisters; and

Whereas, The Rohrbaugh family had been well established in Grant County for many years; and

Whereas, The Rohrbaugh family lived in Martin for all of Tracy’s life; and

Whereas, Tracy Victor Rohrbaugh was inducted into the United States Army in January, 1942, and trained at Camp Maxy and Camp Hood in Texas; and

Whereas, The young soldier was shipped overseas for service in the European Theater on New Year's Day, 1943; and

Whereas, US Army PFC Tracy Victor Rohrbaugh served with the 625th Ordnance Ammunition Company during his time in Europe; and

Whereas, In his last letter home on April 17, 1944, PFC Rohrbaugh stated that "everything is going fine and I could not be any better shape." Sadly, this would not last for long; and

Whereas, Just ten days after that letter was written, PFC Tracy Victor Rohrbaugh was killed in action while participating in Exercise Tiger, a large scale training exercise in England in preparation for the Normandy invasion; and

Whereas, PFC Tracy Victor Rohrbaugh, whose body was buried at sea, was posthumously awarded the Purple Heart, American Campaign Medal and WW-II Victory Medal; and

Whereas, In recognition of his honorable service in World War II, and for his ultimate sacrifice, PFC Rohrbaugh's name is inscribed on the Tablets of the Missing at the Cambridge American Cemetery in Cambridge, England, and his name was one of the original names inscribed on the West Virginia Veteran's Memorial; and

Whereas, It is fitting that the state continue to honor this fallen hero by a memorial in the area in which he lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 12-3-0.02 (12A003) (39.11719, -79.16785), locally known as Maysville Bridge, carrying County Route 3 over Lunice Creek in Grant County, the "U. S. Army PFC Tracy Victor Rohrbaugh Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as bridge number 12-3-0.02 (12A003) (39.11719, -79.16785), locally known as Maysville Bridge, carrying County Route 3 over Lunice Creek in Grant County, the “U. S. Army PFC Tracy Victor Rohrbaugh Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward certified copies of this resolution to the Director of the Division of Highways.

Special Calendar

Unfinished Business

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

H. C. R. 90, Study on the feasibility of light fidelity (“Li-Fi”),

H. C. R. 91, Alleen Ledson Memorial Bridge,

And,

H. C. R. 92, U.S. Army SGT Eugene Dawson Memorial Highway.

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

Third Reading

Com. Sub. for S. B. 306, Supplemental appropriation of federal funds from Treasury to Workforce West Virginia; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 151**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Lewis.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 306) passed.

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

On this question, the yeas and nays were taken (**Roll No. 152**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Fleischauer and Lewis.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 306) takes effect from its passage.

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

Com. Sub. for H. B. 2180, Authorizing the issuance of special “In God We Trust” motor vehicle registration plates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 153**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Fleischauer and Lewis.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2180) passed.

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

Com. Sub. for H. B. 2208, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 154**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kelly and Lewis.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2208) passed.

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

Com. Sub. for H. B. 2366, Relating to selling Jackie Withrow Hospital; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 155**), and there were—yeas 58, nays 41, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Arvon, Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, R. Miller, Moye, O’Neal, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Sypolt, Thompson, Ward and Williams.

Absent and Not Voting: Lewis.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2366) passed.

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

Com. Sub. for H. B. 2475, Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 156**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Lewis and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2475) passed.

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

Com. Sub. for H. B. 2494, Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 157**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Love and Upson.

Absent and Not Voting: Lewis, Robinson and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2494) passed.

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

Com. Sub. for H. B. 2524, Improving the focus on school-level continuous improvement processes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 158**), and there were—yeas 63, nays 35, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Lewis and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2524) passed.

Delegate Cowles moved that the bill take effect July 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 159**), and there were—yeas 69, nays 28, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Hicks, Hornbuckle,

Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Moye, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: A. Evans, Lewis and Rodighiero.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2524) takes effect July 1, 2017.

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

Com. Sub. for H. B. 2679, Relating to the possession of firearms in parks and park facilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 160**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Lane, Pushkin and Rowe.

Absent and Not Voting: Lewis and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2679) passed.

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

Com. Sub. for H. B. 2702, Relating to excused absences for personal illness from school; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 161**), and there were—yeas 95, nays 3, absent

and not voting 2, with the nays and absent and not voting being as follows:

Nays: Caputo, Longstreth and Ward.

Absent and Not Voting: Lewis and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2702) passed.

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

Com. Sub. for H. B. 2709, Authorizing the City of South Charleston to levy a special district excise tax; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 162**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: E. Evans, Folk, McGeehan, Thompson and Wilson.

Absent and Not Voting: Harshbarger, Lewis and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2709) passed.

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

Com. Sub. for H. B. 2734, Authorizing a method for the collection and remittance of property taxes related to dealers' heavy equipment inventory; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 163**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Lewis and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2734) passed.

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

H. B. 2774, Defining special aircraft property; on third reading, coming up in regular order, was read a third time.

Delegates Walters, Brewer, Hollen, Higginbotham and Folk requested to be excused from voting on the passage of H. B. 2774 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 164**), and there were—yeas 92, nays 6, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Fleischauer, Fluharty, Lynch, Pyles and Sponaugle.

Absent and Not Voting: Lewis and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2774) passed.

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

Com. Sub. for H. B. 2805, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 165**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Lewis and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2805) passed.

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

On this question, the yeas and nays were taken (**Roll No. 166**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Lewis and Rodighiero.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2805) takes effect from its passage.

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

Com. Sub. for H. B. 3093, Establishing Broadband Enhancement and Expansion Policies; on third reading, coming up in regular order, was read a third time.

Delegates Espinosa and Lewis requested to be excused from voting on the passage of Com. Sub. for H. B. 3093 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 167**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3093) passed.

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

Second Reading

Com. Sub. for H. B. 2219, Authorizing miscellaneous boards and agencies to promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2346, Relating to motor vehicle license plates; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2515, West Virginia Monument and Memorial Protection Act of 2017; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Howell, the bill was amended on page two, section eight-c, line twenty-eight, immediately following the

word “remove” and the comma, by inserting the word “rename” and a comma.

And,

On line thirty-two, immediately following the word “remove” and the comma, by inserting the word “rename” and a comma.

The bill was ordered to engrossment and third reading.

The following bills on second reading, coming up in regular order, were each read a second time and ordered to engrossment and third reading:

Com. Sub. for H. B. 2721, Removing the cost limitation on projects completed by the Division of Highways,

Com. Sub. for H. B. 2722, Eliminating the financial limitations on utilizing the design-build program for highway construction,

Com. Sub. for H. B. 2724, Relating to creating a pilot program under the Herbert Henderson Office of Minority Affairs,

H. B. 2745, Adding the examination of Advanced Care Technician,

H. B. 2788, Allowing military veterans with certain military ratings to qualify for examinations required of a probationary firefighter,

Com. Sub. for H. B. 2838, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician,

Com. Sub. for H. B. 2841, Requiring board members to have attended a board meeting in order to be compensated for the meeting,

Com. Sub. for H. B. 2846, Including high school students participating in a competency based pharmacy technician

education and training program as persons qualifying to be a pharmacy technician trainee,

Com. Sub. for H. B. 2935, Relating to state flood protection planning,

Com. Sub. for H. B. 2948, Establishing timelines for taking final action on certain permits,

Com. Sub. for H. B. 2949, Exempting specified Division of Natural Resources' contracts for some replacement, repair or design for repairs to facilities from review and approval requirements,

Com. Sub. for H. B. 2980, Relating to civil lawsuit filing fees for multiple defendant civil action,

H. B. 3018, Adding definition of correctional employee to the list of persons against whom an assault is a felony,

Com. Sub. for H. B. 3020, Relating to criminal penalties for the offenses of hunting, trapping or fishing on the lands of another person,

H. B. 3053, Relating to motor vehicle lighting,

Com. Sub. for H. B. 3064, Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes,

H. B. 3101, Creating a misdemeanor for violation of catching, taking or killing fish within two hundred feet of agency personnel stocking fish into public waters,

H. B. 3105, Relating to the Licensed Racetrack Modernization Fund,

And,

H. B. 3106, Relating to increasing the number of limited video lottery terminals.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 113, Authorizing DEP promulgate legislative rules,

Com. Sub. for H. B. 2004, Creating and maintaining a centralized state vehicle inventory system,

H. B. 2548, Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer,

Com. Sub. for H. B. 2763, Relating to the approval by the Council for Community and Technical College Education of acquisitions,

Com. Sub. for H. B. 2799, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit,

Com. Sub. for H. B. 2850, Relating to product liability actions,

H. B. 2869, Providing for paid leave for certain state officers and employees during a declared state of emergency,

Com. Sub. for H. B. 2936, Requiring competitive bidding for all state purchases of commodities, printing and services,

Com. Sub. for H. B. 2939, Relating to the sale of items in the State Police Academy post exchange to the public,

Com. Sub. for H. B. 2966, Creating the West Virginia Sentencing Commission,

Com. Sub. for H. B. 3028, Relating to the Comprehensive Substance Use Reduction Act,

Com. Sub. for H. B. 3096, Relating to operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state,

H. B. 3107, Relating generally to horse and dog racing lottery,
And,

H. B. 3108, Relating to authorizing redirection of certain amounts to the General Revenue Fund.

At 1:58 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:30 p.m.

Evening Session

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 3006, Exempting certain contracts between the Department of Health and Human Resources and West Virginia University or Marshall University from state purchasing requirements,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 3006 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-9a, relating to exempting certain contracts between the Department of Health and Human Resources and West Virginia University, Marshall University or West Virginia School of Osteopathic Medicine from state purchasing requirements,”

H. B. 3095, Allowing retired teachers to be employed by a higher education institution,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 3095 – “A Bill to amend §18-7A-13a of the Code of West Virginia, 1931, as amended, relating to allowing retired teachers to be subsequently employed by the Higher Education Policy Commission or the council for community and technical college education without any loss of retirement annuity or retirement benefits under certain circumstances,”

And,

H. B. 2771, Relating to temporary teaching certificates for Armed Forces spouses,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2771 – “A Bill to amend and reenact §18A-3-2a of the Code of West Virginia, 1931, as amended, relating to teaching certificates for teachers whose spouses are members of the Armed Forces who are on active duty stationed in this state or within fifty air miles of the West Virginia border,”

With the recommendation that the committee substitutes each do pass.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2887, Relating to retirement and separation incentives,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2887 – “A Bill to amend and reenact §18B-1-1d of the Code of West Virginia, 1931, as amended, relating to retirement and separation incentives,”

With the recommendation that the committee substitute do pass.

On motion for leave, a bill was introduced (Originating in the Committee on Government Organization and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegate Howell:

H. B. 3109 – “A Bill to repeal §30-7-1, §30-7-1a, §30-7-2, §30-7-3, §30-7-4, §30-7-5, §30-7-6, §30-7-6a, §30-7-7, §30-7-8, §30-7-8a, §30-7-9, §30-7-10, §30-7-11, §30-7-11a, §30-7-2, §30-7-13, §30-7-14, §30-7-15, §30-7-15a, §30-7-15b, §30-7-15c, §30-7-15d, §30-7-15e, §30-7-16, §30-7-18, §30-7-19 and §30-7-20 of the Code of West Virginia, 1931, as amended; to repeal §30-7A-1, §30-7A-2, §30-7A-3, §30-7A-4, §30-7A-5, §30-7A-6, §30-7A-7, §30-7A-7a, §30-7A-8, §30-7A-9, §30-7A-10 and §30-7A-11 of said code; to repeal §30-7B-1, §30-7B-2, §30-7B-3, §30-7B-4, §30-7B-5, §30-7B-6 and §30-7B-7 of said code; to repeal §30-7C-1, §30-7C-2, §30-7C-3, §30-7C-4, §30-7C-5, §30-7C-6, §30-7C-7, §30-7C-8, §30-7C-9, §30-7C-10, §30-7C-11, §30-7C-12 and §30-7C-13 of said code; to repeal §30-7D-1, §30-7D-2, §30-7D-3, §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-7D-8, §30-7D-9, §30-7D-10, §30-7D-11, §30-7D-12 and §30-7D-13 of said code; to repeal §30-7E-1, §30-7E-2 and §30-7E-3 of said code; to repeal §30-23-1, §30-23-2, §30-23-3, §30-23-4, §30-23-5, §30-23-6, §30-23-7, §30-23-8, §30-23-9, §30-23-10, §30-23-11, §30-23-12, §30-23-13, §30-23-14, §30-23-15, §30-23-16, §30-23-17, §30-23-18, §30-23-19, §30-23-20, §30-23-21, §30-23-22, §30-23-23, §30-23-24, §30-23-25, §30-23-26, §30-23-27, §30-23-28, §30-23-29 and §30-23-30 of said code; to repeal §30-

25-1, §30-25-2, §30-25-3, §30-25-4, §30-25-5, §30-25-6, §30-25-7, §30-25-8, §30-25-9, §30-25-10, §30-25-11, §30-25-12, §30-25-13, §30-25-14, §30-25-15, §30-25-16, §30-25-17 and §30-25-18 of said code; to amend and reenact §4-10-10 of said code; to amend and reenact §18A-4-8 of said code; to amend and reenact §18C-3-4 of said code; to amend and reenact §30-1-7a and §30-1-20 of said code; to amend and reenact §30-1D-1 of said code; and to amend said code by adding thereto a new article, designated §30-41-1, §30-41-2, §30-41-3, §30-41-4, §30-41-5, §30-41-6, §30-41-7, §30-41-8, §30-41-9, §30-41-10, §30-41-11, §30-41-12, §30-41-13, §30-41-14, §30-41-14a, §30-41-14b, §30-41-14c, §30-41-15, §30-41-16a, §30-41-16b, §30-41-16c, §30-41-16d, §30-41-17, §30-41-17a, §30-41-18, §30-41-19, §30-41-19a, §30-41-19b, §30-41-19c, §30-41-19d, §30-41-19e, §30-41-20, §30-41-20a, §30-41-20b, §30-41-20c, §30-41-20d, §30-41-20e, §30-41-20f, §30-41-20g, §30-41-20h, §30-41-20i, §30-41-20j, §30-41-20k, §30-41-20l, §30-41-20m, §30-41-20n, §30-41-21, §30-41-21a, §30-41-21b, §30-41-21c, §30-41-21d, §30-41-22, §30-41-23, §30-41-24, §30-41-25, §30-41-26, §30-41-27, §30-41-28, §30-41-29, §30-41-29a, §30-41-29b, §30-41-29c, §30-41-29d, §30-41-29e, §30-41-29f, §30-41-29g, §30-41-29h, §30-41-29i, §30-41-29j, §30-41-30, §30-41-31 and §30-41-32, all relating to establishing a Board of Nursing and Health Services; defining terms; transferring the authority of the West Virginia Board of Examiners for Registered Professional Nurses, Board of Examiners for Licensed Practical Nurses, West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, and the West Virginia Nursing Home Administrators Licensing Board to the Board of Nursing and Health Services; providing for windup year activity; transferring authority, assets and funds; providing for rule making; continuing the Center for Nursing; requiring license; providing for the investigation of complaints; providing for disciplinary action; continuing the Medication Assistive Person Advisory Committee; providing for hearings and judicial review; and providing for nurse health programs.”

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2376, Relating to the organizational structure of state government,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2376 – “A Bill to amend and reenact §5F-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 and §5F-2-2 of said code; to amend and reenact §9-5-11b and §9-5-22 of said code; to amend said code by adding thereto a new section, designated §9-10-1, to amend and reenact §11-27-38 of said code; to amend and reenact §11B-2-15 of said code; to amend and reenact §16-3-5 of said code; to amend and reenact §16-5S-7 of said code; to amend and reenact §33-25G-2 of said code; to amend and reenact §49-2-125 of said code; and to amend and reenact §60A-9-5 of said code; all relating to the organizational structure of state government; providing that the Bureau for Medical Services be renamed the Department of Medical Services with the Commissioner of the Bureau for Medical Services becoming the Secretary of the Department of Medical Services; providing that the department continue to operate as currently configured as the Bureau for Medical Services with the structure of the Department of Health and Human Resources for administrative support, interagency cooperation and program support; removing the Human Rights Commission, Division of Human Services, Bureau for Public Health, Office of Emergency Medical Services and the Emergency Medical Service Advisory Council, Health Care Authority, Commission on Mental Retardation, Women’s Commission and the Child Support Enforcement Division from administration by the Department of Administration; providing that the Bureau for Public Health, the Bureau for Child Support Enforcement, the Bureau of Children and Families, the Office of the Inspector General, the Health Care Authority, the State Commission on Intellectual Disability, the Women’s Commission, the Commission for the Deaf and Hard of Hearing; and the James H. ‘Tiger’ Morton Catastrophic Illness Commission are to be administered as a part of the Department of

Health and Human Resources; providing that the Bureau of Medical Services and the Children's Health Insurance Agency are incorporated in and administered as a part of the Department of Medical Services; and making technical changes in various chapters of the code to reflect the creation of the Department of Medical Services,”

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2930, Allowing powerball, hot lotto, and mega millions winners to remain anonymous,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2930 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-22-15a; and to amend and reenact §29B-1-4 of said code, all relating to allowing powerball, hot lotto, and mega millions winners to remain anonymous; providing that a person entitled to collect proceeds exceeding one million dollars from a winning powerball, hot lotto, or mega millions may remain anonymous in regards to his or her name, personal contact information, and likeness; providing that if a person entitled to collect proceeds exceeding one million dollars from a winning powerball, hot lotto, or mega millions ticket wishes to remain anonymous, then he or she shall contact the State Lottery Director in writing or appear at the state lottery headquarters in person; providing where such request to remain anonymous may be mailed or emailed; providing that upon such a request, the director will contact the person requesting anonymity and schedule an appointment to meet; establishing an effective date of January 1, 2018; and providing for an exemption under the Freedom of Information Act for the name, personal contact information, and

likeness of a person entitled to collect proceeds exceeding one million dollars from a winning powerball, hot lotto, or mega millions ticket.”

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 247, Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes,

And,

Com. Sub. for S. B. 248, Clarifying composition and chairmanship of Commission on Special Investigations,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 3022, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations,

Com. Sub. for S. B. 233, Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act,

And,

S. B. 164, Relating to traffic regulations and special load limits,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2453, Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2453 - “A Bill to amend and reenact §19-12E-5 of the Code of West Virginia, 1931, as amended, relating to expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp,”

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2002, Relating to parental notification of abortions performed on unemancipated minors,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2002 – “A Bill to amend and reenact §16-2F-1, §16-2F-2, §16-2F-3, §16-2F-4, §16-2F-5, §16-2F-6 and §16-2F-8 and of the Code of West Virginia, 1931, as amended; all relating to parental notification of abortions performed on unemancipated minors; setting out legislative findings; defining terms; clarifying parental notification requirements prior to performing an abortion on an unemancipated minor; modifying waiver language; providing exceptions; providing a judicial process to not permit parental notification; requiring reporting; providing for disciplinary actions; and providing criminal penalties,”

With the recommendation that the committee substitute do pass.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2196, Relating to the secondary schools athletic commission,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2196 – “A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to the secondary schools athletic commission; and participation by home schooled students in extracurricular activities,”

And,

H. B. 2589, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county’s vocational school,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2589 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-15g, relating to requiring county boards of education to permit students who are homeschooled or attend private schools to enroll and take classes at the county’s vocational school,”

With the recommendation that the committee substitutes each do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2815, Relating to higher education governance,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2815 – “A Bill to repeal §18B-1-5a, 18B-1-8b, 18B-1-10 of the Code of West Virginia, 1931, as amended; to repeal §18B-1A-3 of said code; to repeal §18B-1B-10 and §18B-1B-13 of said code; to repeal §18B-2-5 and §18B-2-7 of said code; to repeal §18B-5-2a of said code; to amend and reenact §18B-1-2 and §18B-1-6 of said code; to amend and reenact §18B-1B-1, §18B-1B-2, §18B-1B-4, and §18B-1B-6 of said code; to amend and reenact §18B-1D-2, §18B-1D-4, and §18B-1D-7 of said code; to amend and reenact §18B-2A-3 and §18B-2A-4 of said code; to amend and reenact §18B-3-1 of said code; to amend and reenact §18B-4-7 of said code; to amend and reenact §18B-5-4, §18B-5-6, §18B-5-7, and §18B-5-9 of said code; to amend and reenact §18B-10-1, §18B-10-1c, §18B-10-8, and §18B-10-16 of said code; to amend and reenact §18B-19-1, §18B-19-3, §18B-19-4, §18B-19-5, §18B-19-6, §18B-19-7, §18B-19-9, §18B-19-10, §18B-19-11, §18B-19-13, and §18B-19-14 of said code; and to amend said code by adding thereto one new section, designated §18B-19-19, all relating to public education higher education governance generally; defining terms; repealing obsolete provisions of code; clarifying scope of rule-making authority of higher education policy commission and certain institutions of higher education; eliminating outdated language; providing for rule-making procedures; requiring promulgation of rules by commission, council and certain institutions of higher education; providing for shorter time period for commission and council to review and comment on rules proposed by governing boards of institutions of higher education; providing legislative intent; providing for composition of commission; providing for primary responsibility of commission; updating and clarifying powers of commission; limiting authority of commission over certain institutions of higher education; eliminating authority of commission to assess institutions for payment of expenses of commission and for funding of statewide higher education services, obligations, or initiatives; clarifying authority of commission over review and

approval of academic programs; repealing and eliminating outdated language; eliminating authority of commission with respect to certain financial and budget reviews and approvals; expanding authority of certain governing boards over appointment of president of certain higher education institutions; eliminating requirement for approval by commission of appointment of president for certain institutions of higher education; eliminating jurisdiction of commission relative to the accountability system over certain institutions of higher education; providing for updated responsibility of commission in development and advancement of public policy agenda and collection of data for certain institutions of higher education; eliminating certain reporting responsibilities for certain institutions of higher education; altering authority of commission over institutional compacts of certain institutions of higher education; eliminating requirement for certain institutions of higher education to prepare an institutional compact for submission to the commission; eliminating application of certain data-based measures on certain institutions of higher education; altering timeframe for updates to institutional compacts; eliminating commission approval of institutional compacts of certain institutions of higher education; eliminating authority of chancellor over coordination of policies, purposes and rules of governing boards of certain institutions of higher education; updating powers of governing boards; eliminating requirement of commission approval of master plans for certain institutions of higher education; requiring certain institutions to provide copies of master plan to Legislative Oversight Commission on Educational Accountability; providing that rules of commission and council related to administering a system for the management of personnel matters do not apply to certain institutions of higher education; authorizing governing boards to contract and pay for any supplemental employee benefit; providing for legislative findings and purposes; clarifying authority of certain governing boards to delegate authority to its president; clarifying authority of commission and governing boards of certain institutions of higher education with respect to development of rules for accreditation and determination of minimum standards for conferring degrees; eliminating authority of commission to revoke an institution's authority to confer degrees when governing board or chief

executive officer do not provide certain information to commission; eliminating applicability of certain commission and council rules on certain institutions of higher education; requiring certain governing boards to promulgate and adopt rules related to acquisitions and purchases; clarifying authority of certain governing boards over certain purchasing activities; authorizing prepayment by commission, council or governing boards in certain instance; expanding scope of authorized purchasers on certain purchase contracts; updating power of Joint Committee over performance audits of purchasing; updating authority of commission, council and governing boards over purchase card procedures; requiring certain governing boards to establish purchasing card procedures; clarifying authority for state institutions to enter into design-build contracts and other commonly accepted methods of procurement and financing for construction projects; providing that Design-Build Procurement Act does not apply to state institutions of higher education; providing authority to donate equipment, supplies and materials to not for profit entity to promote public welfare; updating certain best practices applicable to ensuring fiscal integrity of institutions of higher education; authorizing additional situation where emergency purchase card use is permitted; authorizing different tuition and fees for online courses; updating time frame for payment of fees by students; authorizing deposit of certain fees into single special revenue account by certain institutions; updating applicability of rule by commission and council for tuition and deferred payment plans; authorizing certain governing board to proposed a rule related to tuition and fee deferred payment plans; authorizing certain governing boards to authorize a mandatory auxiliary fee without commission approval; updating tuition and fee increase percentage that requires commission or council approval; updating conditions commission or council are required to consider in determining whether to approve a tuition or fee increase; revising requirements and parameters for certain revenue bonds issued by certain governing boards; updating approvals required for issuance of certain revenue bonds by state institutions of higher education; providing for transfer and deposit of certain fees by certain governing boards into single special revenue account; requiring commission and council to develop system

capital development oversight policy and providing content for such policy; requiring each governing board to adopt a campus development plan; updating time frame for reporting to commission and council on campus development plans; eliminating requirement for commission approval of campus development plans of certain governing boards; providing for content of campus development plans; eliminating commission approval over certain capital and maintenance project lists; authorizing certain governing boards to undertake projects not contained in campus development plan; eliminating certain commission approvals related to capital improvements for certain institutions; authorizing capital improvements to be funded through notes; updating conditions to be met for certain institutions to be responsible for capital project management; updating requirements for capital project management rule to be promulgated and adopted by certain governing boards; providing updated applicability and functions of higher education facilities information system; eliminating certain requirements related to leasing of real property by commission, council, and governing boards; updating requirements for use of appraisals in connection with sale of real property; updating permitted uses of proceeds from sale, conveyance or other disposal of real property received by commission, council or a governing board; authorizing certain governing boards to enter into lease-purchase agreements in certain instances without commission approval; eliminating requirement of commission approval for certain real estate and construction transactions; and requiring certain governing boards to provide certain information to commission,”

With the recommendation that the committee substitute do pass.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2816, Eliminating new film tax credits,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 2816 – “A Bill to amend and reenact §11-13X-4 and §11-13X-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-9 of said code; and to amend and reenact §11-16-13 of said code, all relating to taxation, generally; eliminating new film tax credits but preserving credit for taxpayers authorized to claim credit prior to specified date; eliminating exemption from consumers sales and service tax for certain purchases of materials acquired for use in state highway projects; and increasing rate of barrel tax on nonintoxicating beer,”

H. B. 2561, Relating to public school support,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 2561 – “A Bill to amend and reenact §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7, §18-9A-9 and §18-9A-10 of the Code of West Virginia, 1931, as amended; and to amend said Code by inserting a new section, designated §18-9D-4d, all relating to public school support generally; determining allowance for fundable professional educators at set ratio, rather than the number employed subject to a limit; providing for determination of allowance for fundable professional educator positions in excess of number employed; determining allowance for professional educator positions that exceed the number employed; basing minimum professional instructional personnel required on percent of employed fundable professional educators; providing for prorating professional instructional personnel among participating counties in joint school or program or service; removing penalty for not meeting applicable instructional personnel ratio for 2017-18 school year; determining allowance for fundable service personnel at set ratio, rather than number employed subject to a limit; providing for determination of allowance for fundable service personnel positions in excess of number employed; providing for proration of number and allowance of personnel employed in part by state and county funds; adding professional student support personnel allowance to calculation of teachers

retirement fund allowance; establishing that the teachers retirement fund allowance is factored on average retirement contribution rate of each county and establishing basis for determining the average retirement contribution rate; allowing limited portion of funds for bus purchases to be used for school facility and equipment repair, maintenance and improvement or replacement or other current expense priorities if requested and approved by state superintendent following verification; changing calculation of allowance for current expense from percent allowances for professional and service personnel to county's state average costs per square footage per student for operations and maintenance; providing for prorating allowance for current expense among participating counties in joint school or program or service; adding the improvement of instructional technology to the allowance to improve instructional programs; removing authorization for use of instructional improvement funds for implementation and maintenance of regional computer information system; removing requirement for fully utilizing applicable provisions of allowances for professional and service personnel before using instructional improvement funds for employment; changing percentage of allocation allowed for employment; removing restriction limiting use of new instructional improvement funds for employment except for technology system specialists until certain determination made by state superintendent; authorizing use of instructional technology improvement funds for employment of technology system specialists and requiring amount used to be included and justified in strategic technology plan; specifying when certain debt service payments are to be made into school building capital improvement fund; authorizing use of percentages of allocations for improving instructional programs, for improving instructional technology for facility and equipment repair, maintenance and improvement, or replacement and other current expense priorities and for emergency purposes; requiring amounts used to be included and justified in respective strategic plans; authorizing School Building Authority to maintain a reserve fund in the amount of not less than \$600,000 for the purpose of making emergency grants to financially distressed county boards to assist them for certain purposes; directing grants to be made in accordance with

guideline established by the authority and deleting expired provisions,”

H. B. 2817, Providing for the reduction of the unfunded liability in the teachers retirement system over a 30 year period,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2817 – “A Bill to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-9A-6a of said code; to amend and reenact §18A-4-2 of said code, all relating to compensation, including retirement benefits, of educational personnel; redirecting a certain amount of surplus funds to the unfunded liability of the Teachers Retirement System from the amount otherwise directed to the Revenue Shortfall Reserve Fund or left in the General Revenue Fund; extending the time period used by the actuary in determining the allowance for the reduction of any unfunded liability of the state Teachers Retirement System; providing for the fiscal year 2018 allowance for the reduction of any unfunded liability in the Teachers Retirement Fund; providing for certain transfers from the state debt reduction fund to the Teachers Retirement Fund and providing for an additional amount to be paid to classroom teachers,”

H. B. 2933, Relating to the consumers sales and service taxes and use taxes,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2933 – “A Bill to repeal §11-15-9k of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-3, §11-15-3a, §11-15-8, §11-15-8a and §11-15-9 of said code; to amend said code by adding thereto a new section, designated §11-15-3d; to amend and reenact §11-15A-2 and §11-15A-3 of said code; to amend and reenact §11-21-14, §11-21-16 and §11-21-22; and to amend said code by adding thereto a new section, designated §11-21-4g, all relating to the taxes generally;

reducing the general rate of consumers sales and service taxes and use taxation; imposing a reduced rate of taxation on sales, purchases and uses of food and food ingredients intended for human consumption; imposing tax on sales of telecommunications services and ancillary services; eliminating reduced rate of taxation for sales of certain mobile homes and imposing tax on such sales at the general rate; eliminating exemption for sales of certain personal services; eliminating exemption for sales of certain professional services; imposing tax on portion of consideration paid for contracting services; removing outdated language from the code regarding an obsolete exemption related to contracting services; eliminating exemption for sales of electronic data processing services and related software when purchased by an ultimate consumer; eliminating exemption for sales of membership or services provided by health and fitness organizations and related programs; eliminating exemption for sales of primary opinion research when purchased by an ultimate consumer; eliminating exemption for sales of instructional services by a music teacher and certain artistic services; eliminating exemption for commissions received by a travel agency from an out-of-state vendor; eliminating exemption for sales of services providing evaluations for compliance with certain environmental laws when purchased by an ultimate consumer; deleting outdated language in the code relating to an obsolete annual sales tax holiday for energy efficient products; eliminating reduced rate of taxation for use of certain mobile homes and imposing tax on such use at the general rate; eliminating the tax brackets under the personal income tax and changing the rate of the tax; creating a standard deduction from West Virginia taxable income for personal income taxation purposes; eliminating personal exemptions; and eliminating the low-income family tax credit.”

With the recommendation that the committee substitutes each do pass.

Miscellaneous Business

Delegate Robinson announced that he was absent on today when the vote was taken on Roll No. 157, and that had he been present, he would have voted “Yea” thereon.

Delegate Kelly announced that he was absent on today when the vote was taken on Roll No. 154, and that had he been present, he would have voted “Yea” thereon.

Delegate Lewis noted to the Clerk that he was absent on today when the votes were taken on Roll Nos. 151 through 166, and that had he been present he would have voted “Yea” on all except Roll No. 155 on which he would have voted “Nay”.

Delegate Rodighiero noted to the Clerk that he was absent on today when the votes were taken on Roll Nos. 156 through 167 and that had he been present he would have voted “Yea” on all except Roll Nos. 158 and 159 on which he would have voted “Nay”.

Delegate Lovejoy asked and obtained unanimous consent that the remarks of Delegates Eldridge and Rohrbach during Remarks by Members today be printed in the Appendix to the Journal.

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Sponaugle regarding Com. Sub. for H. B. 2524 be printed in the Appendix to the Journal and that the remarks of Delegates Moye and Iaquinta during Remarks by Members today also be printed in the Appendix to the Journal.

Delegate Lynch asked and obtained unanimous consent that the remarks of Delegate Fleischauer during Remarks by Members today be printed in the Appendix to the Journal.

Delegate Summers asked and obtained unanimous consent that the remarks of Delegate Moore during Remarks by Members today be printed in the Appendix to the Journal.

Delegates Espinosa and Frich filed forms with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 2759.

Delegate Nelson filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 3062.

At 7:23 p.m., the House of Delegates adjourned until 8:30 a.m., Saturday, March 25, 2017.

Saturday, March 25, 2017

FORTY-SIXTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 8:30 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Friday, March 24, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 3037, Removing the Division of Energy as an independent agency,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (H. B. 3037) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Hanshaw, Chair of 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 24th day of March, 2017, 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:

H. B. 2300, Regulating step therapy protocols,

Com. Sub. for H. B. 2678, Changing the amounts of prejudgment and post-judgment interest to reflect today's economic conditions,

And,

H. B. 2766, Establishing a new special revenue fund, designated the Adult Drug Court Participation Fund.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 3088, Relating generally to teacher-pupil ratios,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the bill was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 2195, Relating to requiring comprehensive drug awareness and prevention program in all public schools,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2195 – “A Bill to amend and reenact §18-2-7b of the Code of West Virginia, 1931, as amended, relating to requiring comprehensive drug awareness and prevention

program in all public schools; requiring county boards to implement no later than 2018-2019 school year; specifying purposes of program; requiring county boards to coordinate delivery of instruction to meet program purposes with educators, drug rehabilitation specialists and law-enforcement agencies; requiring instruction relating to interactions with law-enforcement officers; and requiring instruction in any of the grades six through twelve in the subject of health on dangers, and addictive nature of opioid use and safer alternatives to treat pain,”

And,

H. B. 3080, Requiring instruction in the Declaration of Independence and the United States Constitution,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 3080 – “A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to recognition of ‘Celebrate Freedom Week’ in all public, private, parochial and denominational schools; stating purpose; providing for instructional elements; exempting from state accountability measures; requiring administration to public school students of civics portion of test the same or substantially similar to certain naturalization test in any grades nine through twelve beginning 2018-2019 school year; report of aggregate results to county board; and exempting from state accountability measures,”

With the recommendation that the committee substitutes each do pass.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2428, Establishing additional substance abuse treatment facilities,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 2428 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-53-1 and §16-53-2, all relating to ensuring that an additional six hundred beds for purposes of providing substance abuse treatment services are made available in locations throughout the state; providing duties of the Secretary of the Department of Health and Human Resources; creating the Ryan Brown Addiction Prevention and Recovery Fund; and directing the transfer of money recovered on behalf of the state arising out of the settlement of a certain civil action,”

H. B. 2552, Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 2552 – “A Bill to amend and reenact §19-14-4 and §19-14-5 of the Code of West Virginia, 1931, as amended, all relating to temporarily increasing pet food registration fees; directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund; requiring spay and neuter services purchased with these funds be performed within the state,”

H. B. 2708, Relating to a lawful method for a developmentally disabled person to purchase a base hunting license,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 2708 – “A Bill to amend and reenact §20-2-30a of the Code of West Virginia, as amended, relating to a lawful method for a developmentally disabled person to purchase a base hunting license when that person attends an on-site hunter training course and successfully completes all nonwritten aspects of the course to receive a certificate but is unable to successfully complete the required course for the certificate of training;

providing that the developmentally disabled person possessing the base hunting license may hunt when accompanied and directly supervised by a person over the age of eighteen years; and providing criminal penalties for violation of this section of the code.”

H. B. 2711, Abolishing regional educational service agencies and providing for the transfer of property and records,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 2711 – “A Bill to repeal §18-2-26a of the Code of West Virginia, 1931, as amended; to amend and reenact §18-2-26 of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-5-13 and §18-5-45 of said code; to further amend said code by adding thereto two new sections designated §18-5-13b and §18-5-13c; to amend and reenact §18-9A-8a of said code; and to amend and reenact §18A-4-14 of said code, all relating generally to education; repealing requirement for biennial meetings of county boards by region; providing for dissolving regional educational service agencies by certain date; allowing for modification and dissolving by cooperative agreement before said date; providing for the transfer, liquidation or disbursement of property and records; clarifying responsibilities and authority of Legislature and state board with respect to process for improving education and purposes and intent of system of accountability; requiring high quality digital literacy skill standard; modifying statewide assessment program; modifying annual performance measures for accreditation; requiring county board use of statewide electronic information system; modifying process for assessing school and school system performance; eliminating office of education performance audits and authorizing employment of experienced education professionals with certain duties; modifying school accreditation and removing authorization for state board intervention in school operations; modifying school system approval and processes for state board intervention; modifying processes for improving capacity; modifying process for building leadership capacity of system during intervention; expanding county board authority for entering into cooperative

agreements; establishing the County Superintendents' Advisory Council; setting forth the council's authority and responsibilities, including the formation of four geographic quadrants to carry out the work of the council; requiring certain meetings and reports; authorizing county board agreements to establish educational services cooperatives; providing references to regional education service agencies mean cooperatives; providing priorities for transfer, liquidation and disbursement of regional education service agency property, equipment and records upon dissolution; providing for governing council of educational services cooperatives; providing for powers and duties; providing for cooperative annual plan and optional programs and services; providing for selection of fiscal agent county board and annual audit; providing for staff and member expenses; providing for member compensation; defining instructional day and instruction through alternative methods; providing for increasing length of instructional day and uses of instructional time gained; providing for use of instruction delivered through alternative methods; providing flexibility in scheduling faculty senate meetings; authorizing reduction in instructional term for certain emergency or disaster declaration by Governor; reducing foundation allowance for regional education service agencies; requiring planning period within school day, rather than instructional day and encouraging districts and schools to develop and execute planning period strategy; and making technical improvements and removing obsolete provisions,"

H. B. 2759, Creating Statewide Interoperable Radio Network,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 2759 – “A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-6-8 of said code; to amend and reenact §5A-10-6 of said code; and to amend said code by adding thereto a new article, designed §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9 and §15-14-10, all relating to creating Statewide Interoperable Radio Network; establishing short title; defining terms; establishing objectives and purpose;

creating position of Statewide Interoperable Coordinator; prescribing duties for Statewide Interoperability Coordinator; creating Statewide Interoperability Executive Committee; prescribing duties for Statewide Interoperability Executive committee; creating the Regional Interoperability Committee; providing for disposition of assets and staffing of Statewide Interoperable Radio Network; establishing special revenue account for Statewide Interoperable Radio Network; exempting Statewide Interoperable Radio Network from certain Purchasing Division and Office of Technology requirements; directing any revenue from certain leases to new special revenue account; and authorizing emergency and legislative rulemaking.”

H. B. 2851, Updating fee structure provisions for broker-dealers,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 2851 – “A Bill to amend and reenact §32-2-202 of the Code of West Virginia, 1931, as amended; to amend and reenact §32-3-305 of said code; and to amend and reenact §32-4-413 of said code, all relating to increasing fees assessed by the Auditor’s Securities Division,”

H. B. 3062, The state Settlement and Recovered Funds Accountability Act,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 3062 – “A Bill to repeal §5-3-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §5-3A-1, §5-3A-2, §5-3A-3, §5-3A-4, §5-3A-5 and §5-3A-6, all relating to creating the State Settlement and Recovered Funds Accountability Act; providing a short title; setting forth legislative findings; directing that recovered funds and assets to be deposited into the state treasury in the general revenue fund of the state, and exceptions; directing that certain recovered funds and assets be held in trust to

be deposited into a special revenue account in the State Treasury; prohibiting agreements to settlement or agreement terms that are contrary to the depositing of funds in the State Treasury; establishing a special fund to be known as the Consumer Protection Recovery Fund; requiring quarterly transfer of funds from the to the general revenue fund; authorizing the deposit and expenditure of attorney fees, expenses and costs awarded to the Attorney General from the fund; prohibiting agreements to settlement or agreement terms that are contrary to the provisions of law; requiring quarterly reporting by the Attorney General as to the disposition of matters; requiring reporting to the State Auditor relating to contracted legal services; and repealing provisions governing the disposition of certain fees of the Attorney General taxed as costs in legal proceedings,”

With the recommendation that the committee substitutes each do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, Com. Sub. for H. B. 2552 and Com. Sub. for H. B. 2711 were each taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2188, Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (H. B. 2188) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2363, Requiring that a state employee with a commercial driver's license have a current medical evaluation certification,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2363 – “A Bill to amend and reenact §17E-1-9 of the Code of West Virginia, 1931, as amended, relating to commercial driver's licenses; and requiring that state, county, city, and other local government employees with commercial driver's licenses have valid and current medical evaluation certification statuses and, if applicable, medical waivers,”

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2129, Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2129 – “A Bill to amend and reenact §60-7-10 of the Code of West Virginia, 1931, as amended, relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs; clarifying that the grant of authority to the Alcohol Beverage Control Commissioner and his or her agents to enter and inspect the premises of a private club does not limit or restrict the authority of local law enforcement to enter any public area on or adjacent to any private club or from taking other appropriate police action or investigation to enforce the underage drinking laws of this state,”

And,

H. B. 2483, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2483 – “A Bill to amend and reenact §49-4-720 and §49-4-722 of the Code of West Virginia, 1931, as amended, all relating to requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday; requiring transfer of juvenile in adult jurisdiction upon reaching eighteen years of age if he or she has either been convicted or is in a pretrial status; directing the Division of Juvenile Services to notify the circuit court of a juvenile reaching the age of eighteen years of age; authorizing the circuit court to conduct a hearing as to alternative placement; mandating that the position of victim be taken under consideration by the court in considering disposition or alternative placement; prohibiting juveniles that commit an adult offense while under the custody of the Division of Juvenile Services from returning back to the placement in a juvenile facility if the juvenile has attained the age of eighteen years; and requiring the court to conduct a hearing as to placement of a juvenile that has turned eighteen years of age and is remanded back to the custody of the Division of Juvenile Services after completion of an adult sentence,”

With the recommendation that the committee substitutes each do pass.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 24, 2017, he approved **S. B. 231**.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 18 – “A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to requiring the state board to use a new comprehensive statewide student assessment program beginning with the 2017-2018 school year; setting forth requirements for the new assessment program; removing authorization to require student proficiencies be measured through the ACT EXPLORE and the ACT PLAN assessments or other comparable assessments; allowing state board to waive certain requirements for the new assessment program if less than two vendors submit bids; clarifying that state board may issue more than one request for proposals and contract with more than one vendor; prohibiting the Smarter Balance Assessment System or the PARCC Assessment System from being used; requiring the state board to include in its rule accountability measures for students taking the comprehensive statewide assessment; prohibiting certain summative assessments from taking more than two percent of a student’s instructional time; prohibiting a student from being required to complete a greater number of summative assessments than is required by the Every Student Succeeds Act; providing exception; and prohibiting collection of personal data as part of the assessment process except for what is necessary for the students’ instruction, academic and college and career search needs”; which was referred to the Committee on Education then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 61 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

designated §11-15-9p, relating to specifying exemption from the consumers sales and service tax and use tax for purchases of certain services and tangible personal property sold for the repair, remodeling and maintenance of certain specified aircraft; defining terms; and specifying method for claiming exemption”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 76 – “A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating to the creation of the West Virginia Second Chance for Employment Act; defining terms; eliminating age limitations for petitioners seeking to expunge certain misdemeanors; expanding eligibility for criminal expungement to persons convicted of certain nonviolent felonies; defining ‘nonviolent felony’; providing exclusions to eligibility; establishing time limitations for filing a petition for expungement; creating petition requirements and court procedure for evaluating preliminary and final orders of expungement for nonviolent felonies; providing for preliminary orders of expungement; requiring a five-year period under a preliminary order of expungement for a felony before one may obtain a final order of expungement; clarifying disclosure requirements with respect to the information sealed pursuant to an order of expungement, including exemptions; providing standard for inspection of sealed records; and making technical changes”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 127, Authorizing Department of Revenue to promulgate legislative rules.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 183 – “A Bill to repeal §19-12A-1, §19-12A-2, §19-12A-3, §19-12A-4, §19-12A-5, §19-12A-6, §19-12A-7 and §19-12A-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §5B-1-2 of said code; to amend and reenact §5F-2-1 of said code; to amend and reenact §6-7-2a of said code; to amend said code by adding thereto a new section, designated §19-1-3b; to amend and reenact §19-1A-5 of said code; and to amend and reenact §19-1B-3 of said code, all relating to transferring the Division of Forestry from the Department of Commerce to the Department of Agriculture; transferring all authorities, powers, funds, duties and affiliated boards or commissions of the Division of Forestry to the division under the department; ensuring legislative rules remain in effect and transfer; permitting the commissioner to hire the director and set the director’s salary; transferring Division of Forestry employees and director at hourly rate and salary and with benefits; making employees and director will and pleasure employees of the commissioner; requiring a transition plan be submitted to the Joint Committee of Government and Finance; and repealing outdated code sections”; which was referred to the Committee on Government Organization then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 419 – “A Bill to amend and reenact §21-3-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-3C-11 of said code; to amend and reenact §21-3D-8 of said code; to amend and reenact §21-5-5c of said code; to amend and reenact §21-9-9 of said code; to amend and reenact §21-10-4 of said code; to amend and reenact §21-11-17 of said code; to amend and reenact §21-14-9 of said code; to amend and reenact §21-15-7 of said code; to amend and reenact §21-16-10 of said

code; to amend and reenact §47-1-8, §47-1-20, §47-1-21 and §47-1-22 of said code; and to amend and reenact §47-1A-10 and §47-1A-14 of said code, all relating to creating special revenue funding sources for the Division of Labor to meet its statutory obligations; establishing Steam Boiler Fund; establishing HVAC Fund; establishing Plumbing Work Fund; establishing Psychophysiological Examiners Fund; establishing Bedding and Upholstery Fund; removing requirement that fees from issuing licenses to administer psychophysiological detection of deception, lie detector or similar examinations be deposited in the General Revenue Fund; authorizing the commissioner to charge fees for the registration of service persons and service agencies, and the registration of businesses that use weighing and measuring devices for commercial purposes and directing such fees to the Weights and Measures Fund; authorizing the commissioner to promulgate emergency legislative rules to administer and enforce fees on service persons and service agencies and businesses using weighing and measuring devices; directing civil penalty fees to the Weights and Measures Fund; removing requirement that the commissioner approve applications for sterilization permits held in states other than West Virginia only after personal inspection of such sterilizer or disinfectant; increasing fees for the issuance of certificates of operation of elevators; establishing late fees; establishing reissuance fee for revoked or expired permits; increasing registration fees for manufacturers of bedding, upholsters and renovators; increasing permitting fees for sterilizers; authorizing the commissioner to promulgate legislative rules; and making general edits and clarifications.”

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 419) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 464 – “A Bill to amend and reenact §33-3-15 of the Code of West Virginia, 1931, as amended, relating to eliminating taxation on annuity considerations collected and received by a life insurer”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2017, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 486 – “A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating to health care provider taxes; making conforming amendments consistent with federal law; changing the rate of tax on eligible acute care hospitals for fiscal year 2018; specifying purposes for which funds may be collected; providing for distribution of remaining funds at the end of fiscal year; providing for an effective date; and extending the expiration date for the tax”; which was referred to the Committee on Health and Human Resources then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 535 – “A Bill to repeal §5B-2-8, §5B-2-8a, §5B-2-9, §5B-2-11, §5B-2-12 and §5B-2-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §5B-1-2 of said code; and to amend said code by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6, §5B-2I-7 and §5B-2I-8, all relating to the reorganization of the Division of Tourism; transferring all powers and duties of the Tourism Commission to the new West Virginia Tourism Office; requiring quarterly meetings; restructuring the Tourism Advertising Partnership Program as a cooperative advertising program administered by the West Virginia Tourism Office; vesting in the executive director all authority for expenditures of funds in the Tourism Promotion Fund; and requiring confidentiality of certain private information”; which

was referred to the Committee on Government Organization then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 538 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §62-12-17a, relating generally to creating special conditions of parole; authorizing the Board of Parole to require parolees to engage in alcohol or antagonist drug opioid therapy as a special condition of parole if recommended by the Commissioner of Corrections; and establishing conditions for imposition and maintenance of the special condition”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 35 – “Urging the United States Congress to reassess the federal definition of industrial hemp, allowing the product to contain up to one percent delta-9 tetrahydrocannabinol on a dry weight basis.”

Whereas, In 2002 West Virginia adopted the Industrial Hemp Development Act to promote growth of industrial hemp farms and industry in the state; and

Whereas, Industrial hemp farmers and processors encourage Congress to reassess the definition of industrial hemp as referenced in 7 U. S. C. §5940 and increase the farm production values to one percent tetrahydrocannabinol to allow industrial hemp farmers to increase yield potential per acre and profitability for all industrial hemp grown in the state; and

Whereas, A change in the definition not only impacts the crop values for West Virginia farmers producing industrial hemp for nutraceutical extract but also impacts all other aspects of industry development; and

Whereas, Increasing yield potential per acre equates to increased profit potential for West Virginia's farm families and industrial hemp processors; and

Whereas, A variety of products can be made from industrial hemp through its use of fiber, seed, seed oil or floral extracts. Industrial hemp can be found in products such as paper, fabric, auto parts, animal bedding, body care products and essential oils; and

Whereas, The Industrial Hemp Farming Act of 2015 amended the Controlled Substances Act of 1970 to redefine "industrial hemp" and remove it from the current definition of "marijuana", thereby allowing hemp to be grown, processed, transported and sold under state and federal laws; and

Whereas, West Virginia can prosper in the cultivation, processing, manufacturing and sale of hemp for food, textiles, building materials and dietary supplement uses; and

Whereas, The federal government defines industrial hemp as "the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis"; and

Whereas, Industrial hemp has thirty percent more protein per pound than beef, essential amino acids and a source of omega 3s, making it a great replacement for fish oil, useful as a replacement for coconut oil and useful for many health benefits; and

Whereas, The West Virginia Department of Agriculture has been very supportive of the hemp industry; and

Whereas, West Virginia agriculture will play a large role in the state's future, ranking 11th in the United States in apple production,

16th in the United States turkey production and 18th in the United States chicken meat production; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby urges the United States Congress to reassess the federal definition of industrial hemp, allowing the product to contain up to one percent delta-9 tetrahydrocannabinol on a dry weight basis; and, be it

Further Resolved, That the West Virginia Senate urges the United States Congress to consider revising the current definition of industrial hemp found in 7 U. S. C §5940, increasing the tetrahydrocannabinol threshold of dry weight flower concentration from three tenths of one percent to one percent; and, it be

Further Resolved, That the West Virginia Senate is hereby urged to promote the increased production of industrial hemp to promote agricultural growth within the state; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to each member of West Virginia's delegation to the United States Congress.

Resolutions Introduced

Delegates Sponaule and A. Evans offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 104 – “Requesting the Division of Highways to name bridge number 36-33-33.85 (36A165) (38.65987, -79.31816), locally known as River Gap Bridge, carrying U. S. 33 over South Branch Potomac River in Pendleton County, the ‘Dr. H. Luke Eye Memorial Bridge’.”

Whereas, Dr. H. Luke “Doc” Eye was born on July 9, 1928, in Pendleton County, and attended West Virginia University for his undergraduate studies, and then the University of Maryland School of Medicine; and

Whereas, Dr. Eye began his medical career in Pendleton County working with other local doctors before starting his own medical practice to provide health care services to the residents of Pendleton County; and

Whereas, Dr. Eye was instrumental in renovating the Franklin High School interior, restoring the Thorn Spring Park, and raising funds to make the Potomac Highlands Rec Center a reality in the late 1990s; and

Whereas, Dr. Eye held many positions outside of his capacity as a doctor. He was the county coroner, Medical Director of Pendleton Manor, on the board of directors for the Pendleton County Health Department, a member of the church choir of the Franklin United Methodist Church, recipient of the Pendleton County Farm Bureau Farm Service Award, and recipient of a Lifetime Community Service Award; and

Whereas, Dr. H. Luke Eye passed away March 8, 2016, after a lifetime of service to Pendleton County and providing a face to the definition of a country doctor in rural America; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 36-33-33.85 (36A165) (38.65987, -79.31816), locally known as River Gap Bridge, carrying US 33 over South Branch Potomac River in Pendleton County, the “Dr. H. Luke Eye Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “Dr. H. Luke Eye Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Maynard, Eldridge, C. Miller and Hornbuckle offered the following resolution, which was read by its title and referred to the Committee on Rules.

H. C. R. 105 – “Requesting that the Division of Highways name bridge number 322-10-28.14 (22A038) (38.28695, -82.19690), currently known as the West Hamlin Bridge, carrying West Virginia Route 10 over the Guyandotte River in Lincoln County, West Virginia, the ‘Army SSG Arthur N. McMellon Memorial Bridge’.”

Whereas, Staff Sergeant Arthur N. McMellon was the seventh child born to Frank and Garnett McMellon of West Hamlin, Lincoln County, and attended Guyan Valley High School. Arthur N. McMellon had four brothers, Frank, Jr. of West Hamlin, Forrest of Barboursville, Gerald of Alum Creek and Jimmy of Star Route 10, near Barboursville, and three of the four also served in the military; and

Whereas, SSG Arthur N. McMellon saw combat action in the United States Army in Korea at the age of seventeen, where he was missing in action once for 18 days but returned uninjured. He never intended to make a career of the Army, but later reenlisted because he was unable to find a job in West Virginia and was deployed to a combat area in Vietnam. While serving as a mess sergeant, SSG Arthur N. McMellon was able to scrounge up supplies for and serve a turkey feast for 71 Vietnamese children who unexpectedly visited his First Division Company on a Thanksgiving Day. His letters home to his wife and mother described the debilitating heat and humidity endured by the troops in Vietnam, the intense fighting in the area where he was stationed near Ben Cat and his desire to be home; and

Whereas, While riding in a Jeep to secure supplies for his unit, SSG Arthur N. McMellon was killed December 1, 1965, by a Viet Cong grenade. SSG Arthur N. McMellon was buried in Arlington National Cemetery on December 16, 1965. Rep. Ken Hechler, D. W.Va., who arranged for the sergeant’s burial at Arlington, said of him, “He showed that human kindness and love can shine through

and can never be obscured by the muck and grime of a brutal war”; therefore, be it

Resolved by the Legislature of West Virginia:

That bridge number 322-10-28.14, (22A038) (38.28695, -82.19690), currently known as the West Hamlin Bridge, carrying West Virginia Route 10 over the Guyandotte River, in Lincoln County, West Virginia, be named the “Army SSG Arthur N. McMellon Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the “Army SSG Arthur N. McMellon Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Walters, Phillips, Rowe, Hornbuckle, Eldridge, Mr. Speaker (Mr. Armstead), Ambler, Arvon, Atkinson, Baldwin, Blair, Brewer, Butler, Byrd, Canestraro, Capito, Caputo, Cooper, Criss, Dean, Diserio, Ellington, A. Evans, Fast, Ferro, Fleischauer, Fluharty, Folk, G. Foster, N. Foster, Frich, Hamilton, Hamrick, Hanshaw, Harshbarger, Hicks, Higginbotham, Hill, Householder, Howell, Iaquina, Isner, Kelly, Kessinger, Lane, Lewis, Longstreth, Love, Lovejoy, Miley, Moore, Moye, Nelson, O’Neal, Pushkin, Pyles, Queen, Robinson, Rohrbach, C. Romine, R. Romine, Rowan, Shott, Sponaule, Storch, Thompson, Upson, Wagner, Ward, Westfall, Wilson and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 106 – “Requesting the Division of Highways to place appropriate supplemental signs on Interstate 77 at Exits 111 and 114 to direct travelers to the Sissonville Business District; and to place appropriate supplemental signs at Exit 116 on Interstate 77

indicating that travelers should use exits 111 and 114 for the Sissonville Business District.”

Whereas, The area within the greater Sissonville community extending from exit 111 off Interstate 77, Toppers Creek and extending west on Call Road to the intersection of Sissonville Drive and then north on Sissonville Drive to Pocatlico (Aldersgate United Methodist Church) is not included in any current unincorporated community. Significant business and school development has occurred in this area which includes within these boundaries the following community institutions: Sissonville Post Office, Sissonville High School, Sissonville Middle School, Sissonville Branch Library, office of the Sissonville Public Service District, the Sissonville-Millertown-Guthrie-Pocatlico Volunteer Fire Department headquarters listed on the Internet as the Sissonville Volunteer Fire Department – Johnson Station, and the forthcoming Sissonville Health Services, now under construction. This defined district comprises the largest concentration of businesses in the greater Sissonville area including: Two banks, one supermarket, six restaurants, one drug store, two modern office buildings, one convenience store and many other businesses; and

Whereas, It is important to the residents and businesses of the greater Sissonville community to further attract other businesses and residential services to their community. The identification and designation of this area will make it easier for travelers to find this business district as well as the high school and middle school. The only sign for Sissonville currently on Interstate 77 is at Exit 116 and that sign indicates historic Sissonville; and

Whereas, This identification and designation will not change any unincorporated designations of current locations within this community, especially historic Sissonville; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to have made, and be placed, appropriate supplemental signs on Interstate 77 at Exits 111 and 114 to direct travelers to the Sissonville Business District; and to place appropriate supplemental signs at

Exit 116 on Interstate 77 indicating that travelers should use exits 111 and 114 for the Sissonville Business District; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the Greater Sissonville Development Council.

Delegates Maynard, Moye, Eldridge and Arvon offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 107 – “Requesting the Division of Highways to name bridge number 41-1-12.89 (41A006) (37.93155, -81.36240), locally known as ‘Artie Bridge’, carrying County Route 1 over Clear Fork in Raleigh County the ‘U. S. Air Force SMSGT Billie E. “Bunky” Hodge Bridge’.”

Whereas, Billie Hodge was born in the town of Artie in Raleigh County in 1939; and

Whereas, Billie Hodge attended Clear Fork High School where he graduated valedictorian of his class while serving as President of the National Honor Society at Clear Fork; and

Whereas, Upon graduation from high school, Billie Hodge enlisted in the United States Air Force where he served in various duty locations, including Korea, Guam and Taiwan. He also served in various locations in the United States, including Nevada in the 1980s where he participated in the implementation of the U.S. Military’s stealth aircraft technology; and

Whereas, Billie Hodge retired from the Air Force after serving therein for 26 years as a Senior Master Sergeant and moved his family back to his roots in Raleigh County where he demonstrated exceptional civic expression and community-based good works; and

Whereas, Billie Hodge took in scores of foster children over the years who needed a home and loving and tender care, which Billie and his wife were always willing to supply; and

Whereas, Billie Hodge passed away on September 23, 2015; and

Whereas, Billie Hodge left a legacy of good works and community leadership in multiple ways and it is only fitting that a lasting memorial be made to his exceptional life; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 41-1-12.89 (41A006) (37.93155, -81.36240), locally known as “Artie Bridge”, carrying County Route 1 over Clear Fork in Raleigh County the “U.S. Air Force SMSGT Billie E. ‘Bunky’ Hodge Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge proclaiming the name to be the “U.S. Air Force SMSGT Billie E. ‘Bunky’ Hodge Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 113 and Com. Sub. for S. B. 362, on Second Reading, Special Calendar, to the House Calendar; S. B. 164, Com. Sub. for S. B. 233, Com. Sub. for S. B. 247 and Com. Sub. for S. B. 248, on First Reading, Special Calendar, to the House Calendar; and Com. Sub. for H. B. 2794, Com. Sub. for H. B. 2804, H. B. 2878, Com. Sub. for H. B. 2897 and Com. Sub. for H. B. 2941, First Reading, House Calendar to the Special Calendar.

Special Calendar

Third Reading

Com. Sub. for H. B. 2219, Authorizing miscellaneous boards and agencies to promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 168**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Eldridge, Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2219) passed.

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

On this question, the yeas and nays were taken (**Roll No. 169**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2219) takes effect from its passage.

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

Com. Sub. for H. B. 2346, Relating to motor vehicle license plates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 170**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Baldwin, Fleischauer and Longstreth.

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2346) passed.

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

Com. Sub. for H. B. 2515, West Virginia Monument and Memorial Protection Act of 2017; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 171**), and there were—yeas 73, nays 23, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Byrd, Canestraro, Caputo, Cowles, Diserio, E. Evans, Hornbuckle, Isner, Lane, Lynch, Miley, R. Miller, Moye, Pushkin, Robinson, Rowe, Sponaule, Statler, Wagner and Williams.

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2515) passed.

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

Com. Sub. for H. B. 2721, Removing the cost limitation on projects completed by the Division of Highways; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 172**), and there were—yeas 96, nays none,

absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2721) passed.

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

Com. Sub. for H. B. 2722, Eliminating the financial limitations on utilizing the design-build program for highway construction; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 173**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2722) passed.

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

Com. Sub. for H. B. 2724, Relating to creating a pilot program under the Herbert Henderson Office of Minority Affairs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 174**), and there were—yeas 88, nays 8, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Blair, Cowles, Fast, Folk, Gearheart, McGeehan, Overington and Paynter.

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2724) passed.

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

H. B. 2745, Adding the examination of Advanced Care Technician; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 175**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2745) passed.

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

H. B. 2788, Allowing military veterans with certain military ratings to qualify for examinations required of a probationary firefighter; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 176**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2788) passed.

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

Com. Sub. for H. B. 2838, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 177**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2838) passed.

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

Com. Sub. for H. B. 2841, Requiring board members to have attended a board meeting in order to be compensated for the meeting; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 178**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2841) passed.

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

Com. Sub. for H. B. 2846, Including high school students participating in a competency based pharmacy technician education and training program as persons qualifying to be a pharmacy technician trainee; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 179**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2846) passed.

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

Com. Sub. for H. B. 2935, Relating to state flood protection planning; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 180**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2935) passed.

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

Com. Sub. for H. B. 2948, Establishing timelines for taking final action on certain permits; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 181**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2948) passed.

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

Com. Sub. for H. B. 2949, Exempting specified Division of Natural Resources' contracts for some replacement, repair or design for repairs to facilities from review and approval requirements; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 182**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2949) passed.

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

Com. Sub. for H. B. 2980, Relating to civil lawsuit filing fees for multiple defendant civil action; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 183**), and there were—yeas 89, nays 7, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Folk, Gearheart, Marcum, Martin, McGeehan, Wagner and Wilson.

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2980) passed.

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

H. B. 3018, Adding definition of correctional employee to the list of persons against whom an assault is a felony; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 184**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 3018) passed.

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

H. B. 3018 – “A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to crimes against the person; adding the definition of correctional employee; including correctional employees as a group to which the criminal penalties of malicious assault, unlawful assault, battery and assault in this section apply; providing that any person convicted of any crime in this section who is incarcerated at a facility operated by the West Virginia Division of Corrections or the West Virginia Regional Jail Authority at the time the offense was committed and whose victim is a correctional employee may not be sentenced in a manner that the sentence would run concurrently with any other sentence being served at the time of sentencing, but shall run consecutively to the current sentence.”

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

Com. Sub. for H. B. 3020, Relating to criminal penalties for the offenses of hunting, trapping or fishing on the lands of another person; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 185**), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Isner and Marcum.

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3020) passed.

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

H. B. 3053, Relating to motor vehicle lighting; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 186**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 3053) passed.

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

Com. Sub. for H. B. 3064, Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 187**), and there were—yeas 86, nays 10, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Baldwin, Caputo, Ferro, Fluharty, Folk, Gearheart, Hamilton, Isner, Marcum and Sponaule.

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3064) passed.

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

H. B. 3101, Creating a misdemeanor for violation of catching, taking or killing fish within two hundred feet of agency personnel stocking fish into public waters; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 188**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fluharty, Folk, McGeehan and Phillips.

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 3101) passed.

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

H. B. 3105, Relating to the Licensed Racetrack Modernization Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 189**), and there were—yeas 50, nays 46, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, Espinosa, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman,

Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moore, Moye, Paynter, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Storch, Thompson, Ward, Williams and Zatezalo.

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 3105) passed.

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

H. B. 3106, Relating to increasing the number of limited video lottery terminals; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 190**), and there were—yeas 88, nays 8, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fast, Frich, Hollen, Iaquinta, Isner, Kelly, Sobonya and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Ellington, G. Foster, Hicks and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 3106) passed.

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

Second Reading

Com. Sub. for H. B. 2004, Creating and maintaining a centralized state vehicle inventory system; on second reading, coming up in regular order, was read a second time

On motion of Delegates Howell, Atkinson, Criss, Diserio, Eldridge, Ellington, Ferro, Hamrick, Hill, Lewis, Lynch, Martin, Maynard, Paynter, Queen, Storch, Sypolt, Walters and Ward, the bill was amended on page one, after the enacting clause, by striking out the enacting section in its entirety, and by striking out the remainder of the bill in its entirety, and inserting in lieu thereof the following:

“That §5A-3-49 of the Code of West Virginia, 1931, as amended, be repealed; that §5A-1-2 of said code be amended and reenacted; that §5A-3-52 of said code be amended and reenacted; that said code be amended by adding thereto a new article, designated §5A-12-1, §5A-12-2, §5A-12-3, §5A-12-4, §5A-12-5, §5A-12-6, §5A-12-7, §5A-12-8, §5A-12-9, §5A-12-10 and §5A-12-11; that §17A-3-23 of said code be amended and reenacted; that said code be amended by adding thereto three new sections, designated §17A-3-25, §17A-3-26 and §17A-3-27; and that §29B-1-4 of said code be amended and reenacted, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 1. DEPARTMENT OF ADMINISTRATION.

§5A-1-2. Department of Administration and Office of Secretary; secretary; divisions; directors.

(a) The Department of Administration and the Office of Secretary of Administration are continued in the executive branch of state government. The secretary is the Chief Executive Officer of the department and shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term not exceeding the term of the Governor.

(b) The Department of Administration may receive federal funds.

(c) The secretary serves at the will and pleasure of the Governor. The annual compensation of the secretary shall be as specified in section two-a, article seven, chapter six of this code.

(d) There shall be in the Department of Administration a Finance Division, a General Services Division, an Information Services and Communications Division, Division of Personnel and a Purchasing Division. Each division shall be headed by a director who may also head any and all sections within that division and who shall be appointed by the secretary.

(e) There shall also be in the Department of Administration those agencies, boards, commissions and councils specified in section one, article two, chapter five-f of this code.

(f) The secretary may establish a ~~Fleet Management Office~~ an aviation division within the Department of Administration to:

(1) Manage all ~~motor vehicles and~~ aircraft owned or possessed by the State of West Virginia or any of its departments, divisions, agencies, bureaus, boards, commissions, offices or authorities: *Provided*, That, such ~~vehicles and~~ aircraft shall not be used for personal purposes, other than for de minimis personal use;

(2) Administer the rules, including emergency rules, promulgated under the provisions of ~~sections~~ section forty-eight ~~and forty nine~~, article three of this chapter; and

(3) Perform any duties relating to ~~motor vehicles and~~ aircraft owned or possessed by the State of West Virginia assigned by the secretary, which duties may include those set out in sections fifty through fifty-three, article three of this chapter.

ARTICLE 3. PURCHASING DIVISION.

~~§5A-3-52. Special funds for travel management created.~~ Aviation Fund.

~~(a) The travel management special fund is terminated. All deposits currently in this special fund from aviation fees shall be transferred into the Aviation Fund created in subsection c of this section. All funds in this special fund from the monthly fee for vehicles shall be transferred into the Fleet Management Office Fund created in subsection (b) of this section.~~

~~(b) There is created in the State Treasury a special revenue account, to be known as the Fleet Management Office Fund. Expenditures are authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven b of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and shall be used solely in a manner consistent with this article. All costs and expenses incurred pursuant to this section, including administrative, shall be paid from those funds. Charges for operating, repairing and servicing motor vehicles made against any institution, agency or department shall be paid into the Fleet Management Office Fund by that institution, department or agency.~~

(c) ~~There is created in the State Treasury a~~ The special revenue account, to be known as the Aviation Fund, is hereby continued and shall be administered by the secretary. Expenditures from this fund are authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the ~~provisions of~~ article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and shall be used solely in a manner consistent with this article. All costs and expenses incurred pursuant to this section, including administrative, shall be paid from those funds. Charges for operating, repairing and servicing aircraft made against any institution, agency or department shall be paid into the Aviation Fund by that institution, department or agency.

ARTICLE 12. FLEET MANAGEMENT OFFICE.

§5A-12-1. Fleet Management Office; purpose; Fleet Management Office Fund.

(a) Beginning July 1, 2017, the Fleet Management Office, as previously authorized by section two, article one of this chapter, is

hereby created in the Department of Administration for the purpose of maintaining a centralized state vehicle inventory system.

(b) In coordination with the Commissioner of the Division of Motor Vehicles, the Fleet Management Office shall participate in the State Vehicle Title, Registration and Relicensing Project of 2017, as provided for in section twenty-five, article three, chapter seventeen-a of this code.

(c) The Fleet Management Office shall develop and maintain a centralized state vehicle inventory system, which includes the capability of monitoring the utilization of state vehicles for best practices for vehicle use, and to track the costs of purchasing, leasing, operating, maintaining, transferring, and decommissioning state vehicles.

(d) The special revenue account, known as the Fleet Management Office Fund, previously created by section fifty-two, article three of this chapter, is hereby continued and shall be administered by the secretary. Expenditures are authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with article three, chapter twelve of this code and upon fulfillment of article two, chapter eleven-b of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and may be used solely in a manner consistent with this article. All costs and expenses incurred pursuant to this article, including administrative, shall be paid from those funds. Charges for operating, repairing and servicing state vehicles made against any spending unit shall be paid into the Fleet Management Office Fund by that spending unit.

§5A-12-2. Scope of article; exemption.

(a) This article applies to all spending units of state government relating to the purchase, lease or use of any vehicle with a rating of one ton and under utilized with the expenditure of public funds, except as otherwise provided by this code.

(b) Spending units shall report annually to the Fleet Management Office the records, information and data as required by this article, to facilitate the development, operation and maintenance of an accurate and updated centralized state vehicle inventory system; and

(c) Each spending unit of the state that owns, leases, purchases or uses vehicles with a rating of one ton and under for any purpose, shall comply with the reporting provisions of this article when any public money is expended to own, lease, purchase or use a state vehicle, regardless of the source of the funds: *Provided*, That this article does not apply to the reporting of information related to undercover vehicles as provided in section twenty-three, article three, chapter seventeen-a of this code: *Provided, however*, That the Fleet Management Office may require aggregate vehicle data regarding undercover vehicle use that does not identify any specific undercover vehicle, location or any other undercover vehicle information exempt from disclosure under chapter twenty-nine-b of this code.

§5A-12-3. Definitions.

As used in this article:

(a) ‘Central Motor Pool’ means, under the direction and control of the Secretary of Administration, the group of state vehicles to be shared among spending units;

(b) ‘Centralized state vehicle inventory system’ means the database to be maintained by the Fleet Management Office and must include, but not be limited to, the physical devices, hardware, software, inventory records, agency reports, and other data sources necessary to identify every state vehicle, by vehicle type, make, model, year, the location, agency assigned to own, lease, or otherwise use any vehicle by each spending unit in this state for a public purpose for which public funds have been expended;

(c) ‘Director’ means the Director of the Fleet Management Office;

(d) ‘Fleet Coordinator’ means the head of a spending unit, or his or her designee, who is responsible for the duties as required by this article;

(e) ‘Office’ means the Fleet Management Office, under the Department of Administration, as established pursuant to this article;

(f) ‘Secretary’ means the Secretary of the Department of Administration;

(g) ‘State vehicle’ means a vehicle with a rating of one ton or less that is owned, purchased, or leased by any state spending unit, on which a state vehicle license plate is required, where the use of such vehicle is paid for with public funds regardless of the source of such funding, but does not include all-terrain vehicles (ATVs) or vehicles requiring a commercial driver’s license to operate;

(h) ‘State vehicle fleet’ means all state vehicles;

(i) ‘State vehicle license plate’ means a license plate authorized to be issued by the Division of Motor Vehicles, which identifies the vehicle as owned or leased by the state or a spending unit;

(j) ‘State Vehicle Title, Registration and Relicensing Project of 2017’ means the requirement for all spending units owning or leasing state vehicles, to report to the Division of Motor Vehicles and obtain new titles, new registration cards and new state vehicle license plates by December 31, 2017, pursuant to sections twenty-three and twenty-five, article three, chapter seventeen-a of this code, to standardize the naming conventions on titles and registration cards of state vehicles in order to facilitate the creation and maintenance of a centralized state vehicle inventory system;

(k) ‘Undercover vehicle’ means any motor vehicle that is registered as a Class A motor vehicle and that is owned or leased by, or assigned to, an agency authorized by section twenty-three, article three, chapter seventeen-a of this code to use motor vehicles for undercover activity; and

(1) 'Vehicle log' means the record of state vehicle use to track the type of travel, time of travel, starting and ending destinations, mileage, and other information as required to be compiled and maintained pursuant to this article.

§5A-12-4. Director; office; powers, duties and responsibilities.

(a) The secretary shall appoint a director of the office who has the following powers:

(1) Employ such staff as needed, with the approval of the secretary, to operate and maintain a centralized state vehicle inventory system;

(2) Maintain adequate office space, with the approval of the secretary, for staff and equipment as needed to effectuate the provision of this article;

(3) Review the reporting of spending units for compliance with the requirements of this article, and provide guidance to spending units on keeping an accurate and current inventory of state vehicles and aircraft within their supervision;

(4) Report annually to the Governor and to the Joint Committee on Government and Finance; and

(5) Recommend legislative rules to the secretary.

(b) The office has the following duties and responsibilities:

(1) Maintain a centralized state vehicle inventory system for all state vehicles and aircraft owned, leased, or used by the State of West Virginia or any of its spending units;

(2) Under the direction of the secretary, establish a central motor pool, which shall be maintained and administered by the Department of Administration, subject to such rules as the secretary may promulgate: *Provided*, That the Department of Administration is responsible for the storage, maintenance, and repairs of all vehicles and aircraft assigned to the central motor pool; and

(3) Coordinate with the Division of Motor Vehicles, the Enterprise Resource Planning Board, the Board of Risk and Insurance Management, the Travel Management Office, the State Agency for Surplus Property, and such other agencies as may be necessary to develop consistent and efficient policies and systems for identifying state vehicles and aircraft, the spending units to which they are assigned, their location, condition, cost of operation, maintenance and retirement from use.

§5A-12-5. Rule-making authority; emergency rules.

(a) The director may recommend legislative rules to the secretary, and the secretary shall propose legislative rules as may be necessary to implement this article, in accordance with article three, chapter twenty-nine-a of this code, including but not limited to prescribe:

(1) The minimum requirements governing the use of state vehicles or any other vehicle use where such vehicle has a rating of one ton and under for which public funds have been expended;

(2) A policy governing commuting in and taking home state vehicles, including requirements for emergency use of take-home vehicles with a rating of one ton and under, and restrictions on the use of such take-home vehicles solely for commuting;

(3) A policy governing volunteer and nonemployee drivers of state vehicles;

(4) The reporting requirements and responsibilities for fleet coordinators, regarding state vehicle use, to track and maintain records regarding the direct and itemized indirect costs of state vehicle use, and any maintenance, leasing and decommissioning costs and activities;

(5) The requirements and responsibilities for each driver or operator of a state vehicle or vehicle with a rating of one ton and under operated for a public purpose for which public funds have been expended;

(6) The minimum criteria to be collected and maintained in state vehicle log sheets for each state vehicle, including what information is to be recorded by the vehicle operator, the vehicle log information to be maintained by each fleet coordinator, and the vehicle log information to be reported to the office by the spending unit and the frequency thereof;

(7) The form for each spending unit to report the justification of purchasing or leasing a state vehicle, which shall require, at a minimum, the frequency of anticipated use, the type of vehicle needed, the purpose for vehicle use, and other contributing factors;

(8) The form for each spending unit to affirm that the spending unit has notified the Division of Motor Vehicles, the Board of Risk and Insurance Management, pursuant to section six, article twelve, chapter twenty-nine of this code, and the office, that the state vehicle had been purchased, transferred or decommissioned, and the manner thereof;

(9) The information that each fleet coordinator shall annually report to the office, including the manner of reporting direct and itemized indirect costs associated with state vehicle use, which includes, at a minimum, the following where applicable:

(A) The name of the spending unit titled to own or lease each state vehicle;

(B) Each state vehicle owned or leased by the spending unit;

(C) The frequency of use of each state vehicle;

(D) The vehicle identification number;

(E) The class of vehicle or vehicle type;

(F) The manufacturer, make, model, and year;

(G) The license plate number of each vehicle as issued by the Division of Motor Vehicles;

(H) The license renewal date;

(I) The date of acquisition;

(J) The funding source for the purchase or lease of each state vehicle;

(K) The assigned user or users of the vehicle if known;

(L) Periodic odometer readings;

(M) Fuel use and fuel expenditures for each vehicle;

(N) The maintenance expenditures, including corresponding maintenance and service records for each state vehicle;

(O) State vehicle inspection records, including the date of the inspection and the vendor who performed the state inspection;

(P) The location of where each state vehicle is housed, including any monthly parking or storage costs as applicable;

(Q) The costs associated with vehicle rental expenses; and

(R) Monthly reimbursements for personal vehicle use shall include at a minimum, the date, the starting and ending points, the total miles, and the reimbursement rate.

(10) The form for affirming, at a minimum, that the person in charge of the spending unit has verified the accuracy of the spending unit annual reports to the office, and that the spending unit has reconciled the report against the spending unit actual inventory of state vehicles, and as compared to the applicable databases, including the Division of Motor Vehicles, the recording of fleet assets in the state's central financial system maintained by the Enterprise Resource Planning Board, and the Board of Risk and Insurance Management, within the scope and capabilities of each database; and

(11) The procedures by which the director shall annually report irregularities and errors among the databases and state systems, and for reconciling errors and omissions thereof.

(b) The secretary may promulgate emergency and legislative rules under article three, chapter twenty-nine-a of this code, in coordination with the Commissioner of Motor Vehicles, the Enterprise Resource Planning Board, the Board of Risk and Insurance Management, and those other agencies as may be necessary to develop a standardized naming convention for universal use by state spending units for the registration, titling, and licensing of state vehicles in the centralized state vehicle inventory system; and for the development of reporting criteria that is consistent, standardized, and the least burdensome for the agencies as practicable: *Provided*, That the Commissioner of the Division of Motor Vehicles, with the advice of the Enterprise Resource Planning Board, has the authority to promulgate rules describing the standard naming conventions for the registration, titling, and licensing of state vehicles as provided in sections twenty-three and twenty-five, article three, chapter seventeen-a of this code.

(c) The secretary may amend or modify existing legislative rules and propose new rules governing the use of state vehicles pursuant to this article: *Provided*, That the Fleet Management Office legislative rules in effect upon the effective date of this article shall be and remain in effect unless modified, repealed, or replaced by the Legislature.

§5A-12-6. Statewide inventory of motor vehicles; annual report to Governor and Joint Committee on Government and Finance.

(a) The Fleet Management Office shall maintain sufficient records for an accurate centralized state vehicle inventory system that identifies, at a minimum, each state vehicle, the spending unit titled to own or lease each state vehicle, the frequency of use of each state vehicle, the vehicle identification number of each state vehicle, class of vehicle or vehicle type, manufacturer, make, model, year, state issued license plate number, the license renewal date, the date of acquisition, the funding source for the purchase or lease of each state vehicle, the assigned user or users of the state vehicle if known, periodic odometer readings, fuel use and fuel expenditures for each state vehicle, maintenance expenditures,

maintenance and service records, vehicle inspection records, the location of where each state vehicle is housed, monthly parking or storage costs for each vehicle where applicable.

(b) Beginning December 31, 2017 and by each December 31 thereafter, the office shall report to the Governor and the Joint Committee on Government and Finance, describing the total cost of maintaining the state vehicle fleet, the direct and itemized indirect costs associated with the state vehicle fleet operation and maintenance, the total number of state vehicles operated in the state vehicle fleet, and a breakdown of state vehicles by spending units. The annual report shall include a cost benefit analysis of fleet activity, including comparing leasing, vehicle rental costs and reimbursement for personal vehicle use, as compared to state ownership of certain vehicles, and make recommendations for the proper allocation of spending unit use, ownership or leasing of state vehicles.

(c) An annual report produced in an electronic format complies with the reporting requirements of this article.

§5A-12-7. Spending unit duties; annual report.

(a) Each spending unit shall designate a Fleet Coordinator, who is responsible for reviewing spending unit state vehicle information, including that previously submitted to the office, and as maintained in other applicable state databases, including the Division of Motor Vehicles, the state's central financial system maintained by the Enterprise Resource Planning Board, and the Board of Risk and Insurance Management, to verify the accuracy of such information against the actual inventory of state vehicles used by the spending unit: *Provided*, That the head of each spending unit is responsible for affirming the accuracy of all reports submitted to the office, including such reports submitted by the Fleet Coordinator.

(b) Each spending unit that uses a state vehicle, or reimburses for personal vehicle use, shall annually report to the office beginning on or before October 31, 2017 and on or before October 31 each year thereafter, in the manner required by this article.

(c) Each spending unit shall track its vehicle use and report to the office all information, as required by this article and legislative rules, related to the ownership, purchase, lease and use of any vehicle with a rating of one ton and under where public funds have been expended.

(d) Each spending unit that purchases or leases a state vehicle, or rents or reimburses an employee for personal vehicle use, shall periodically compile and maintain the record of each vehicle log, or records of rental and private vehicle use expenditures, for not less than two years.

§5A-12-8. Vehicle operator regulations; training.

(a) Each operator of a state vehicle, or a personal vehicle for which reimbursement is sought, shall maintain the vehicle logs to the level of detail described in this article, as required by the office through legislative rules, and as may be required by the spending unit.

(b) Each operator of a state vehicle shall comply with the laws, rules and policies governing state vehicle use, including spending unit rules and policies.

(c) Each time a state vehicle is refueled, it shall be refilled as full as practical and shall be recorded on the vehicle log, including the fuel amount, and a description of the circumstances where the state vehicle is not fully refueled.

(d) In order to operate a state vehicle, the operator shall be required to take such training courses as may be required by the Board of Risk and Insurance Management, the Travel Management Office, the Fleet Management Office, and the spending unit.

§5A-12-9. Enforcement of regulations.

If any public employee or public official fails to comply with any rule or regulation for state vehicle use, the spending unit may require that the individual attend training, be restricted from using state vehicles, or prohibited from using state vehicles: *Provided,*

That nothing in this section authorizes the office to restrict the use of state vehicles except for employees under its control.

§5A-12-10. Notice to spending units.

The office, in coordination with the Commissioner of the Division of Motor Vehicles, shall provide notice to each spending unit, and advertise as deemed appropriate, to inform the Fleet Coordinators that certain state vehicle license plates expire December 31, 2017, and the procedure for being issued new titles, registration and license plates pursuant to sections twenty-three and twenty-five, article three, chapter seventeen-a. The head of each spending unit with state vehicles shall cooperate and comply with the requirements of the State Vehicle Title, Registration and Relicensing Project of 2017 and the centralized state vehicle inventory system.

§5A-12-11. Compliance audit.

On or before December 31, 2020, the Legislative Auditor, in accordance with article ten, chapter four of this code, shall audit the office for state spending unit compliance with the reporting requirements and applicable provisions of this article, including evaluating the data collected by the office to determine if the data being provided in the spending unit annual reports is sufficient to evaluate the state costs of owning, maintaining and leasing state vehicles and for evaluating vehicle use and expenditure trends among the spending units. The Legislative Auditor may make recommendations for future compliance monitoring of any spending unit found not in compliance with the reporting requirements of this article, and may make such recommendations for administrative penalties for noncompliance with this article.

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE, AND
ANTITHEFT PROVISIONS.**

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION;
ISSUANCE OF CERTIFICATES OF TITLE.**

§17A-3-23. Registration plates to state, county, municipal and other governmental vehicles; use for undercover activities.

(a) Any motor vehicle designed to carry passengers, owned or leased by the state of West Virginia, or any of its departments, bureaus, commissions or institutions, except vehicles used by the Governor, Treasurer, three vehicles per elected office of the Board of Public Works, vehicles operated by the State Police, not to exceed five vehicles operated by the office of the Secretary of Military Affairs and Public Safety, not to exceed five vehicles operated by the Division of Homeland Security and Emergency Management, vehicles operated by natural resources police officers of the Division of Natural Resources, not to exceed ten vehicles operated by the arson investigators of the Office of State Fire Marshal, not to exceed two vehicles operated by the Division of Protective Services, not to exceed sixteen vehicles operated by inspectors of the Office of the Alcohol Beverage Control Commissioner, vehicles operated by the West Virginia Wing of the Civil Air Patrol and vehicles operated by probation officers employed under the Supreme Court of Appeals may not be operated or driven by any person unless it has displayed and attached to the front thereof, in the same manner as regular motor vehicle registration plates are attached, a plate of the same size as the regular registration plate, with white lettering on a green background bearing the words 'West Virginia' in one line and the words 'State Car' in another line and the lettering for the words 'State Car' shall be of sufficient size to be plainly readable from a distance of one hundred feet during daylight; Provided, That passenger vehicles with a rating of one ton and under may not be operated or driven by any person unless it has displayed and attached to the front thereof, in the same manner as regular motor vehicle registration plates are attached, a plate of the same size as the regular registration plate, with blue lettering on a gold background bearing the words 'West Virginia' in one line and the words 'State Car' in another line and the lettering for the words 'State Car' shall be of sufficient size to be plainly readable from a distance of one hundred feet during daylight.

The vehicle shall also have attached to the rear a plate bearing a number and any other words and figures as the Commissioner of Motor Vehicles shall prescribe. The rear plate shall also be green with the number in white: Provided, That passenger vehicles with a rating of one ton and under shall also have attached to the rear a plate bearing a number and any other words and figures as the Commissioner of Motor Vehicles shall prescribe. The rear plate shall be gold with the number in blue. The commissioner may also designate additional insignia or stencils to be displayed on the front and rear plates for the purpose of identifying motor vehicles within the higher education system, public service districts, or designated nongovernmental organizations: Provided, That where the institutions of higher education opt to have their logo displayed on the state license plate, such institution shall bear any additional costs of those added features.

(b) Registration plates issued to vehicles owned by counties shall be white on red with the word ‘County’ on top of the plate and the words ‘West Virginia’ on the bottom.

(c) Registration plates issued to a city or municipality shall be white on blue with the word ‘City’ on top and the words ‘West Virginia’ on the bottom.

(d) Registration plates issued to a city or municipality law-enforcement department shall include blue lettering on a white background with the words ‘West Virginia’ on top of the plate and shall be further designed by the commissioner to include a law-enforcement shield together with other insignia or lettering sufficient to identify the motor vehicle as a municipal law-enforcement department motor vehicle. The colors may not be reversed and shall be of reflectorized material. The registration plates issued to counties, municipalities and other governmental agencies authorized to receive colored plates hereunder shall be affixed to both the front and rear of the vehicles.

(e) (1) Registration plates issued to vehicles operated by county sheriffs shall be designed by the commissioner in cooperation with the sheriffs’ association with the word ‘Sheriff’ on top of the plate and the words ‘West Virginia’ on the bottom. The plate shall

contain a gold shield representing the sheriff's star and a number assigned to that plate by the commissioner. Every county sheriff shall provide the commissioner with a list of vehicles operated by the sheriff, unless otherwise provided in this section, and a fee of \$10 for each vehicle submitted by July 1, 2002.

(2) Registration plates issued to vehicles operated by the West Virginia Wing of the Civil Air Patrol shall be designed by the commissioner in cooperation with the Civil Air Patrol and include the words 'Civil Air Patrol' on the plate. The Civil Air Patrol shall provide the commissioner with a list of vehicles operated by the Civil Air Patrol, unless otherwise provided in this section, and a fee of \$10 for each new vehicle for which a Civil Air Patrol license plate is requested.

(f) The commissioner is authorized to designate the colors and design of any other registration plates that are issued without charge to any other agency in accordance with the motor vehicle laws.

(g) Upon application, the commissioner is authorized to issue a maximum of five Class A license plates per applicant to be used by county sheriffs and municipalities on law-enforcement vehicles while engaged in undercover investigations.

(h) The commissioner is authorized to issue a maximum of five Class A license plates to be used on vehicles assigned to the Division of Motor Vehicles investigators for commercial driver examination fraud investigation and driver's license issuance fraud detection and fraud prevention.

(i) The commissioner is authorized to issue an unlimited number of license plates per applicant to authorized drug and violent crime task forces in the state of West Virginia when the chairperson of the control group of a drug and violent crime task force signs a written affidavit stating that the vehicle or vehicles for which the plates are being requested will be used only for official undercover work conducted by a drug and violent crime task force.

(j) The commissioner is authorized to issue twenty Class A license plates to the Criminal Investigation Division of the Department of Revenue for use by its investigators.

(k) The commissioner may issue a maximum of ten Class A license plates to the Division of Natural Resources for use by natural resources police officers. The commissioner shall designate the color and design of the registration plates to be displayed on the front and the rear of all other state-owned vehicles owned by the Division of Natural Resources and operated by natural resources police officers.

(l) The commissioner is authorized to issue an unlimited number of Class A license plates to the Commission on Special Investigations for state-owned vehicles used for official undercover work conducted by the Commission on Special Investigations.

(m) The commissioner is authorized to issue a maximum of two Class A plates to the Division of Protective Services for state-owned vehicles used by the Division of Protective Services in fulfilling its mission.

(n) The commissioner is authorized to issue Class A registration plates for vehicles used by the Medicaid Fraud Control Unit created by section seven, article seven, chapter nine of this code.

(o) The commissioner is authorized to issue Class A registration plates for vehicles used by the West Virginia Insurance Fraud Unit created by section eight, article forty-one, chapter thirty-three of this code.

(p) No other registration plate may be issued for, or attached to, any state-owned vehicle.

(q) The Commissioner of Motor Vehicles shall have a sufficient number of both front and rear plates produced to attach to all state-owned cars. ~~The numbered registration plates for the vehicles shall start with the number five hundred and the commissioner shall issue consecutive numbers for all state-owned~~

ears or leased vehicles. The commissioner shall, in cooperation with the Fleet Management Office, established pursuant to article twelve, chapter five-a of this code, and the Enterprise Resource Planning Board, established pursuant to article six-d, chapter twelve of this code, develop a standardized naming convention for the title, registration and licensing of state vehicles, pursuant to this article.

(r) It is the duty of each office, department, bureau, commission or institution furnished any vehicle to have plates as described herein affixed thereto prior to the operation of the vehicle by any official or employee.

(s) The commissioner may issue special registration plates for motor vehicles titled in the name of the Division of Public Transit or in the name of a public transit authority as defined in this subsection and operated by a public transit authority or a public transit provider to transport persons in the public interest. For purposes of this subsection, 'public transit authority' means an urban mass transportation authority created pursuant to ~~the provisions of~~ article twenty-seven, chapter eight of this code or a nonprofit entity exempt from federal and state income taxes under the Internal Revenue Code and whose purpose is to provide mass transportation to the public at large. The special registration plate shall be designed by the commissioner and shall display the words 'public transit' or words or letters of similar effect to indicate the public purpose of the use of the vehicle. The special registration plate shall be issued without charge.

(t) Each green registration plate with white letters affixed to a passenger vehicle with a rating of one ton and under, and each corresponding title and registration certificate for all state vehicles with a rating of one ton and under, other than those vehicles with Class A registration plates as provided in this section, terminates at midnight on December 31, 2017, pursuant to section twenty-five of this article. The owner or lessee of every vehicle with a rating of one ton and under that is required to display a state vehicle license plate and registration shall obtain a new title, a new registration card, and a new state vehicle license plate prior to the termination dates specified in this article. When new registrations are issued

pursuant to this article and for subsequent, non-Class A registrations of state owned or leased vehicles, the state vehicle registration plate and certificate shall be valid for a period of not more than twelve months and shall be renewed annually.

(u) The commissioner is authorized to prepare and promulgate emergency rules, pursuant to article three, chapter twenty-nine-a, of this code in order to implement amendments to this section.

~~(†)~~ (v) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$100. Magistrates have concurrent jurisdiction with circuit courts for the enforcement of this section.

§17A-3-25. State vehicle title, registration and relicensing project of 2017; emergency rules.

(a) Beginning on or before July 1, 2017, the commissioner shall coordinate with the Fleet Management Office, established pursuant to article twelve, chapter five-a of this code, the Enterprise Resource Planning Board, established pursuant to article six-d, chapter twelve of this code, the Board of Risk and Insurance Management, established pursuant to article twelve, chapter twenty-nine of this code, and other applicable agencies, to develop a standardized titling and registration system for state vehicles. To the extent practical, the standardization of vehicle title, registration and state vehicle license plates shall conform to the state's central financial system maintained by the Enterprise Resource Planning Board. The standardization of state vehicle titles, registrations and license plates, as described in this section, shall be known as the 'State Vehicle Title, Registration and Relicensing Project of 2017'.

(b) The commissioner shall propose legislative and emergency rules, pursuant to article three, chapter twenty-nine-a of this code, establishing the standard naming conventions for the registration, titling, and licensing of every state vehicle, and assign by rule, a list of the standardized naming conventions for each spending unit for the purpose of issuing new title, registration and license plates to each state vehicle by December 31, 2017. The commissioner, in

coordination with the Fleet Management Office, shall develop a standard system for identifying and recording the names of agencies, offices or spending units to which each state vehicle is assigned or registered, and such standard naming conventions shall be developed to align with the state's central financial system, and the centralized state vehicle inventory system.

(c) As soon as the commissioner has promulgated legislative and emergency rules as authorized pursuant to this section, and not later than September 1, 2017, the division shall begin to issue the standardized title, registration and state vehicle license plates for all state vehicles.

(d) The commissioner is authorized, by legislative and emergency rule, to establish a procedure whereby the commissioner shall reject the application for a state vehicle title, registration and state vehicle license plate that does not conform to the standard naming convention requirements. The commissioner shall provide by rule for the reasonable remedy, correcting of errors, or to compel compliance with the standard naming conventions.

(e) At midnight on December 31, 2017, all green state vehicle license plates with white lettering affixed to vehicles with a rating of one ton and under shall expire. The commissioner, in coordination with the Fleet Management Office, shall provide notice to each spending unit, and advertise as deemed appropriate, to inform the fleet coordinators, as defined in section three, article twelve, chapter five-a, that such license plates expire and the procedure for being issued new titles, registrations and license plates pursuant to this article. The head of each spending unit with state vehicles shall cooperate and comply with the requirements of the State Vehicle Title, Registration and Relicensing Project of 2017 and the centralized state vehicle inventory system.

§17A-3-26. Enforcement; report.

(a) Beginning January 1, 2018, any state vehicle with a rating of one ton and under in this state with an expired green state license plate with white lettering is in violation of this article. After

January 1, 2018, any law-enforcement officer who discovers a state vehicle with an expired state vehicle license plate, shall issue a citation with the penalty of \$100 per violation. The penalty shall be paid by the spending unit that owns or leases the vehicle. Upon payment of such penalty, notwithstanding court costs, the clerk of the court shall remit the amount of the penalty to the law-enforcement agency having brought the charge before the court.

(b) Any spending unit issued a citation pursuant to this section shall file a report with the Fleet Management Office within thirty days of the citation, and describe the state vehicle by the vehicle identification number, the make, model and year of the vehicle, the state vehicle license plate, and the date on which the license plate was renewed.

§17A-3-27. Compliance audit.

On or before December 31, 2018, the Legislative Auditor, in accordance with article ten, chapter four of this code, shall audit the Division of Motor Vehicles and the Fleet Management Office for compliance with the State Vehicle Title, Registration and Relicensing Project of 2017. The Legislative Auditor may make recommendations for future compliance monitoring of any spending unit found not in compliance with the project and make such recommendations for administrative penalties for noncompliance with the project.

CHAPTER 29B. FREEDOM OF INFORMATION.

ARTICLE 1. PUBLIC RECORDS.

§29B-1-4. Exemptions.

(a) There is a presumption of public accessibility to all public records, subject only to the following categories of information which are specifically exempt from disclosure under ~~the provisions~~ of this article:

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data or compilation

of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(2) Information of a personal nature such as that kept in a personal, medical or similar file, if the public disclosure of the information would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in this particular instance: *Provided*, That this article does not preclude an individual from inspecting or copying his or her own personal, medical or similar file;

(3) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination;

(4) (A) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(B) Records identifying motor vehicles used, and the agencies using them, for undercover investigation activities conducted by state law-enforcement agencies or other agencies that are authorized by this code to use undercover or unmarked vehicles;

(5) Information specifically exempted from disclosure by statute;

(6) Records, archives, documents or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage the record, archive, document or manuscript;

(7) Information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for

the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers;

(8) Internal memoranda or letters received or prepared by any public body;

(9) Records assembled, prepared or maintained to prevent, mitigate or respond to terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law-enforcement or emergency response personnel;

(11) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, state and local law-enforcement and other agencies within the Department of Military Affairs and Public Safety;

(12) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism;

(13) Computing, telecommunications and network security records, passwords, security codes or programs used to respond to or plan against acts of terrorism which may be the subject of a terrorist act;

(14) Security or disaster recovery plans, risk assessments, tests or the results of those tests;

(15) Architectural or infrastructure designs, maps or other records that show the location or layout of the facilities where computing, telecommunications or network infrastructure used to plan against or respond to terrorism are located or planned to be located;

(16) Codes for facility security systems; or codes for secure applications for facilities referred to in subdivision (15) of this subsection;

(17) Specific engineering plans and descriptions of existing public utility plants and equipment;

(18) Customer proprietary network information of other telecommunications carriers, equipment manufacturers and individual customers, consistent with 47 U.S.C. §222;

(19) Records of the Division of Corrections, Regional Jail and Correctional Facility Authority and the Division of Juvenile Services relating to design of corrections, jail and detention facilities owned or operated by the agency, and the policy directives and operational procedures of personnel relating to the safe and secure management of inmates or residents, that if released, could be used by an inmate or resident to escape a facility, or to cause injury to another inmate, resident or to facility personnel;

(20) Information related to applications under section four, article seven, chapter sixty-one of this code, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit: *Provided*, That information in the aggregate that does not identify any permit holder other than by county or municipality is not exempted: *Provided, however*, That information or other records exempted under this subdivision may be disclosed to a law enforcement agency or officer: (i) to determine the validity of a permit, (ii) to assist in a criminal investigation or prosecution, or (iii) for other lawful law-enforcement purposes; and

(21) Personal information of law-enforcement officers maintained by the public body in the ordinary course of the employer-employee relationship. As used in this paragraph, “personal information” means a law-enforcement officer’s social security number, health information, home address, personal address, personal telephone numbers and personal email addresses and those of his or her spouse, parents and children as well as the names of the law-enforcement officer’s spouse, parents and children.

(b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the term ‘terrorist act’ means an act that is likely to result in serious bodily injury or damage to property or the environment and is intended to:

(1) Intimidate or coerce the civilian population;

(2) Influence the policy of a branch or level of government by intimidation or coercion;

(3) Affect the conduct of a branch or level of government by intimidation or coercion; or

(4) Retaliate against a branch or level of government for a policy or conduct of the government.

(c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section do not make subject to the provisions of this chapter any evidence of an immediate threat to public health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the attention of a public entity in the course of conducting a vulnerability assessment response or similar activity.”

The bill was ordered to engrossment and third reading.

H. B. 2548, Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2763, Relating to the approval by the Council for Community and Technical College Education of acquisitions; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2799, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2850, Relating to product liability actions; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2869, Providing for paid leave for certain state officers and employees during a declared state of emergency; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2936, Requiring competitive bidding for all state purchases of commodities, printing and services; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Butler, Nelson and Householder, the bill was amended on page two, section eleven, line sixteen, after the words "ten of", by inserting the word "this".

On page two, section eleven, line sixteen, after the word "article", by deleting the words "five-a" and inserting in lieu thereof "and article three-a".

And,

On page three, section eleven, immediately after line fifty-eight, by inserting a new subsection (j) to read as follows:

"(j) The director of purchasing shall periodically report information regarding purchases to the Joint Committee on Government and Finance."

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2939, Relating to the sale of items in the State Police Academy post exchange to the public; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2966, Creating the West Virginia Sentencing Commission; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3028, Relating to the Comprehensive Substance Use Reduction Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3096, Relating to operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Espinosa and Hanshaw, the bill was amended on page three, section nine, line seventeen, by striking out the words “May be determined on” and capitalizing the first letter of the word “any” to read “Any”.

On page six, section nine, line eighty-three and line eighty-four, by striking out the comma following the word “charges” and striking out the words “and the circuit court shall resolve said complaint within 120 days of filing”.

And,

On page nineteen, section three, line thirty-three, by striking out the words “section four-b subsections (d)(2) or (g) [§§24-2-4b(d)(2) or (g)]” and inserting in lieu thereof “subsections (d)(2) or (g) of section four-b”.

The bill was ordered to engrossment and third reading.

H. B. 3107, Relating generally to horse and dog racing lottery; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

H. B. 3108, Relating to authorizing redirection of certain amounts to the General Revenue Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for H. B. 2002, Relating to parental notification of abortions performed on unemancipated minors,

Com. Sub. for H. B. 2109, Relating to the West Virginia Land Reuse Agency Authorization Act,

Com. Sub. for H. B. 2196, Relating to the Secondary Schools Athletic Commission,

Com. Sub. for H. B. 2376, Relating to the organizational structure of state government,

Com. Sub. for H. B. 2453, Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp,

Com. Sub. for H. B. 2520, Prohibiting the use of a tanning device by a person under the age of eighteen,

Com. Sub. for H. B. 2561, Relating to public school support,

Com. Sub. for H. B. 2589, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school,

Com. Sub. for H. B. 2654, Expanding county commissions' ability to dispose of county or district property,

Com. Sub. for H. B. 2704, Prohibiting persons convicted of sexual offenses against children with whom they hold positions of trust from holding certification or license valid in public schools,

Com. Sub. for H. B. 2720, Allowing the School Building Authority to transfer funds allocated into the School Construction Fund,

Com. Sub. for H. B. 2771, Relating to temporary teaching certificates for Armed Forces spouses,

Com. Sub. for H. B. 2776, Creating of special revenue funding sources for the Division of Labor,

Com. Sub. for H. B. 2781, Requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks,

Com. Sub. for H. B. 2794, Relating to the means of giving notice to a debt collector of a consumer's representation by legal counsel,

Com. Sub. for H. B. 2804, Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members,

Com. Sub. for H. B. 2815, Relating to higher education governance,

Com. Sub. for H. B. 2816, Eliminating new film tax credits,

Com. Sub. for H. B. 2817, Providing for the reduction of the unfunded liability in the Teachers Retirement System over a 30 year period,

H. B. 2878, Increasing amount of authorized Federal Grant Anticipation Notes for which Division of Highways may apply,

Com. Sub. for H. B. 2887, Relating to retirement and separation incentives,

Com. Sub. for H. B. 2897, Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions,

And,

Com. Sub. for H. B. 2930, Allowing powerball, hot lotto, and mega millions winners to remain anonymous.

Com. Sub. for H. B. 2933, Relating to the consumers sales and service taxes and use taxes; on first reading, coming up in regular order, was read a first time.

Delegate McGeehan moved, pursuant to the provisions of House Rule 103, that Com. Sub. for H. B. 2933 be rejected on First Reading.

Delegate Zatezalo was addressing the House when Delegate Caputo arose to a point of order regarding content of the Delegate's remarks.

The Speaker replied and reminded the Member to confine his remarks to the question before the House.

The Speaker propounded, "Shall the bill be rejected?"

On this question, Delegate McGeehan demanded the yeas and nays, which demand was sustained. The yeas and nays having been ordered, they were taken (**Roll No. 191**), and there were—yeas 44, nays 50, absent and not voting 6, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Gearheart, Hartman, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Phillips,

Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Ward, Williams and Wilson.

Absent and Not Voting: Ellington, A. Evans, G. Foster, N. Foster, Hicks and Upson.

So, a majority of the members present and voting not having voted in the affirmative, the motion that the bill be rejected on First Reading was not adopted.

The bill was ordered to second reading.

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for H. B. 2941, Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services,

Com. Sub. for H. B. 2961, Relating generally to charitable bingo games and charitable raffles,

H. B. 2962, Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors,

H. B. 2963, Eliminating tax lien waiver requirement for estates of nonresidents,

H. B. 2967, Relating generally to administration of estates and trusts,

Com. Sub. for H. B. 3006, Exempting certain contracts between the Department of Health and Human Resources and West Virginia University or Marshall University from state purchasing requirements,

H. B. 3022, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the Commission on Special Investigations,

Com. Sub. for H. B. 3048, Relating to collection of Tier II fees for chemical inventories,

H. B. 3091, Relating generally to employer withholding taxes,

Com. Sub. for H. B. 3095, Allowing retired teachers to be employed by a higher education institution,

Com. Sub. for H. B. 3102, Relating to selling Hopemont Hospital,

And,

H. B. 3109, Relating to establishing a Board of Nursing and Health Services.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Ellington, G. Foster, Hicks and Upson.

Miscellaneous Business

Delegate Eldridge announced that he was absent on today when the vote was taken on Roll No. 168, and that had he been present, he would have voted “Yea” thereon.

Delegate Kelly asked and obtained unanimous consent that the remarks of Delegate Paynter regarding Com. Sub. for H. B. 2841 today be printed in the Appendix to the Journal.

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Baldwin regarding Com. Sub. for H. B. 2935 today be printed in the Appendix to the Journal.

At 11:31 a.m., the House of Delegates adjourned until 11:00 a.m., Monday, March 27, 2017.

Monday, March 27, 2017

FORTY-EIGHTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Saturday, March 25, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 2561, Com. Sub. for H. B. 2711, Com. Sub. for H. B. 2816, Com. Sub. for H. B. 2817 and Com. Sub. for H. B. 2933, on Second Reading, Special Calendar to the foot of bills on Second Reading, and Com. Sub. for S. B. 419, on Second reading, Special Calendar, to the House Calendar.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 2811, Relating to the definition of above ground storage tanks.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 428 – “A Bill to amend and reenact §30-5-27 of the Code of West Virginia, 1931, as amended, relating to partial filling of prescriptions; permitting partial filling of prescriptions for controlled substances listed in Schedule II under certain circumstances; setting conditions for partial filling of prescriptions for controlled substances listed in Schedule II; permitting remaining portion of prescription to be filled within thirty days of first partial filling; setting forth steps to be followed if pharmacist is unable to fill remaining portion of prescription; prohibiting further quantities from being supplied beyond seventy-two hours in absence of new prescription; providing that remaining portions of a partially filled prescription for controlled substances listed in Schedule II may be filled in emergency situations; and defining ‘emergency situation’”; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 433 – “A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to permitting counties to increase the excise tax on the privilege of transferring real property”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2017, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 477 – “A Bill to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-18b of said code; to amend and reenact §17A-2-13 of said code; to amend and reenact §17A-3-4 of said code; to amend and reenact §17A-4-1 and §17A-4-10 of said code; to amend and reenact §17A-4A-10 of said code; to amend and reenact §17A-7-2 of said code; to amend and reenact §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend said code by adding thereto a new section, designated §17A-10-3c; to amend and

reenact §17B-2-1, §17B-2-3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of said code; to amend and reenact §17C-5A-2a of said code; and to amend and reenact §17D-2-2 of said code, all relating generally to increasing the funding for the State Road Fund by increasing Division of Motor Vehicles administrative fees and motor fuel excise taxes; changing the flat rate component of the motor fuel excise tax from 20.5 cents to 25 cents per invoiced gallon of motor fuel and on each gallon equivalent for alternative fuel; increasing the minimum average wholesale price of motor fuels for purposes of the five percent variable fuel tax as of specified date; deleting superfluous language relating to floorstocks; increasing Division of Motor Vehicles administrative fees, including increasing fees for various documents, records, registrations, certificates, titles, liens, releases, transfers, cards, stickers, decals, licenses and plates; requiring payment of certain fee for each attempt at the written and road skills test; increasing said administrative Division of Motor Vehicles fees every five years on September 1 based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index; imposing annual registration fee for certain alternative fuel vehicles; and specifying effective dates”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 602 – “A Bill to amend and reenact §47-8-2 and §47-8-3 of the Code of West Virginia, 1931, as amended, all relating to transferring responsibility for registering and indexing of fictitious names used by sole proprietors”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 622 – “A Bill to amend and reenact §11-10-12 of the Code of West Virginia, 1931, as amended, relating generally to tax procedures and administration; requiring the Tax Commissioner to issue a certificate of release of lien upon the expiration of ten years from the date a tax, additions to the tax or penalties and interest are due and payable; requiring a notice of lien to include the lien expiration date; providing for additional circumstances when the Tax Commissioner may withdraw tax liens; and providing for additional circumstances when the Tax Commissioner may issue a certificate of release of lien”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 658 – “A Bill to amend and reenact §17A-3-12b of the Code of West Virginia, 1931, as amended, relating to establishing a procedure whereby mobile and manufactured homes may be retitled provided certain conditions are met”; which was referred to the Committee on the Judiciary.

Special Calendar

Third Reading

Com. Sub. for H. B. 2004, Creating and maintaining a centralized state vehicle inventory system; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 192**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2004) passed.

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

Com. Sub. for H. B. 2004 – “A Bill to repeal §5A-3-49 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-1-2 of said code; to amend and reenact §5A-3-52 of said code; to amend said code by adding thereto a new article, designated §5A-12-1, §5A-12-2, §5A-12-3, §5A-12-4, §5A-12-5, §5A-12-6, §5A-12-7, §5A-12-8, §5A-12-9, §5A-12-10 and §5A-12-11; to amend and reenact §17A-3-23 of said code; to amend said code by adding thereto three new sections, designated §17A-3-25, §17A-3-26 and §17A-3-27; and to amend and reenact §29B-1-4 of said code, all relating to creating and maintaining a centralized state vehicle inventory system; establishing the Fleet Management Office within the Department of Administration; creating the State Vehicle Title, Registration and Relicensing Project of 2017; requiring reporting by spending units utilizing state vehicles; providing the new article’s scope and establishing exemptions; providing for new officers and establishing their powers, duties and responsibilities; defining terms; continuing the Fleet Management Office Fund; requiring the Fleet Management Office to coordinate with other agencies; providing for annual reports of vehicle use by spending units; requiring annual reports to the Governor and the Joint Committee on Government and Finance; establishing operator requirements and training; providing for enforcement and penalties; providing for notice; requiring legislative compliance audits; providing a deadline date for the expiration of current state vehicle license plates; creating new state vehicle license plates; providing for notice to spending units regarding the expiration of title, registrations and license plates; requiring a standardized naming convention for the tile, registration and licensing of all state vehicles; requiring annual renewal of the state vehicle registrations; providing exemptions from reporting for certain undercover vehicles; and authorizing rule making and emergency rule making.”

Delegate Cowles moved that the bill take effect July 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 193**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Gearheart.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2004) takes effect July 1, 2017.

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

H. B. 2548, Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 194**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Kelly and Pyles.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2548) passed.

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

Com. Sub. for H. B. 2763, Relating to the approval by the Council for Community and Technical College Education of acquisitions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 195**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2763) passed.

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

Com. Sub. for H. B. 2799, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 196**), and there were—yeas 87, nays 12, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Ambler, Baldwin, Caputo, Eldridge, E. Evans, Hamilton, Hartman, Iaquinta, Love, Lynch, Rowe and Williams.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2799) passed.

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

Com. Sub. for H. B. 2850, Relating to product liability actions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 197**), and there were—yeas 65, nays 34, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Walters and Williams.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2850) passed.

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

H. B. 2869, Providing for paid leave for certain state officers and employees during a declared state of emergency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 198**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2869) passed.

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

Com. Sub. for H. B. 2936, Requiring competitive bidding for all state purchases of commodities, printing and services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 199**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2936) passed.

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

Com. Sub. for H. B. 2939, Relating to the sale of items in the State Police Academy post exchange to the public; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 200**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2939) passed.

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

Com. Sub. for H. B. 2966, Creating the West Virginia Sentencing Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 201**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2966) passed.

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

Com. Sub. for H. B. 3028, Relating to the Comprehensive Substance Use Reduction Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 202**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3028) passed.

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

Com. Sub. for H. B. 3096, Relating to operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 203**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk, Love, Pushkin, Sponaugle and Upson.

Absent and Not Voting: Gearheart.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3096) passed.

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

H. B. 3108, Relating to authorizing redirection of certain amounts to the General Revenue Fund; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Second Reading

Com. Sub. for H. B. 2002, Relating to parental notification of abortions performed on unemancipated minors; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2109, Relating to the West Virginia Land Reuse Agency Authorization Act; on second reading, coming up in

regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2188, Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2196, Relating to the secondary schools athletic commission; on second reading, coming up in regular order, was read a second time.

Delegate Moye moved to amend the bill on page three, section twenty-five, line forty-four, following the semi-colon, by inserting the following:

“(4) If the student is convicted of, or found to have committed a felony or delinquent act which would have been a felony if committed by an adult, regardless of whether adjudication is withheld, the participation of the student in interscholastic extracurricular activities is contingent on established and published district school board policy” and a semicolon.

And,

By renumbering subsequent paragraphs accordingly.

Delegate Hanshaw moved to amend the amendment, by inserting after the word “found” the words “by a court of competent jurisdiction”.

Unanimous consent having been obtained, Delegate Moye was then added as a cosponsor of the amendment to the amendment offered by Delegate Hanshaw.

Delegate Moye asked unanimous consent that the bill be advanced to third reading with the amendments pending, which request was not granted, objection being heard.

Delegate Moyer then moved that the bill be advanced to third reading with the amendments pending.

Delegate Moyer subsequently withdrew his motion.

Delegate Cowles asked and obtained unanimous consent that the bill be placed at the foot of bills on second reading.

Com. Sub. for H. B. 2376, Relating to the organizational structure of state government; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2453, Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2520, Prohibiting the use of a tanning device by a person under the age of eighteen; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2552, Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Nelson, the bill was amended on page one, section four, line one, by deleting the word "All" and inserting in lieu thereof the following:

"Except as otherwise provided in this article, all".

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2589, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegate Robinson, was reported by the Clerk on page one, by striking out the enacting section and inserting in lieu thereof, the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5-15g; and to amend said code by adding thereto a new article, designated §18-21A-1, §18-21A-2, §18-21A-3, §18-21A-4, §18-21A-5, §18-21A-6 and §18-21A-7, all to read as follows” followed by a colon.

And,

On page one, line four, following the period, by inserting a new article to read as follows:

**ARTICLE 21A. CAREER AND TECHNICAL EDUCATION
PILOT PROGRAM FOR MIDDLE SCHOOL
STUDENTS.**

§18-21A-1. Short title.

This article may be cited as the ‘Middle School Technical Education Program Act’ or the ‘Middle School STEP Act’.

§18-21A-2. Legislative findings.

(a) Career and technical education prepares students to be both college and career ready by providing core academic, technical and employability skills.

(b) High-quality career and technical education programs not only ensure that coursework is aligned with rigorous academic standards and post-secondary expectations, but are built to address specific skills needed in certain career pathways.

(c) Eighty percent of students taking a college preparatory academic curriculum with rigorous career and technical education courses met college and career readiness goals, compared to only sixty-three percent of students taking the same academic core who did not experience rigorous career and technical education courses.

(d) Furthermore, a 2008, study from American College Testing showed that if students are not on target for college and career readiness by the end of eighth grade the impact may be nearly irreversible. The level of academic achievement that students attain by eighth grade has a larger impact on their college and career readiness by the time they graduate from high school than any other academic factor.

(e) Given the importance of career and technical education programs in fostering college and career readiness, and the determinative impact that eighth grade achievement has on future academic and professional success, it is essential that middle school students are informed about and prepared to take advantage of career and technical education programs in their local communities.

§18-21A-3. Purpose.

The purpose of the pilot program shall be to better prepare seventh and eighth grade students to take advantage of West Virginia's Career and Technical Education programs and to improve students' college and career readiness prior to high school. For the purposes of this article, 'middle school' means any school containing the seventh and eighth grade levels.

§18-21A-4. Organization of special pilot program.

(a) Funding. — Participating middle schools shall use existing resources to implement the pilot program.

(b) Instructor Qualifications. — Qualified instructors include, but are not limited to, teachers, counselors and other middle school staff possessing a post-secondary degree. Instructors are not required to obtain any additional certification or license to instruct the course. Nothing in this article or chapter eighteen-a or this code prohibits principals or vice-principals, on a voluntary basis, from participating in the program as a guest instructor or speaker.

(c) Elective Course. — The pilot program shall be a one semester elective course: *Provided*, That middle schools with

alternative scheduling systems may adapt the program to suit their scheduling needs.

(d) Local Partners. — High schools, vocational schools, community colleges, public universities and any other institute of higher learning that receives funding from the State of West Virginia shall provide speakers to participating middle schools upon the middle school's request: *Provided*, That the entity providing the speaker is located within fifty miles of the requesting middle school.

§18-21A-5. Curriculum.

(a) Guest Speakers. — Course instructors shall schedule weekly guest speakers to introduce students to a particular career and to prepare students to pursue the featured career by providing relevant information on:

- (1) Education requirements;
- (2) Cost of education;
- (3) Availability of education;
- (4) Average salary;
- (5) Average longevity; and
- (6) Transferability of skills.

Instructors are encouraged to invite professionals excelling in fields where training is available at the local career and technical education school.

(b) On-Site Research. — Instructors may organize field trips to visit local employers, job fairs, high schools, vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions to introduce students to potential career paths via on-site presentations and experiential learning.

(c) Career Skills. — The course shall include instruction on skill sets required to discover and take advantage of employment opportunities, including, but not limited to:

(1) Performing a job search;

(2) Developing a résumé;

(3) Preparing for a job interview; and

(4) Developing and deploying personal networks to find job opportunities.

(d) Academic Skills. — The course shall include instruction on skill sets required to discover and take advantage of educational opportunities, including, but not limited to:

(1) Researching admissions requirements for vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions;

(2) Researching employment rates and average salaries for graduates of vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions;

(3) Researching employment rates and average salaries for specific degrees, certifications and majors from post-secondary academic institutions;

(4) Researching state, federal and private scholarship and grant opportunities; and

(4) Preparing a college or technical school application.

(e) Personal Graduation Plan. — For successful completion of the course, a student shall create a ‘Personal Graduation Plan’ outlining his or her plan to become employable following high school or post-secondary school.

§18-21A-6. Admission process for middle schools.

(a) Authority. — The state board shall establish guidelines for middle schools to submit a request for the school’s admission in the pilot program and the state board may admit middle schools into the pilot program.

(b) Admissions. — Middle schools may volunteer to implement the program by submitting a request to the state board and admission shall be on a first-come, first-serve basis.

(c) Minimum School Participation. — It is the goal of the pilot program that a minimum of ten middle schools participate each year during the pilot program’s existence. If ten middle schools have not been admitted into the program by July 1 preceding the academic year, the state board may solicit additional middle schools to participate in the pilot program to meet the minimum participation goal, but may not require the participation of any middle school.

§18-21A-7. Certification and monitoring.

(a) Certificate of Completion. — Students shall receive a West Virginia STEP Certificate verifying their participation in the pilot program upon successful completion of the course.

(b) Monitoring. — The state board shall report to the Legislative Oversight Commission on Education Accountability each year on the graduation, post-secondary participation, and to the extent practicable, job placement rates, in the aggregate, of students that have received a West Virginia STEP Certificate following successful completion of the pilot program.”

Delegate Espinosa arose to a point of order as to the germaneness of the amendment.

To the point of order, the Speaker replied that the purpose of the amendment went beyond the fundamental purpose of the bill and ruled that the amendment was not germane.

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2654, Expanding county commissions' ability to dispose of county or district property; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2704, Prohibiting persons convicted of sexual offenses against children with whom they hold positions of trust from holding certification or license valid in public schools; on second reading, coming up in regular order, was read a second time.

Delegate Marcum moved to amend the bill on page two, section six, line eighteen, following the words 'section five', by inserting a comma and the following:

“or under Chapter sixty-one, article three, section twenty for embezzlement of \$1,00.00 or more from the school”.

Delegate Espinosa arose to a point of order as to the germaneness of the amendment.

Delegate Espinosa then withdrew his point of order.

Delegate Marcum then asked and obtained unanimous consent to offer a reformed amendment on page two, section six, line eighteen, following the words “section five”, by inserting a comma and the following:

“or under Chapter sixty-one, article three, section twenty for embezzlement of \$1,000.00 or more from the school”.

On the adoption of the amendment, Delegate Marcum then demanded the yeas and nays, which demand was not sustained.

The reformed amendment offered by Delegate Marcum was then rejected.

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2720, Allowing the School Building Authority to transfer funds allocated into the School Construction

Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2771, Relating to temporary teaching certificates for Armed Forces spouses; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2776, Creating of special revenue funding sources for the Division of Labor; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2781, Requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2794, Relating to the means of giving notice to a debt collector of a consumer's representation by legal counsel; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2804, Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members; on second reading, coming up in regular order, was read a second time.

Delegate Wilson moved to amend the bill on page three, section one, line forty-six, following the word "contrary", by striking out "licensed to practice registered professional nursing or licensed as an advanced nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses, each person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical Nurses".

And,

On page three, section one, line fifty-seven, following the word "board" and the period, by striking out "In cooperation with the

Secretary of the Department of Veterans' Assistance, the continuing education shall include training on inquiring about whether the patients are veterans or family members of veterans, and screening for conditions such as post-traumatic stress disorder, risk of suicide, depression and grief and prevention of suicide.”

Delegate Wilson then asked and obtained unanimous consent to withdraw the amendment.

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2815, Relating to higher education governance; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with restricted right to amend jointly by Delegates Hanshaw and Robinson, and the rule was suspended to permit the consideration of the amendment on that reading.

H. B. 2878, Increasing amount of authorized Federal Grant Anticipation Notes for which Division of Highways may apply; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2887, Relating to retirement and separation incentives; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2897, Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2930, Allowing powerball, hot lotto, and mega millions winners to remain anonymous; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2941, Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2961, Relating generally to charitable bingo games and charitable raffles; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2962, Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2963, Eliminating tax lien waiver requirement for estates of nonresidents; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2967, Relating generally to administration of estates and trusts; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3006, Exempting certain contracts between the Department of Health and Human Resources and West Virginia University or Marshall University from state purchasing requirements; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3022, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3037, Removing the Division of Energy as an independent agency; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3048, Relating to collection of Tier II fees for chemical inventories; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3088, Relating generally to teacher-pupil ratios; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3091, Relating generally to employer withholding taxes; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3095, Allowing retired teachers to be employed by a higher education institution; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3102, Relating to selling Hopemont Hospital; on second reading, coming up in regular order, was read a second time.

Delegates Sypolt and Lewis moved to amend the bill on page one, section twenty-six, line nine, after the word “constructed”, by inserting the words “on the Hopemont property”.

On the adoption of the amendment, Delegate Caputo demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 204**), and there were—yeas 46, nays 52, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Brewer, Byrd, Canestraro, Caputo, Criss, Dean, Diserio, A. Evans, Ferro, Fleischauer, Fluharty, Folk, N. Foster, Hamilton, Hartman, Hornbuckle, Iaquina, Isner, Lane, Lewis, Longstreth, Love, Lovejoy, Martin, Maynard, McGeehan, Miley, Moye, Paynter, Pethtel, Phillips, Pushkin, Pyles, Robinson, C. Romine, R. Romine, Rowe, Sponaugle, Sypolt, Thompson, Wagner, Ward and Williams.

Absent and Not Voting: Arvon and Gearheart.

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

The bill was ordered to engrossment and third reading.

At 1:27 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 4:00 p.m.

* * * * *

Evening Session

* * * * *

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 69 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-11A-9, relating to creating the Sexual Assault Victims’ Bill of Rights; declaring additional rights bestowed upon sexual assault survivors regarding medical forensic examinations, sexual assault evidence collection kits and other similar topics; clarifying the right of a victim to be accompanied by a personal representative during certain proceedings; requiring certain people be informed or notified of certain rights; incorporating other rights contained in code; and defining terms”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 167 – “A Bill to amend and reenact §15-2B-2, §15-2B-5, §15-2B-6 and §15-2B-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §15-9B-4, all relating to DNA testing generally; allowing the West Virginia State Police Forensic Laboratory to use qualified outside entities for DNA testing; clarifying that the State Police shall attempt to contract with the Marshall University Forensic Science Center for certain DNA testing when outsourcing such testing; granting legislative and emergency rule-making authority to the Sexual Assault Forensic Examination Commission; directing the commission to promulgate time frames for sample submission, sample testing and reporting of DNA testing results; expanding types of testing the State Police Forensic Laboratory may outsource; authorizing law-enforcement and correctional officers to use reasonable force to obtain DNA samples; creating presumption that DNA samples taken by law-enforcement and corrections personnel are obtained in good faith; exempting law-enforcement and correctional officers from civil and criminal liability; directing that erroneously obtained DNA sample to be removed from database and samples destroyed; and clarifying that judicial expungement proceeding proceed by petition”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 210 – “A Bill to amend and reenact §7-20-1, §7-20-2, §7-20-3, §7-20-6, §7-20-7, §7-20-7a, §7-20-14, §7-20-15, §7-20-16, §7-20-23 and §7-20-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twenty-seven new sections, designated §7-20-25, §7-20-26, §7-20-27, §7-20-28, §7-20-29, §7-20-30, §7-20-31, §7-20-32, §7-20-33, §7-20-34, §7-20-35, §7-20-36, §7-20-37, §7-20-38, §7-20-39, §7-20-40, §7-20-41, §7-20-42, §7-20-43, §7-20-44, §7-20-45, §7-20-46, §7-20-47, §7-20-48, §7-20-49, §7-20-50 and §7-20-51; and to amend said code by adding thereto a new section, designated §31-15-16d, all relating to Local

Powers Act; renaming short title the County Local Powers Act; amending its purpose and legislative findings; amending certain definitions and adding definitions; amending criteria and requirements to implement and collect certain fees; making technical corrections; amending authorization for county commissions related to imposition of impact fees, services fees and other taxes; providing for county commission review and permissive approval of impact fees; amending use of proceeds from sale of bonds; adding payment sources for bonds; allowing the reallocation of certain ad valorem property taxes after ratification of constitutional amendment and procedures and requirements related to reallocation of ad valorem property taxes; specifying effective date; providing requirements and procedures concerning creation and finalization of county road construction project plans and amendments thereto; specifying public hearing and notice requirements and opportunity for public comment; requiring consent; permitting joint road construction projects; setting forth duties, authorities and jurisdiction of Commissioner of Highways; authorizing intergovernmental agreements and setting forth requirements related thereto; providing for the termination of road construction projects plan; providing for application for approval of road construction project plans and application content; providing for certification of road construction project; providing rule-making authority; providing for acceptance into state road system; qualifying road construction projects as public improvements; providing for reporting by Commissioner of Highways; creating special revenue revolving fund and for county subaccounts; providing for funding and expenditures from account; authorizing West Virginia Economic Development Authority to issue revenue bonds and refunding bonds; permitting cash-basis projects; setting forth requirements concerning issuance, selling, execution and use of bonds; permitting trust agreements; specifying that bonds and other obligations undertaken by the West Virginia Economic Development Authority do not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision; specifying that bonds are negotiable instruments; providing exemption from

taxation; waiving and exempting personal liability; providing that authority for exercise of powers are cumulative and neither powers nor bonds are limited; permitting cash-basis projects; providing for termination of special allocation of property taxes; providing for excess fund deposit; specifying that powers are supplemental; providing for severability; and providing authority and requirements related to West Virginia Economic Development Authority, including authority to issue bonds, limitations, payments, certification and return of unused funds”; which was referred to the Committee on Finance.

Com. Sub. for S. B. 316 – “A Bill to amend and reenact §21A-6-1a of the Code of West Virginia, 1931, as amended, relating to seasonal employment in connection with unemployment compensation benefits; establishing that seasonal employment shall not be distinguishable from employment in general for unemployment compensation benefits determination; and clarifying that seasonal employment has no bearing on ability to file a claim for unemployment benefits provided other eligibility requirements are satisfied”; which was referred to the Committee on Industry and Labor then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 380 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-3-3a, relating to Cabwaylingo State Forest; creating a pilot project permitting all-terrain or recreational vehicles on designated roads and trails in Cabwaylingo State Forest; permitting the director to designate roads, trails and campgrounds; permitting the director to establish special season and permit; applying the ATV, UTV and Motorcycle Responsibility Act to the project; and requiring Legislative Auditor to review project and file report”; which was referred to the Committee on Agriculture and Natural Resources then Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 388 – “A Bill to amend and reenact §61-7-11a and §61-7-14 of the Code of West Virginia, 1931, as amended, all relating generally to dangerous weapons; exempting persons other than provisional concealed handgun permittees who are lawfully authorized to carry a concealed handgun to possess firearms on school parking lots, driveways and other areas of vehicular ingress or egress; creating safety storage requirements on such possession; clarifying persons who may possess a firearm on property where such is otherwise prohibited when acting in an official capacity; and correcting internal statutory references”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 412 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-22-4; and to amend and reenact §21-1C-5 of said code, all relating to prohibiting a governmental entity, which requires certain private companies to submit any document that includes records of actual wages paid to employees, from disclosing such document or information contained therein to any other entity or person; providing that any such document containing records of actual wages paid to employees shall be deemed confidential and proprietary and shall not be considered a public record; defining ‘governmental entity’; providing that any document containing records of actual wages paid to employees that is filed or submitted pursuant to the West Virginia Jobs Act shall not be disclosed by the Division of Labor or a public authority to any other entity or person; and providing that any document submitted or filed pursuant to the West Virginia Jobs Act that includes records of actual wages paid to employees or information contained therein shall be deemed confidential and proprietary and

shall not be considered a public record”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 437 – “A Bill to amend and reenact §19-23-3, §19-23-7, §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-3, §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d, §29-22A-10e and §29-22A-12 of said code; and to amend and reenact §29-22C-3, §29-22C-8, §29-22C-10, §29-22C-27 and §29-22C-27a of said code, all relating generally to horse and dog racing lottery; modifying certain definitions; discontinuing the West Virginia Racing Commission special account known as the West Virginia Greyhound Breeding Development Fund; transferring all moneys in the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that upon transfer of moneys from the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund, a certain amount be withheld and deposited in the special account known as the Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs to include Spaying and Neutering Account; requiring that all moneys previously required to be directed to the West Virginia Greyhound Breeding Development Fund be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that all moneys previously required to be directed into any fund or paid for the purpose of funding purses, awards or providing any other funding for greyhound races be redirected to the State Excess Lottery Revenue Fund for appropriation by the Legislature; eliminating the requirement that an applicant for a dog racing license race a minimum number of dates to qualify for such license; eliminating the requirement that an applicant for a dog racing license race a

minimum number of dates to contract to receive telecasts and accept wagers; providing that a dog racetrack is required to hold a racing license to conduct simulcast racing regardless of whether the racetrack continues to conduct live dog racing; authorizing the West Virginia Racing Commission to promulgate rules, including emergency rules, regarding licensure of dog racetracks conducting only simulcast racing; eliminating the requirement that a video lottery licensee at a dog track must hold a racing license to renew a video lottery license or racetrack table games license; requiring the Lottery Commission to transfer a percentage of gross terminal revenue derived from racetrack video lottery at thoroughbred racetracks, and deducted for administrative costs and expenses, to the Racing Commission's General Administrative Account; eliminating the requirement that an applicant for a video lottery license or license renewal at a dog racetrack must provide evidence of the existence of an agreement regarding proceeds from video lottery terminals with certain parties; providing that a percentage of net terminal income originating at dog racetracks will be deposited in the State Excess Lottery Revenue Fund; providing that a percentage of net terminal income originating at thoroughbred racetracks will be deposited in the West Virginia Thoroughbred Development Fund; permitting a dog racetrack to continue to operate operational video lottery and racetrack table games in a location where live racing was previously conducted or in an alternate location within the county as approved by the Lottery Commission; and eliminating the requirement that a racetrack table games licensee at a dog racetrack must race a minimum number of dates."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 437) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 453 – “A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended, relating to adding the classification and base salaries of certain civilian employees of the West Virginia State Police Forensic Laboratory as evidence technicians, forensic technicians, forensic analysts and forensic analysts supervisors”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 493 – “A Bill to amend and reenact §20-7-1a and §20-7-1c of the Code of West Virginia, 1931, as amended, all relating to providing an increase in compensation for conservation officers”; which was referred to the Committee on Agriculture and Natural Resources then Finance.

Special Calendar

Second Reading

-continued-

H. B. 3107, Relating generally to horse and dog racing lottery; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with amendments pending and the rule was suspended to permit the consideration of the amendments on that reading.

H. B. 3109, Relating to establishing a Board of Nursing and Health Services; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with amendments pending

and the rule was suspended to permit the consideration of the amendments on that reading.

Com. Sub. for H. B. 2561, Relating to public school support; on second reading, coming up in regular order, was read a second time.

Delegate Moye moved to amend the bill on page ten, section seven, line forty-three, following the words “school year”, by inserting “in which funds have not been diverted pursuant to this subdivision in the two prior fiscal years” and a comma.

On the adoption of the amendment, Delegate Moye demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 205**), and there were—yeas 37, nays 60, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Deem, Gearheart and Ward.

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

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2711, Abolishing regional educational service agencies and providing for the transfer of property and records; on second reading, coming up in regular order, was read a second time.

Delegates Sponaugle and Rowe moved to amend the bill on page two, by striking out the enacting section and inserting new enacting section to read as follows:

“That §18-2-26a of the Code of West Virginia, 1931, as amended, be repealed; that §18-2-26 of said code be amended and reenacted; that §18-2E-5 of said code be amended and reenacted; that §18-5-13 and §18-5-45 of said code be amended and reenacted; that said code be further amended by adding thereto two new sections designated, §18-5-13b and §18-5-13c; that §18-9A-8a of said code be amended and reenacted; and that §18A-4-2, §18A-4-8a, and §18A-4-14 of said code be amended and reenacted, all to read as follows” followed by a colon.

And,

On page fifty, following §18-9A-8a, by inserting the following:

“§18A-4-2. State minimum salaries for teachers.

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A. B. degree, including the equity supplement, to at least \$43,000 by fiscal year 2019.

(b) Beginning July 1, 2014, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, specific additional amounts prescribed in this section or article and any county supplement in effect in a county pursuant to section five-a of this article during the contract year.

STATE MINIMUM SALARY SCHEDULE

Yrsss Exp.	4th Class	3rd Class	2 nd Class	A.B. A.B.	+15	M.A. M.A.	+15	+30	+45	Doc- torate
0	27,917	28,606	28,872	30,315	31,076	32,843	33,604	34,365	35,126	36,161
1	28,245	28,934	29,200	30,833	31,594	33,362	34,123	34,883	35,644	36,679
2	28,574	29,262	29,528	31,352	32,113	33,880	34,641	35,402	36,163	37,198
3	28,902	29,590	29,856	31,871	32,631	34,399	35,160	35,920	36,681	37,716
4	29,474	30,162	30,428	32,633	33,394	35,162	35,923	36,683	37,444	38,479
5	29,802	30,490	30,756	33,152	33,913	35,680	36,441	37,202	37,963	38,998

6	30,130	30,818	31,084	33,670	34,431	36,199	36,960	37,720	38,481	39,516
7	30,458	31,147	31,412	34,189	34,950	36,717	37,478	38,239	39,000	40,035
8	30,786	31,475	31,741	34,707	35,468	37,236	37,997	38,757	39,518	40,553
9	31,114	31,803	32,069	35,226	35,987	37,754	38,515	39,276	40,037	41,072
10	31,443	32,131	32,397	35,746	36,506	38,274	39,035	39,796	40,556	41,591
11	31,771	32,459	32,725	36,264	37,025	38,793	39,553	40,314	41,075	42,110
12	32,099	32,787	33,053	36,783	37,543	39,311	40,072	40,833	41,593	42,628
13	32,427	33,115	33,381	37,301	38,062	39,830	40,590	41,351	42,112	43,147
14	32,755	33,443	33,709	37,820	38,580	40,348	41,109	41,870	42,630	43,665
15	33,083	33,771	34,037	38,338	39,099	40,867	41,627	42,388	43,149	44,184
16	33,411	34,099	34,365	38,857	39,617	41,385	42,146	42,907	43,667	44,702
17	33,739	34,428	34,693	39,375	40,136	41,904	42,665	43,425	44,186	45,221
18	34,067	34,756	35,022	39,894	40,655	42,422	43,183	43,944	44,705	45,740
19	34,395	35,084	35,350	40,412	41,173	42,941	43,702	44,462	45,223	46,258
20	34,723	35,412	35,678	40,931	41,692	43,459	44,220	44,981	45,742	46,777
21	35,052	35,740	36,006	41,449	42,210	43,978	44,739	45,499	46,260	47,295
22	35,380	36,068	36,334	41,968	42,729	44,496	45,257	46,018	46,779	47,814
23	35,708	36,396	36,662	42,487	43,247	45,015	45,776	46,536	47,297	48,332
24	36,036	36,724	36,990	43,005	43,766	45,534	46,294	47,055	47,816	48,851
25	36,364	37,052	37,318	43,524	44,284	46,052	46,813	47,574	48,334	49,369
26	36,692	37,380	37,646	44,042	44,803	46,571	47,331	48,092	48,853	49,888
27	37,020	37,708	37,974	44,561	45,321	47,089	47,850	48,611	49,371	50,406
28	37,348	38,037	38,302	45,079	45,840	47,608	48,368	49,129	49,890	50,925
29	37,676	38,365	38,631	45,598	46,358	48,126	48,887	49,648	50,408	51,443
30	38,004	38,693	38,959	46,116	46,877	48,645	49,405	50,166	50,927	51,962
31	38,333	39,021	39,287	46,635	47,396	49,163	49,924	50,685	51,445	52,480
32	38,661	39,349	39,615	47,153	47,914	49,682	50,443	51,203	51,964	52,999
33	38,989	39,677	39,943	47,672	48,433	50,200	50,961	51,722	52,483	53,518
34	39,317	40,005	40,271	48,190	48,951	50,719	51,480	52,240	53,001	54,036
35	39,645	40,333	40,599	48,709	49,470	51,237	51,998	52,759	53,520	54,555

(c) (1) Eight hundred and eight dollars shall be paid annually to each classroom teacher, effective July 1, 2017.

(2) Six hundred dollars shall be paid annually to each classroom teacher who has at least twenty years of teaching experience.

(3) The payments required by subdivisions (1) and (2) of this subsection: ~~(i)~~ (A) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; ~~(ii)~~ (B) shall be paid in equal monthly installments; and ~~(iii)~~ (C) shall be considered a part of the state minimum salaries for teachers.

(d) To meet the objective of salary equity among the counties as set forth in section five of this article, each teacher shall be paid an equity supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to ~~the provisions of~~ that section:

(1) For '4th Class' at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including thirty-five years of experience;

(2) For '3rd Class' at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including thirty-five years of experience;

(3) For '2nd Class' at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(4) For 'A. B.' at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(5) For 'A. B. + 15' at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(6) For 'M. A.' at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(7) For 'M. A. + 15' at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(8) For 'M. A. + 30' at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience;

(9) For 'M. A. + 45' at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience; and

(10) For 'Doctorate' at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including thirty-five years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to section five-a of this article; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

§18A-4-8a. Service personnel minimum monthly salaries.

(a) The minimum monthly pay for each service employee shall be as follows:

(1) Beginning July 1, 2014, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade set forth in this subdivision.

STATE MINIMUM PAY SCALE PAY GRADE

Years

Exp.

Pay Grade

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
0	1,660	1,681	1,723	1,776	1,829	1,892	1,924	1,997
1	1,692	1,714	1,755	1,808	1,862	1,925	1,956	2,030
2	1,725	1,746	1,788	1,841	1,894	1,957	1,989	2,062
3	1,757	1,779	1,821	1,874	1,927	1,990	2,022	2,095
4	1,790	1,812	1,853	1,906	1,959	2,023	2,054	2,129
5	1,823	1,844	1,886	1,939	1,992	2,055	2,087	2,161
6	1,855	1,877	1,920	1,972	2,025	2,088	2,120	2,194
7	1,889	1,909	1,952	2,004	2,057	2,121	2,152	2,227
8	1,922	1,942	1,985	2,037	2,090	2,153	2,185	2,259
9	1,954	1,975	2,018	2,071	2,123	2,186	2,217	2,292
10	1,987	2,008	2,050	2,103	2,155	2,220	2,251	2,325
11	2,020	2,041	2,083	2,136	2,188	2,252	2,284	2,357
12	2,052	2,074	2,115	2,169	2,222	2,285	2,316	2,390
13	2,085	2,106	2,148	2,201	2,254	2,317	2,349	2,423
14	2,118	2,139	2,181	2,234	2,287	2,350	2,382	2,455
15	2,150	2,172	2,213	2,266	2,319	2,383	2,414	2,488
16	2,183	2,204	2,246	2,299	2,352	2,415	2,447	2,521
17	2,215	2,237	2,280	2,332	2,385	2,448	2,480	2,554
18	2,248	2,270	2,312	2,364	2,417	2,481	2,512	2,587
19	2,282	2,302	2,345	2,397	2,450	2,513	2,545	2,619
20	2,314	2,335	2,378	2,431	2,483	2,546	2,578	2,653
21	2,347	2,367	2,410	2,463	2,515	2,579	2,610	2,687
22	2,380	2,401	2,443	2,496	2,548	2,612	2,644	2,719

23	2,412	2,434	2,476	2,529	2,582	2,646	2,678	2,753
24	2,445	2,466	2,508	2,561	2,614	2,680	2,711	2,787
25	2,478	2,499	2,541	2,594	2,648	2,712	2,745	2,819
26	2,510	2,532	2,573	2,628	2,682	2,746	2,777	2,853
27	2,543	2,564	2,606	2,660	2,714	2,778	2,811	2,886
28	2,576	2,597	2,640	2,694	2,748	2,812	2,845	2,920
29	2,608	2,631	2,673	2,726	2,781	2,846	2,877	2,954
30	2,642	2,663	2,707	2,760	2,814	2,878	2,911	2,987
31	2,675	2,697	2,741	2,794	2,848	2,912	2,945	3,020
32	2,709	2,730	2,773	2,827	2,880	2,946	2,977	3,054
33	2,743	2,763	2,807	2,861	2,914	2,978	3,011	3,087
34	2,775	2,797	2,841	2,895	2,948	3,012	3,045	3,120
35	2,809	2,831	2,873	2,927	2,980	3,046	3,078	3,154
36	2,843	2,864	2,907	2,961	3,015	3,079	3,112	3,186
37	2,875	2,898	2,941	2,995	3,049	3,113	3,145	3,220
38	2,909	2,930	2,973	3,027	3,081	3,146	3,178	3,254
39	2,943	2,964	3,007	3,061	3,115	3,179	3,212	3,286
40	2,975	2,998	3,040	3,094	3,149	3,213	3,245	3,320

(2) Each service employee shall receive the amount prescribed in the Minimum Pay Scale in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

CLASS TITLE	PAY GRADE
Accountant I	D
Accountant II	E
Accountant III	F

Accounts Payable Supervisor	G
Aide I	A
Aide II	B
Aide III	C
Aide IV	D
Audiovisual Technician	C
Auditor	G
Autism Mentor	F
Braille Specialist	E
Bus Operator	D
Buyer	F
Cabinetmaker	G
Cafeteria Manager	D
Carpenter I	E
Carpenter II	F
Chief Mechanic	G
Clerk I	B
Clerk II	C
Computer Operator	E
Cook I	A
Cook II	B
Cook III	C

Crew Leader	F
Custodian I	A
Custodian II	B
Custodian III	C
Custodian IV	D
Director or Coordinator of Services	H
Draftsman	D
Early Childhood Classroom Assistant Teacher I	E
Early Childhood Classroom Assistant Teacher II	E
Early Childhood Classroom Assistant Teacher III	F
Educational Sign Language Interpreter I	F
Educational Sign Language Interpreter II	G
Electrician I	F
Electrician II	G
Electronic Technician I	F
Electronic Technician II	G
Executive Secretary	G
Food Services Supervisor	G
Foreman	G
General Maintenance	C
Glazier	D
Graphic Artist	D

Groundsman	B
Handyman	B
Heating and Air Conditioning Mechanic I	E
Heating and Air Conditioning Mechanic II	G
Heavy Equipment Operator	E
Inventory Supervisor	D
Key Punch Operator	B
Licensed Practical Nurse	F
Locksmith	G
Lubrication Man	C
Machinist	F
Mail Clerk	D
Maintenance Clerk	C
Mason	G
Mechanic	F
Mechanic Assistant	E
Office Equipment Repairman I	F
Office Equipment Repairman II	G
Painter	E
Paraprofessional	F
Payroll Supervisor	G
Plumber I	E

Plumber II	G
Printing Operator	B
Printing Supervisor	D
Programmer	H
Roofing/Sheet Metal Mechanic	F
Sanitation Plant Operator	G
School Bus Supervisor	E
Secretary I	D
Secretary II	E
Secretary III	F
Sign Support Specialist	E
Supervisor of Maintenance	H
Supervisor of Transportation	H
Switchboard Operator-Receptionist	D
Truck Driver	D
Warehouse Clerk	C
Watchman	B
Welder	F
WVEIS Data Entry and Administrative Clerk	B

(b) An additional \$80 per month is added to the minimum monthly pay of each service person.

~~(b)~~ (c) An additional \$12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

(e) (d) An additional \$11 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds twelve college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(2) A service person who holds twenty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(3) A service person who holds thirty-six college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(4) A service person who holds forty-eight college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(5) A service employee who holds sixty college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(6) A service person who holds seventy-two college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service person who holds eighty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service person who holds ninety-six college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds one hundred eight college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds one hundred twenty college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

~~(d)~~ (e) An additional \$80 per month also is added to the minimum monthly pay of each service person for each of the following:

- (1) A service person who holds an associate's degree;
- (2) A service person who holds a bachelor's degree;
- (3) A service person who holds a master's degree;
- (4) A service person who holds a doctorate degree.

~~(e)~~ (f) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

- (1) A service person who holds a bachelor's degree plus fifteen college hours;
- (2) A service person who holds a master's degree plus fifteen college hours;
- (3) A service person who holds a master's degree plus thirty college hours;
- (4) A service person who holds a master's degree plus forty-five college hours; and
- (5) A service person who holds a master's degree plus sixty college hours.

~~(f)~~ (g) To meet the objective of salary equity among the counties, each service person is paid an equity supplement, as set forth in section five of this article, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to section five-b of this article; (ii) are paid in equal

monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

~~(g)~~ (h) When any part of a school service person's daily shift of work is performed between the hours of six o'clock p. m. and five o'clock a. m. the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

~~(h)~~ (i) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

~~(j)~~ (j) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

~~(j)~~ (k) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

~~(k)~~ (l) The minimum hourly rate of pay for extra duty assignments as defined in section eight-b of this article is no less than one seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: *Provided*, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: *Provided, however*, That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated

accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(+) (m) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(+) (n) For the purpose of qualifying for additional pay as provided in section eight, article five of this chapter, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds or wherever supervision is required. For purposes of this section, 'under the direct supervision of a certified professional person' means that certified professional person is present, with and accompanying the aide."

On the adoption of the amendment, Delegate Sponaugle demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 206**), and there were—yeas 42, nays 55, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Thompson, Wagner and Williams.

Absent and Not Voting: Deem, Gearheart and Ward.

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

On motion of Delegate Espinosa, the bill was amended on page forty-seven, section forty-five, line forty-five, following the words “county board may”, by striking out the words “apply up to five days of instruction delivered through alternative methods to cancel days lost due to necessary school closures” and inserting in lieu thereof the following:

“deliver instruction through alternative methods on up to five days when schools are closed due to inclement weather or other unforeseen circumstances and these days are instructional days notwithstanding the closure of schools. The use of equivalent time gained by lengthening the school day to cancel days lost, and the delivery of instruction through alternative methods, both as defined in this section, shall be considered instructional days for the purpose of meeting the 180 separate day requirement and as employment days for the purpose of meeting the 200 day employment term.”

On motion of Delegate Espinosa, the bill was amended page forty-seven, section forty-five, line sixty-two, following the paragraph designation “(vii)”, by inserting “In addition to the

faculty senate meeting required prior to the beginning of the instructional term pursuant to section five, article five-a of this chapter” and a comma.

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2816, Eliminating new film tax credits; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegate Butler, was reported by the Clerk on page two, following line eleven and the article heading, by inserting the following:

“§11-15-3. Amount of tax; allocation of tax and transfers.

(a) *Vendor to collect.* – For the privilege of selling tangible personal property or custom software and for the privilege of furnishing certain selected services defined in sections two and eight of this article, the vendor shall collect from the purchaser the tax as provided under this article and article fifteen-b of this chapter, and shall pay the amount of tax to the Tax Commissioner in accordance with the provisions of this article or article fifteen-b of this chapter.

(b) *Amount of tax.* – The general consumer sales and service tax imposed by this article shall be at the rate of six ~~cents on the dollar~~ percent of the sales price of sales tangible personal property, custom software or taxable services purchased, excluding gasoline and special fuel sales, which remain taxable at the rate of five ~~cents~~ percent: on the dollar of sales *Provided, That on and after July 1, 2017, the tax imposed by this article shall be six and one-half percent of the purchase price, excluding sales of motor fuels, which remain taxable at the rate of five percent of the average wholesale selling price of motor fuel: Provided, however, That this increase in the rate of tax adopted pursuant to the reenactment of this section during the 2017 Regular Session of the Legislature shall expire on June 30, 2020, so long as the balance of funds as of June 30, 2019, in the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B, established in section twenty, article two,*

chapter eleven-b of this code equals or exceeds fifteen percent of the general revenue fund budgeted for the fiscal year commencing on July 1, 2019.

~~(c) Calculation tax on fractional parts of a dollar until January 1, 2004. — There shall be no tax on sales where the monetary consideration is 5¢ or less. The amount of the tax shall be computed as follows:~~

~~(1) On each sale, where the monetary consideration is from 6¢ to 16¢, both inclusive, 1¢.~~

~~(2) On each sale, where the monetary consideration is from 17¢ to 33¢, both inclusive, 2¢.~~

~~(3) On each sale, where the monetary consideration is from 34¢ to 50¢, both inclusive, 3¢.~~

~~(4) On each sale, where the monetary consideration is from 51¢ to 67¢, both inclusive, 4¢.~~

~~(5) On each sale, where the monetary consideration is from 68¢ to 84¢, both inclusive, 5¢.~~

~~(6) On each sale, where the monetary consideration is from 85¢ to \$1, both inclusive, 6¢.~~

~~(7) If the sale price is in excess of \$1, 6¢ on each whole dollar of sale price, and upon any fractional part of a dollar in excess of whole dollars as follows: 1¢ on the fractional part of the dollar if less than 17¢; 2¢ on the fractional part of the dollar if in excess of 16¢ but less than 34¢; 3¢ on the fractional part of the dollar if in excess of 33¢ but less than 51¢; 4¢ on the fractional part of the dollar if in excess of 50¢ but less than 68¢; 5¢ on the fractional part of the dollar if in excess of 67¢ but less than 85¢; and 6¢ on the fractional part of the dollar if in excess of 84¢. For example, the tax on sales from \$1.01 to \$1.16, both inclusive, 7¢; on sales from \$1.17 to \$1.33, both inclusive, 8¢; on sales from \$1.34 to \$1.50, both inclusive, 9¢; on sales from \$1.51 to \$1.67, both inclusive, 10¢; on sales from \$1.68 to \$1.84, both inclusive, 11¢ and on sales~~

~~from \$1.85 to \$2, both inclusive, 12¢: *Provided*, That beginning January 1, 2004, tax due under this article shall be calculated as provided in subsection (d) of this subsection and this subsection (c) does not apply to sales made after December 31, 2003.~~

~~(d)~~ (c) *Calculation of tax on fractional parts of a dollar after December 31, 2003.* – Beginning January 1, 2004, the tax computation under subsection (b) of this section shall be carried to the third decimal place, and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

~~(e)~~ (d) *No aggregation of separate sales transactions, exception for coin-operated devices.* – Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of computation of the tax even though the sales are aggregated in the billing or payment therefor. Notwithstanding any other provision of this article, coin-operated amusement and vending machine sales shall be aggregated for the purpose of computation of this tax.

~~(f)~~ (e) *Rate of tax on certain mobile homes.* – Notwithstanding any provision of this article to the contrary, after December 31, 2003, the tax levied on sales of mobile homes to be used by the owner thereof as his or her principal year-round residence and dwelling shall be an amount equal to six percent of fifty percent of the sales price: *Provided*, That on and after July 1, 2017, notwithstanding any provision of this article to the contrary, the tax levied on sales of mobile homes to be used by the owner thereof as his or her principal year-round residence and dwelling shall be an amount equal to six and one-half percent of fifty percent of the sales price: *Provided, however*, That should the rate of tax imposed in subsection (b) of this section revert to six percent as of a specified date, the tax imposed on sales of certain mobile homes shall similarly revert to six percent of fifty percent of the sales price.

~~(g)~~ (f) *Construction; custom software.* – ~~After December 31, 2003, whenever~~ Whenever the words ‘tangible personal property’ or ‘property’ appear in this article, the same shall also include the words ‘custom software’.

~~(h)~~ (g) *Computation of tax on sales of gasoline and special fuel.* – The method of computation of tax provided in this section does not apply to sales of gasoline and special fuel.

(h) Notwithstanding any provision of this code to the contrary, on and after July 1, 2017, when the words ‘six percent’ appear in this article or article fifteen of this chapter they shall mean the rate of the tax specified in subsection (b) of this section.”

On page eighteen, following line three hundred eight-nine, by inserting the following:

“ARTICLE 15A. USE TAX.

§11-15A-2. Imposition of tax; ~~six percent tax rate~~; inclusion of services as taxable; transition rules; allocation of tax and transfers.

(a) An excise tax is hereby levied and imposed on the use in this state of tangible personal property, custom software or taxable services, to be collected and paid as provided in this article or article fifteen-b of this chapter, at the rate of six percent of the purchase price of the property or taxable services, except as otherwise provided in this article: *Provided, That on and after July 1, 2017, the tax imposed by this article shall be collected and paid, as provided in this article or article fifteen-b of this chapter, at the rate of six and one-half percent of the purchase price of the tangible personal property, custom software or taxable services, except as otherwise provided in this article: Provided, however, That the one-half percent increase in the tax on the purchase price adopted pursuant to the reenactment of this section during the 2017 Regular Session of the Legislature shall expire on June 30, 2020, so long as the balance of funds as of June 30, 2019, in the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B, established in section twenty, article two, chapter eleven-b of this*

code equals or exceeds fifteen percent of the general revenue fund budgeted for the fiscal year commencing on July 1, 2019.

(b) *Calculation of tax on fractional parts of a dollar.* – The tax computation under subsection (a) of this section shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(c) ‘Taxable services’, for the purposes of this article, means services of the nature that are subject to the tax imposed by article fifteen of this chapter. In this article, wherever the words ‘tangible personal property’ or ‘property’ appear, the same shall include the words ‘or taxable services’, where the context so requires.

(d) Use tax is hereby imposed upon every person using tangible personal property, custom software or taxable service within this state. That person’s liability is not extinguished until the tax has been paid. A receipt with the tax separately stated thereon issued by a retailer engaged in business in this state, or by a foreign retailer who is authorized by the Tax Commissioner to collect the tax imposed by this article, relieves the purchaser from further liability for the tax to which the receipt refers.

(e) Purchases of tangible personal property or taxable services made for the government of the United States or any of its agencies by ultimate consumers is subject to the tax imposed by this section. Industrial materials and equipment owned by the federal government within the State of West Virginia of a character not ordinarily readily obtainable within the state, is not subject to use tax when sold, if the industrial materials and equipment would not be subject to use taxes if sold outside of the state for use in West Virginia.

(f) This article does not apply to purchases made by counties or municipal corporations.

(g) Notwithstanding any provisions of this code to the contrary, on and after July 1, 2017, when the words ‘six percent’ appear in subsection (c), section ten of this article, those words shall mean ‘a percentage equal to the use tax rate’ specified in subsection (a) of this section.”

And,

By amending the enacting section to read as follows:

“That §11-13X-4 and §11-13X-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-15-3 and §11-15-9 of said code be amended and reenacted; that §11-15A-2 of said code be amended and reenacted; and that §11-16-13 of said code be amended and reenacted, all to read as follows” and a colon.

On the adoption of the amendment, Delegate Butler demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 207**), and there were—yeas none, nays 97, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Gearheart and Ward.

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

An amendment, offered by Delegate Butler, was reported by the Clerk on page twenty, following line fifty-five, by inserting the following:

“ARTICLE 28. COMMERCIAL ACTIVITY TAX.

§11-28-1. Imposition of privilege tax.

There is hereby levied and shall be collected an annual privilege tax on persons conducting any business or commercial activities in this state, in the amount of two tenths of one percent of the gross income of the business as defined by this article.

§11-28-2. Definitions.

(a) General. – When used in this article, words defined in subsection (b) of this section have the meanings ascribed to them in this section, except in those instances where a different meaning is provided in this article or the context in which the word is used clearly indicates that a different meaning is intended by the Legislature.

(b) Definitions:

(1) ‘Banking business’ or ‘financial organization’ shall mean any bank, banking association, trust company, industrial loan company, small loan company or licensee, building and loan association, savings and loan association, finance company, investment company, investment broker or dealer, and any other similar business organization whose assets consist primarily of intangible personal property and whose gross income consists primarily of dividends, interest and other charges derived from the use of money or credit.

(2) ‘Business’ includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect. ‘Business’ does not include a casual sale by a person who is not engaged in the business of selling the type of property involved in such casual sale. ‘Business’ includes the production of natural resources or manufactured products which are used or consumed by the producer or manufacturer and includes the activities of a banking business or financial organization.

(3) (A) ‘Gross income’ means the gross receipts of the taxpayer, other than a banking or financial business, received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, all receipts from the investment of the capital of the business, including rentals, royalties, fees, reimbursed costs or expenses or other emoluments however designated and including all interest, carrying charges,

fees or other like income, however denominated, derived by the taxpayer from repetitive carrying of accounts, in the regular course and conduct of its business, and extension of credit in connection with the sale of any tangible personal property or service, and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties paid in cash or in kind or otherwise, interest or discount paid or any other expenses whatsoever: *Provided*, That gross income shall not include contributions to capital.

(B) (i) 'Gross income of a banking or financial business' means the gross income received from interest, premiums, discounts, dividends, service fees or charges, commissions, fines, rents from real or tangible personal property, however denominated, royalties, charges for bookkeeping or data processing, receipts from check sales, charges or fees, and receipts from the sale of tangible personal property.

(ii) 'Gross income of a banking or financial business' does not include:

(I) Interest received on the obligations of the United States, its agencies and instrumentalities,

(II) Interest received on the obligations of this state, or any political subdivision of this state, or

(III) Interest received on investments or loans primarily secured by first mortgages or deeds of trust on residential property occupied by nontransients; however, all interest derived from these activities shall be reported on the return of a person taxable under the provisions of this section.

(C) 'Gross proceeds of sales' means the value, whether in money or other property, proceeding from the sale of tangible property, without any deduction for the cost of property sold or expenses of any kind: *Provided*, That bad debts shall be allowed as a deduction except that the amount of any bad debt recovery shall be included in gross proceeds of sale.

(D) The terms 'gross income' and 'gross proceeds of sales' do not include:

(i) Cash discounts allowed and taken on sales;

(ii) The proceeds of sale of goods, wares or merchandise returned by customers when the sale price is refunded either in cash or by credit;

(iii) The amount allowed as 'trade-in value' for any article accepted as part payment for any article sold;

(iv) Excise taxes imposed by this state; or

(v) Money or other property received or held by a professional person for the sole use and benefit of a client or another person or money received by the taxpayer on behalf of a bank or other financial institution for the repayment of a debt of another.

(4) 'Person' or 'company', herein used interchangeably, includes any individual, firm, copartnership, partnership, limited liability company, joint adventure, association, corporation, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(5) 'Sale', 'sales' or 'selling' means any transfer of the ownership of or title to property, whether for money or in exchange for other property.

(6) 'Selling at wholesale' or 'wholesale sales' means and includes:

(A) Sales of any tangible personal property for the purpose of resale in the form of tangible personal property;

(B) Sales of machinery, supplies or materials which are to be directly consumed or used by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this article; and

(C) Sales of any tangible personal property to the United States of America, its agencies and instrumentalities or to the State of West Virginia, its institutions or political subdivisions.

(7) 'Service business or calling' means all activities engaged in by a person for other persons for a consideration which involve the rendering of a service as distinguished from the sale of tangible property, but does not include the services rendered by an employee to his or her employer. This term includes, but is not limited to:

(A) Persons engaged in manufacturing, compounding or preparing for sale, profit or commercial use, articles, substances or commodities which are owned by another or others;

(B) Persons engaged as independent contractors in producing natural resource products which are owned by another or others, as personal property, immediately after the same are severed, extracted, reduced to possession and produced;

(C) The repetitive carrying of accounts, in the regular course and conduct of business, and extension of credit in connection with the sale of any tangible personal property or service.

(8) 'Taxpayer' means any person liable for the tax imposed by this article;

(9) 'Tax year' or 'taxable year' means the calendar year, unless permission is obtained from the Tax Commissioner to use the taxpayer's fiscal year as the tax period;

(10) 'Electronic filing' or 'e-filing' means filing using electronic technology such as computer modem, magnetic media, optical disk, facsimile machine, telephone or other technology approved by the Tax Commissioner, in such manner as he or she deems acceptable. Any return required to be filed electronically under this article may contain an electronic signature, if a signature is required.

§11-28-3. Rules for determining measure of tax.

(a) If any person liable for the tax ships or transports its products or any part thereof out of the state without making sale of such products, the value of the products in the condition or form in which they exist immediately before transportation out of the state shall be the basis for the assessment of the tax. The tax commissioner may prescribe rules for ascertaining such value.

(b) In determining value, however, of sales between affiliated companies or persons, or under other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sale do not reflect the true value of the subject matter of the sale, the tax commissioner may prescribe rules for determining the value on which the privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of products where no common interest exists between the buyer and seller but the circumstances and conditions are otherwise similar.

(c) Upon every person engaging or continuing within this state in the business of manufacturing, compounding or preparing for sale, profit, or commercial use, either directly or through the activity of others in whole or in part, any article or articles, substance or substances, commodity or commodities, or newspaper publishing (including all gross income or proceeds of sale from circulation and advertising), the measure of this tax is the value of the entire product manufactured, compounded or prepared in the state for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the state.

(d) In those instances in which the same person partially manufactures, compounds or prepares products within this state and partially manufactures, compounds or prepares such products outside of this state, the measure of the tax shall be that proportion of the sale price of the product that the payroll cost of manufacturing within this state bears to the entire payroll cost of manufacturing the product; or, at the option of the taxpayer, the measure of his or her tax under this section shall be the proportion of the sales value of the articles that the cost of operations in West Virginia bears to the full cost of manufacture of the articles.

§11-28-4. Exemptions.

The provisions of this article do not apply to:

(a) Insurance companies which pay the State of West Virginia a tax on premiums. However, this exemption does not apply to portions of the gross income of insurance companies received for the use of real property, other than property in this state in which the insurance company maintains its office or offices, whether that income is in the form of rentals or royalties;

(b) Nonprofit cemetery companies organized and operated for the exclusive benefit of their members;

(c) Fraternal societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit. This exemption does not apply to gross income arising from the sale of alcoholic liquor, food and related services of such fraternal societies, organizations and associations which are licensed as private clubs under the provisions of article seven, chapter sixty of this code, except that funds derived from the licensed charitable gaming activities of such organizations are exempt;

(d) Corporations, associations and societies organized and operated exclusively for religious or charitable purposes: *Provided*, That this exemption does not apply to gross income derived from engaging in unrelated business activity as defined for federal income tax purposes;

(e) Production credit associations, organized under the provisions of the federal 'Farm Credit Act of 1933'; or

(f) Any credit union organized under the provisions of chapter thirty-one or any other chapter of this code: Except, that the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of article four, chapter nineteen of this code.

§11-28-5. Computation of tax; payment.

The tax imposed by this article is due and payable as follows:

(a) For taxpayers whose estimated tax under this article exceeds \$1,000 per month, the tax shall be due and payable in monthly installments on or before the last day of the month following the month in which the tax accrued. Each such taxpayer shall, on or before the last day of each month, make out an estimate of the tax for which it is liable for the preceding month and submit it with a remittance in the form prescribed by the Tax Commissioner, of the amount of tax to the office of the commissioner.

(b) For taxpayers whose estimated tax under this article does not exceed \$1,000 per month, the tax shall be due and payable in quarterly installments within one month from the expiration of each quarter in which the tax accrued. Each such taxpayer shall, within one month from the expiration of each quarter, make out an estimate of the tax for which he or she is liable for such quarter, sign the same and mail it together with a remittance, in the form prescribed by the Tax Commissioner, of the amount of tax to the office of the commissioner.

(c) When the total tax for which any person is liable under this article does not exceed \$200 in any year, the taxpayer may pay the same quarterly as described in subsection (b) of this section or, with the consent in writing of the Tax Commissioner, at the end of the month next following the close of the tax year.

(d) The Tax Commissioner may require the return and payment for periods of shorter duration than those prescribed above if it is deemed necessary to ensure payment of the tax.

(e) The forms shall be filed electronically, in accordance with the procedures set forth in the Tax Commissioner's rule on use and acceptance of electronic records. Any taxpayer required to file and pay electronically who fails to do so, shall be required to pay a money penalty in an amount equal to five percent of the tax due.

§11-28-6. Return and remittance by taxpayer.

On or before the expiration of one month after the end of the tax year, each taxpayer shall make a return for the entire tax year showing the gross proceeds of sales or gross income of business, trade or calling, and compute the amount of tax chargeable in accordance with the provisions of this article and deduct the amount of monthly or quarterly payments (as hereinbefore provided), if any, and transmit with its report a remittance in the form prescribed by the Tax Commissioner covering the residue of the tax chargeable against the taxpayer to the office of the Tax Commissioner; such return shall be signed by the taxpayer if made by an individual, or by the president, vice president, secretary or treasurer of a corporation if made on behalf of a corporation. If made on behalf of a partnership, joint adventure, association, trust, or any other group or combination acting as a unit, any individual delegated by such firm, copartnership, joint adventure, association, trust or any other group or combination acting as a unit shall sign the return on behalf of the taxpayer. The Tax Commissioner may extend the time for making the annual return on the application of any taxpayer and grant such reasonable additional time within which to make the same, for good cause shown. Annual returns must be filed, and payments remitted, electronically, as provided in section four of this article, unless the taxpayer first obtains a waiver in writing from the Tax Commissioner.

§11-28-7. Tax year.

The assessment of taxes and the returns required under the provisions of this article shall be on a calendar year basis, unless permission is obtained from the Tax Commissioner to use the taxpayer's fiscal year as the tax period.

§11-28-8. Tax cumulative.

The tax imposed by this article is in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business, trade or calling in this state. A person exercising a privilege taxable under this article, subject to the payment of all licenses and charges which are condition precedent to exercising the privilege taxed, may exercise the privilege for the

current tax year upon the condition that he or she shall pay the tax accruing under this article.

§11-28-9. Receivership or insolvency proceedings.

In the event a business subject to the tax imposed by this article is being operated in connection with a receivership or insolvency proceeding, the court under whose direction the business is operated shall, by the entry of a proper order in the cause, make provision for the regular payment of the taxes imposed by this article as they become due.

§11-28-10. Priority in distribution in receivership, etc.; personal liability of administrator.

In the distribution, voluntary or compulsory, in receivership, bankruptcy or otherwise, of the estate of any person, firm or corporation, all taxes due and unpaid under this article shall be paid from the first money available for distribution in priority to all claims, except taxes and debts due the United States which under federal law are given priority over the debts and liens created by this article. Any person charged with the administration of an estate who shall violate the provisions of this section shall be personally liable for any taxes accrued and unpaid under this article, which are chargeable against the person, firm or corporation whose estate is in administration.

§11-28-11. Credit for taxes paid.

(a) A credit shall be allowed against the tax imposed by this article for the following taxes paid to the State of West Virginia:

(1) The severance and business privilege tax imposed by article thirteen-a of this chapter.

(2) The health care provider tax imposed by article twenty-seven of this chapter.

(3) The acute care hospital tax imposed by article twenty-seven of this chapter.

(4) The business and occupation tax imposed by article thirteen of this chapter.

(b) No credit may be taken for the following taxes paid within this state:

(1) The municipal business and occupation tax imposed by a municipality pursuant to article thirteen, chapter eight of this code.

(2) The municipal public utilities tax imposed by a municipality pursuant to article thirteen, chapter eight of this code.

(c) In no case may the credit allowed under this section reduce a taxpayer's liability for the tax imposed by this article below zero dollars.

(d) No unused credit under this section may be carried forward or carried back to another tax year.

§11-28-12. Offenses; penalties.

It shall be unlawful for any person to refuse to make the return required by section six of this article; or to make any false or fraudulent return or false statement in any return, with intent to defraud the state or to evade the payment of the tax, or any part thereof, imposed by this article; or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this article; or for the president, vice president, secretary or treasurer of any corporation to make or permit to be made for any corporation or association any false return, or any false statement in any return required in this article, with the intent to evade the payment of any tax hereunder. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not more than \$10,000 or imprisoned not exceeding one year in the regional jail or punished by both fine and imprisonment, at the discretion of the court, within the limitations aforesaid. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, shall be guilty of the offense of false swearing, and, on conviction thereof,

shall be punished in the manner provided by law. Any corporation for which a false return, or a return containing a false statement, as aforesaid, shall be made, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$10,000. The circuit and criminal courts of the county in which the offender resides, or, if a corporation, in which it carries on business, shall have concurrent jurisdiction to enforce this section.

§11-28-13. Severability; effective date.

(a) *Severability* – If any provision of this article or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of said article, but shall be confined in its operation to the provision thereof directly involved in the controversy in which such judgment shall have been rendered, and the applicability of such provision to other persons or circumstances shall not be affected thereby.

(b) *Effective date* – The provisions of this article take effect July 1, 2017 and shall apply to gross income from business activity engaged in, on or after that date.

§11-28-14. Termination date; short taxable years for taxpayers on calendar or fiscal year and cash or accrual accounting methods.

(a) Each and every provision of this article is repealed for all tax periods beginning on and after July 1, 2020: *Provided*, That the provisions of this article shall remain in effect on and after July 1, 2020, so long as the combined balance of funds as of June 30, 2019, or any subsequent June 30, in the Revenue Fund Shortfall Reserve Fund and the Revenue Fund Shortfall Reserve Fund - Part B established in section twenty, article two, chapter eleven-b of this code is less than fifteen percent of the General Revenue Fund budgeted for the fiscal year of the state commencing July 1, 2019 or any fiscal year commencing thereafter. However, tax liabilities, if any, arising for taxable years or portions thereof ending prior to a July 1 termination date shall be determined, administered, assessed and collected as if the taxes imposed by this article had

terminated; and the rights and duties of the taxpayer and the State of West Virginia shall be fully and completely preserved.

(b) Persons who are calendar year taxpayers under this article shall file their annual return for the calendar year of the termination date, on or before July 31 of that calendar year, and remit the amount of any taxes shown thereon to be due, unless an extension of time for filing is authorized by the Tax Commissioner.

(c) Persons who are fiscal year taxpayers shall similarly file an annual return on or before July 31 of the termination year, for their short taxable year which ended June 30 of that year, and remit the amount of any taxes shown thereon to be due, unless an extension of time for filing is authorized by the Tax Commissioner.

(d) Persons who keep their records using the accrual method of accounting shall file their annual return for the full or short taxable year ending June 30 of the termination year, computing their tax liability under that method of accounting. A taxpayer shall file an amended return for the termination year and pay any additional taxes due within thirty days after determining that gross income was under-reported on the annual return.

(e) Persons who keep their records using the cash method of accounting may file their annual return for the full or short taxable year ending June 30 of the termination year, computing their tax liability under the cash method of accounting: *Provided*, That the taxpayer shall file a supplemental return for the termination year within one month after the close of each calendar quarter during each ensuing year in which the taxpayer receives gross income for any activity or portion thereof completed prior to July 1 of the termination year, and pay any additional taxes shown on the supplemental return to be due. The purpose of this requirement is to minimize the advantage or disadvantage associated with the different methods of accounting when the commercial activity tax is repealed.

§11-28-15. General procedure and administration.

Each and every provision of the ‘West Virginia Tax Procedure and Administration Act’ set forth in article ten of this chapter, and the ‘West Virginia Tax Crimes and Penalties Act’ set forth in article nine of this chapter shall apply to the tax imposed by this article with like effect as if said acts were applicable only to the tax imposed by this article and were set forth in extenso in this article.’”

And,

By amending the enacting section to read as follows:

“That §11-13X-4 and §11-13X-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-15-9 of said code be amended and reenacted; that §11-16-13 of said code be amended and reenacted; and that said code be amended by adding thereto a new article, designated §11-28-1, §11-28-2, §11-28-3, §11-28-4, §11-28-5, §11-28-6, §11-28-7, §11-28-8, §11-28-9, §11-28-10, §11-28-11, §11-28-12, §11-28-13, §11-28-14 and §11-28-15, all to read as follows” and a colon.

On the adoption of the amendment, Delegate Butler demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 208**), and there were—yeas none, nays 97, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Gearheart and Ward.

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

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2817, Providing for the reduction of the unfunded liability in the teachers retirement system over a 30 year period; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2933, Relating to the consumers sales and service taxes and use taxes; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with amendments pending, and the restricted right to amend jointly by Delegates Nelson and Boggs, and the rule was suspended to permit the offering and consideration of the amendment on that reading.

Com. Sub. for H. B. 2196, Relating to the secondary schools athletic commission; on second reading, having earlier been moved to the foot of bills on second reading, was reported by the Clerk.

Whereupon,

Delegate Hanshaw asked and obtained unanimous consent that the amendment to the amendment he offered in earlier proceedings be withdrawn.

Delegate Moye asked and obtained unanimous consent that the amendment he offered in earlier proceedings be withdrawn.

On motion of Delegates Espinosa and Moye, the bill was then amended on page three, section twenty-five, line forty-five, following the word “rules”, by inserting the following:

“and regulations of the West Virginia Secondary Schools Activities Commission and the county board in which the home-schooled student lives” and a comma.

The bill was then ordered to engrossment and third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for H. B. 2129, Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs,

Com. Sub. for H. B. 2195, Relating to requiring comprehensive drug awareness and prevention program in all public schools,

Com. Sub. for H. B. 2363, Requiring that a state employee with a commercial driver's license have a current medical evaluation certification,

Com. Sub. for H. B. 2428, Establishing additional substance abuse treatment facilities,

Com. Sub. for H. B. 2483, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday,

Com. Sub. for H. B. 2708, Relating to a lawful method for a developmentally disabled person to purchase a base hunting license,

Com. Sub. for H. B. 2759, Creating Statewide Interoperable Radio Network,

Com. Sub. for H. B. 2851, Updating fee structure provisions for broker-dealers,

Com. Sub. for H. B. 3062, The State Settlement and Recovered Funds Accountability Act,

And,

Com. Sub. for H. B. 3080, Requiring instruction in the Declaration of Independence and the United States Constitution.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Gearheart.

Miscellaneous Business

Delegate Marcum asked unanimous consent that the remarks of Delegate Butler regarding an amendment he offered to Com.

Sub. for H. B. 2816 be printed in the Appendix to the Journal, which consent was not given, objection being heard.

Delegate Byrd asked and obtained unanimous consent that the remarks of Delegate Frich regarding an amendment offered by Delegate Butler to Com. Sub. for H. B. 2816 be printed in the Appendix to the Journal.

Delegate White filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2552 on March 1, 2017 but was not added as a sponsor at that time pursuant to House Rule 94 which allows for not more than eleven members as joint sponsors of a bill, such number having been reached.

Subsequently, Delegate Atkinson requested to be removed from said bill and Delegate White was added as a cosponsor.

At 7:47 p.m., the House of Delegates adjourned until 9:00 a.m., Tuesday, March 28, 2017.

Tuesday, March 28, 2017

FORTY-NINTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Monday, March 27, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred H. B. 3107 and H. B. 3109, on Third Reading, Special Calendar to the House Calendar, and Com. Sub. for H. B. 2109, H. B. 2188, Com. Sub. for H. B. 2520, Com. Sub. for H. B. 2552 and Com. Sub. for H. B. 2933, on Third Reading, Special Calendar, to the foot of bills on Third Reading.

Committee Reports

Delegate Hanshaw, Chair of 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 27th day of March, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for H. B. 2318, Relating generally to human trafficking.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 337, Hiring correctional officers without regard to placement on correctional officer register,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 337) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 185, Allowing spending units designate fund into which proceeds from sale of surplus property must be deposited,

And,

S. B. 235, Relating to motorcycle registration renewal,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bills (S. B. 185 and S. B. 235) were each referred to the Committee on Finance.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 523, Converting to biweekly pay cycle for state employees,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 523) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 174, Exempting transportation of household goods from PSC jurisdiction,

And,

S. B. 346, Relating generally to jurisdiction of PSC over motor carriers,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (S. B. 174 and S. B. 346) were each referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 183, Transferring Division of Forestry from Department of Commerce to Department of Agriculture,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 183) was referred to the Committee on Finance.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 539 - "A Bill to amend and reenact §3-8-1, §3-8-1a, §3-8-2, §3-8-2b, §3-8-2c, §3-8-5, §3-8-5a, §3-8-5b, §3-8-5d, §3-8-5f, §3-8-7, §3-8-8, §3-8-9, §3-8-10, §3-8-11 and §3-8-12 of the Code of West Virginia, 1931, as amended; and that said code be amended by adding thereto a new section, designated §3-8-9a, all relating generally to the regulation and control of financing elections; modifying legislative findings; defining terms; modifying definitions; exempting candidates for delegate to national presidential nominating convention for a political party from certain recordkeeping and filing requirements; updating references to federal code; requiring additional information to be provided by entities making independent expenditures; increasing threshold dollar amounts to be met for certain expanded disclosures of contributors to independent expenditures; increasing threshold dollar amounts for reporting on certain independent expenditures; requiring additional information to be provided by entities engaging in electioneering communication; requiring disclosure of certain contributor information when contributions were made for explicit purpose of financing any electioneering communication; increasing threshold dollar amounts for disclosure of contributions or expenditures by party headquarters committees; requiring candidates and treasurers of political committees to keep certain detailed accounts; requiring entities making reportable independent expenditures or electioneering communications to keep certain detailed accounts; requiring reports to be kept of

contributions received for explicit purpose of furthering independent expenditures or electioneering communications and all disbursements for independent expenditures or electioneering communications; increasing threshold dollar amounts for certain transactions to be disclosed in sworn statement by candidate or political committee; clarifying definition of 'financial transactions'; requiring additional information be provided in financial statements; prohibiting receipt of currency as contribution; eliminating separate disclosure schedule and rules for membership organizations that raise funds for political purposes by payroll deduction; requiring political action committees, ballot issue committees, electioneering communications and independent expenditures file financial statements electronically with Secretary of State; making misdemeanor offense for receipt of contribution of currency; setting penalties; providing exception where currency received in exchange for goods or services provided by recipient; clarifying discretion of court in penalties for failure to file sworn itemized financial statement; prohibiting contributions by membership organizations to political committees; prohibiting contributions by membership organizations to candidates; permitting membership organizations to solicit contributions to separate segregated fund; making it unlawful for membership organization or separate segregated fund to make contribution or expenditure by using money or thing of value secured by physical force, job discrimination, financial reprisal, or by the threat thereof; making it unlawful for membership organization member soliciting contributions to fail to inform person that funds were being solicited for separate segregated fund at the time of solicitation; making it unlawful for person soliciting contribution for membership organization to fail to inform person of right to refuse to contribute without reprisal; making it unlawful for separate segregated fund established by membership organization to solicit contributions from persons other than members and their families; making it unlawful for separate segregated fund established by membership organization to contribute membership organization funds; prohibiting separate segregated fund from receiving contributions from members of organization, immediate families and executive or administrative personnel and their immediate families; prohibiting membership organization from engaging in

job discrimination or job promotion or transfer discrimination because of member's failure to make contribution to membership organization or separate segregated fund; prohibiting corporation or membership organization fund making contribution to separate segregated fund for purpose of making contribution to candidate or candidate's committee; exempting separate segregated funds from scope of prohibition; requiring membership organizations to permit groups of employees represented by bona fide political action committee to use real property of membership organization for certain purposes; setting penalties; prohibiting reimbursement by membership organization of the amount of any fine imposed; directing prosecuting attorney to present alleged violations of article relating to regulation and control of elections referred by State Election Commission to grand jury upon determining that there is a reason to believe a violation occurred; authorizing fact of investigation to be disclosed to persons or entities being investigated by State Election Commission; eliminating misdemeanor for disclosure of fact of complaint, investigation, report or proceedings; eliminating outdated language; making lawful election expense for payment of necessary employees; making lawful election expense payment of food and drink for campaign-related purposes and for entertaining of campaign volunteers; making lawful election expense payment for certain legal and accounting service rendered to candidate or candidate committee; making lawful election expense payment of fees associated with campaign; providing that candidate may not pay fines assessed against candidate or candidate's committee with campaign funds; making lawful election expense transfers to political party committees when committee is acting in role of vendor; clarifying that no such transfer shall involve coordination; making lawful election expense any political expenditure; prohibiting contributions by political action committee to another political action committee if contribution is earmarked for contribution to any candidate committee or political party; permitting certain coordination between state committee of political party or caucus campaign committee and certain candidates; requiring coordinated communications to include statement clearly identifying that communications were made in coordination with candidate or candidate's committee; authorizing

contribution of excess campaign funds prior to the general election; removing cap on amount of contributions to state party executive committee or caucus campaign committee; prohibiting employer or agent from giving any notice or information to employees containing any threat intended or calculated to influence decisions of employees regarding political activity; clarifying that employer can express opinion of employer without constituting a violation; clarifying that person cannot pay owner, publisher, editor or employee of newspaper or periodical to advocate or oppose candidate, political party or measure without reporting as independent expenditure or electioneering communication where appropriate; eliminating prohibition on publication, issuance or circulation of anonymous communications supporting or aiding election or defeat of clearly identified candidate; prohibiting certain persons contracting with state from soliciting contributions to any candidate or political party other than for independent expenditures; setting contribution limits to candidates for nomination and general elections; setting contribution limits to state, district or county party committees; setting contribution limits to caucus campaign committees; setting contribution limits to political action committees; providing exception to limits on contribution when political action committee makes only independent expenditures; providing for indexing of contribution limitations to candidates; directing Secretary of State to calculate new contribution limits after each two-year election cycle; directing State Election Commission announce adjustments within thirty days of publication of relevant index; providing new contribution limits remain in effect for two-year election cycle; permitting unlimited transfers between state party executive committee, caucus campaign committee and national committee of same political party for voter registration and get-out-the-vote activities of state committees; prohibiting coercion or intimidation of nonelective salaried employee of state government to refrain from any form of political activity; eliminating requirement that person soliciting contributions disclose amount of commission, remuneration or other compensation to be received as a direct result of contribution being successfully collected; prohibiting employer from withholding or diverting portion of employee's wages or salary for use for certain political activities except upon express

written request of employee; requiring employee request be upon form provided by Secretary of State; limiting validity of request for twelve months; defining term ‘political activities’; setting internal effective date for prohibition and required written request; updating language throughout; and making technical corrections”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 566 - “A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 586 - “A Bill to amend and reenact §19-2B-4 of the Code of West Virginia, 1931, as amended, relating to inspection of meat and poultry; clarifying licenses; making custom and distributor license a triennial license; increasing fees; and making technical corrections”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 614 - “A Bill to amend and reenact §12-6C-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31-15-8 of said code, all relating to the expansion of broadband service to unserved areas of West Virginia by providing loan insurance for commercial loans used for the expansion of broadband service to unserved or underserved areas; establishing

limits and conditions on the insuring of loans; establishing interest rates; establishing amortization periods; providing for security interests; setting forth the responsibilities of the West Virginia Economic Development Authority, the West Virginia Board of Treasury Investments and the Broadband Enhancement Council; providing that the members of the West Virginia Board of Treasury Investments do not have a fiduciary responsibility with regard to the loans; providing for notice for loan insurance; providing for hearings and appeal; and making technical changes”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2017, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 628 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-29; to amend and reenact §50-3-2 of said code; and to amend and reenact §62-5-10 of said code, all relating to providing funding for the Statewide Interoperable Radio Network through additional court costs to be imposed in criminal cases”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 631 - “A Bill to amend and reenact §8-12-13 and §8-12-16 of the Code of West Virginia, 1931, as amended, all relating to the process for prosecution of violations of municipal building code; clarifying the process by which municipal governments may abate unsafe, unsanitary or dangerous dilapidated structures that are detrimental to the public safety or welfare; creating a method of issuing misdemeanor citations for violation of the building code with proper due process; permitting complaints to be filed; establishing a procedure; requiring notice; granting hearings; permitting the recovery for costs for instituting

an action; and defining terms”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 671 - “A Bill to amend and reenact §18B-4-8 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Anatomical Board; providing that the board be reestablished under the authority of the Higher Education Policy Commission; modifying composition of the board; defining terms; modifying powers and responsibilities of the board; requiring the board to make requisition for, receiving and making disposition of dead human bodies for certain uses and purposes; requiring the board to keep full and complete records of certain information, which shall be open at all times for inspection of the Attorney General and any prosecuting attorney in the state; authorizing the Higher Education Policy Commission to promulgate legislative rules; providing that members of the board shall not be entitled to or receive compensation for services rendered in their capacity; requiring the board to operate in compliance with the Revised Anatomical Gift Act; eliminating requirement that certain dead human bodies buried at the public’s expense be delivered to the board; eliminating procedures and requirements related to unclaimed bodies subject to requisition by the board; eliminating bond requirements of the board; and eliminating a criminal misdemeanor offense, penalties and the imposition of liability for certain conduct”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 685 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-11b, relating to creating a one-day special license for charitable

events to sell nonintoxicating beer; setting fee for license; and authorizing commissioner to waive certain restrictions by rule or order”; which was referred to the Committee on Small Business, Entrepreneurship and Economic Development then the Judiciary.

Resolutions Introduced

Delegates Eldridge, Maynard, Hornbuckle, C. Romine, Lovejoy, R. Miller, Rodighiero, Lane, White, C. Miller, Rohrbach and Phillips offered the following resolution, which was read by its title and referred to the Committee on Small Business, Entrepreneurship and Economic Development then Rules:

H. C. R. 108 – “Requesting the Joint Committee on Government and Finance to study the feasibility of building a road to best connect the Rock Creek Development Park area in Lincoln County to Cabell County, similar to a road planned to connect Boone County to surrounding regions via U.S. Route 119.”

Whereas, Lincoln County, West Virginia, has long been an economically depressed area; and

Whereas, Lincoln County lacks easy access to nearby counties; and

Whereas, The isolation suffered by residents of Lincoln County, West Virginia, contributes to the economic depression of the area; and

Whereas, West Virginia is committed to promoting and improving the Rock Creek Development Park, the largest mixed-use development project in West Virginia history; and

Whereas, A large portion of the planned Rock Creek Development Park lies in Lincoln County; and

Whereas, Construction of a roadway from the western end of the Rock Creek Development Park, lying in Lincoln County, providing convenient and safe access to nearby Cabell County, which offers interstate, railway, airport and river transportation, could stimulate economic development and enable individuals in

Lincoln County to commute into the Huntington area; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the feasibility of building a road to best connect Lincoln County to Cabell County, similar to a road planned to connect the part of the Rock Creek Development Park in Boone County to Charleston and other surrounding regions via U.S. Route 119; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, 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.

Delegates Howell, Ambler, Arvon, Baldwin, Blair, Brewer, Butler, Criss, Dean, Diserio, Eldridge, Espinosa, A. Evans, Fast, G. Foster, N. Foster, Gearheart, Hamilton, Hamrick, Harshbarger, Hicks, Higginbotham, Hill, Iaquina, Kessinger, Love, Lynch, Martin, Maynard, Overington, Paynter, Pyles, Queen, Rodighiero, Rohrbach, C. Romine, R. Romine, Rowan, Sobonya, Sponaugle, Statler, Summers, Sypolt, Thompson, Wagner, Walters, White, Williams and Wilson offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 15 – “Supporting the passage of H. R. 1315 introduced in the United States House of Representatives to roll back ethanol fuel requirements.”

Whereas, Ethanol can cause metal corrosion and dissolve certain plastics and rubbers, especially in older motor vehicles that were not constructed with ethanol compatible materials; and

Whereas, H. R. 1315 would eliminate the unrealistic mandates imposed under the Renewable Fuel Standards such as requiring refiners to blend 36 billion gallons of biofuels by 2022; and

Whereas, H. R. 1315 would prohibit the sale of gasoline containing 15% ethanol (E15) in order to meet artificial Renewable Fuel Standards deadlines; and

Whereas, H. R. 1315 would protect older vehicles from the risks of damage caused by the required use of E15 fuel; and

Whereas, H. R. 1315 would protect power equipment from the risks of damage caused by the required use of E15 fuel; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates supports the passage of H. R. 1315 introduced in the United States House of Representatives to roll back ethanol fuel requirements; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the members of the West Virginia Congressional Delegation and to the Speaker of the House of Representatives.

Third Reading

Com. Sub. for H. B. 2002, Relating to parental notification of abortions performed on unemancipated minors; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 209**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Thompson and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2002) passed.

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

Com. Sub. for H. B. 2196, Relating to the secondary schools athletic commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 210**), and there were—yeas 60, nays 38, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ambler, Arvon, Bates, Byrd, Canestraro, Caputo, Cooper, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hanshaw, Hartman, Hornbuckle, Iaquina, Isner, Lewis, Lovejoy, Lynch, Marcum, Maynard, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rohrbach, R. Romine, Rowan, Sponaule, Storch, Summers, Wagner, Westfall and Williams.

Absent and Not Voting: Thompson and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2196) passed.

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

Com. Sub. for H. B. 2376, Relating to the organizational structure of state government; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 211**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates.

Absent and Not Voting: Thompson and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2376) passed.

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

Com. Sub. for H. B. 2453, Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 212**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Thompson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2453) passed.

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

Com. Sub. for H. B. 2561, Relating to public school support; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 213**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Iaquina and Marcum.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2561) passed.

Delegate Cowles moved that the bill take effect July 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 214**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Iaquina and Moye.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2561) takes effect July 1, 2017.

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

Com. Sub. for H. B. 2589, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 215**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Lynch.

Absent and Not Voting: Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2589) passed.

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

Com. Sub. for H. B. 2654, Expanding county commissions' ability to dispose of county or district property; on third reading, coming up in regular order, was read a third time.

Delegate N. Foster requested to be excused from voting on the passage of Com. Sub. for H. B. 2654 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 216**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Butler, Folk, Gearheart and McGeehan.

Absent and Not Voting: Harshbarger and R. Romine.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2654) passed.

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

Com. Sub. for H. B. 2704, Prohibiting persons convicted of sexual offenses against children with whom they hold positions of trust from holding certification or license valid in public schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 217**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Harshbarger, Marcum and R. Romine.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2704) passed.

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

Com. Sub. for H. B. 2711, Abolishing regional educational service agencies and providing for the transfer of property and records; on third reading, coming up in regular order, was read a third time.

Delegate Wilson asked unanimous consent to amend the bill on third reading, which request was not granted, objection being heard.

Delegate Moye requested to be excused from voting on the passage of Com. Sub. for H. B. 2711 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 218**), and there were—yeas 76, nays 24, absent and not voting none, with the nays being as follows:

Nays: Butler, Eldridge, Fluharty, Folk, Hartman, Hicks, Hornbuckle, Kelly, Lewis, Lynch, Martin, Maynard, McGeehan, Miley, R. Miller, Paynter, Phillips, Queen, Rodighiero, Storch, Thompson, Wagner, Williams and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2711) passed.

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

Com. Sub. for H. B. 2720, Allowing the School Building Authority to transfer funds allocated into the School Construction

Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 219**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk.

Absent and Not Voting: Arvon.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2720) passed.

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

Com. Sub. for H. B. 2771, Relating to temporary teaching certificates for Armed Forces spouses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 220**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Arvon.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2771) passed.

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

Com. Sub. for H. B. 2776, Creating of special revenue funding sources for the Division of Labor; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for H. B. 2781, Requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 221**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Arvon and A. Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2781) passed.

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

Com. Sub. for H. B. 2794, Relating to the means of giving notice to a debt collector of a consumer's representation by legal counsel; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 222**), and there were—yeas 74, nays 26, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Caputo, Diserio, Eldridge, E. Evans, Fast, Ferro, Fleischauer, Fluharty, Gearheart, Hicks, Iaquina, Kelly, Love, Lynch, Miley, Moye, Pyles, Robinson, Rowe, Sponaugle, Thompson, Ward, Williams and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2794) passed.

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

Com. Sub. for H. B. 2804, Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 223**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer and Howell.

Absent and Not Voting: Pyles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2804) passed.

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

Com. Sub. for H. B. 2815, Relating to higher education governance; on third reading with the restricted right to amend jointly by Delegates Hanshaw and Robinson, was reported by the Clerk.

On motion of Delegates Hanshaw and Robinson, the bill was amended on page twenty-six, section four, line two hundred seventy-one, by striking out the word “and”.

On page twenty-seven, section four, line two hundred eighty-six, following the words “Education Accountability”, by replacing the period with a semi-colon.

And,

On page twenty-seven, section four, line two hundred eighty-seven, by inserting two new subdivisions, to read as follows:

“(47) May provide information, research, and recommendations to state colleges and universities relating to programs and vocations with employment rates greater than ninety percent within six months post-graduation; and

(48) May provide information, research and recommendations to state colleges and universities on coordinating with the West Virginia State Board of Education about complimentary programs.”

Having been engrossed, the bill was read a third time.

Delegate Wagner requested to be excused from voting on the passage of Com. Sub. for H. B. 2815 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 224**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Kelly and Wagner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2815) passed.

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

Com. Sub. for H. B. 2816, Eliminating new film tax credits; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 225**), and there were—yeas 39, nays 60,

absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Ambler, Anderson, Atkinson, Cooper, Cowles, Criss, Deem, Ellington, Espinosa, A. Evans, Fast, G. Foster, N. Foster, Frich, Hamilton, Hamrick, Hanshaw, Harshbarger, Higginbotham, Hollen, Householder, Kelly, Lane, C. Miller, Nelson, O'Neal, Rohrbach, C. Romine, R. Romine, Rowan, Shott, Sobonya, Statler, Summers, Wagner, Walters, Westfal, Zatezalo, and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Howell.

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2816) rejected.

Com. Sub. for H. B. 2817, Providing for the reduction of the unfunded liability in the teachers retirement system over a 30 year period; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

H. B. 2878, Increasing amount of authorized Federal Grant Anticipation Notes for which Division of Highways may apply; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 226**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2878) passed.

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

Com. Sub. for H. B. 2887, Relating to retirement and separation incentives; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 227**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Marcum.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2887) passed.

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

At 12:08 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 1:30 p.m.

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Afternoon Session

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The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

Special Calendar

Third Reading

-continued-

Com. Sub. for H. B. 2897, Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 228**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick, Hollen, Lynch and Sypolt.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2897) passed.

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

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 2817, on Third Reading, Special Calendar, to the House Calendar and had moved Com. Sub. for H. B. 2933, on Third Reading, Special Calendar, and Com. Sub. for S. B. 437, Second Reading to the foot of the Calendar.

Com. Sub. for H. B. 2930, Allowing powerball, hot lotto, and mega millions winners to remain anonymous; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 229**), and there were—yeas 90, nays 7, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Byrd, Eldridge, Marcum, Pushkin, Pyles, Robinson and Rowe.

Absent and Not Voting: Hollen, Sypolt and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2930) passed.

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

Com. Sub. for H. B. 2941, Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 230**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Byrd, Eldridge, Fluharty, Hartman, Robinson and Sponaugle.

Absent and Not Voting: Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2941) passed.

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

Com. Sub. for H. B. 2961, Relating generally to charitable bingo games and charitable raffles; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 231**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Sobonya.

Absent and Not Voting: Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2961) passed.

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

H. B. 2962, Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 232**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2962) passed.

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

H. B. 2963, Eliminating tax lien waiver requirement for estates of nonresidents; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 233**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2963) passed.

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

H. B. 2963 - “A Bill to amend and reenact §11-11-17a of the Code of West Virginia, 1931, as amended; relating to terminating on a certain date provisions by which domiciliary personal representatives of nonresident decedents may apply for certain releases.”

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

H. B. 2967, Relating generally to administration of estates and trusts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 234**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2967) passed.

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

Com. Sub. for H. B. 3006, Exempting certain contracts between the Department of Health and Human Resources and West Virginia University, Marshall University or the School for

Oestopathic Medicine from state purchasing requirements; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 235**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: E. Evans, Fast and Kelly.

Absent and Not Voting: Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3006) passed.

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

H. B. 3022, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 236**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 3022) passed.

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

H. B. 3037, Removing the Division of Energy as an independent agency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 237**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Boggs and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 3037) passed.

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

Com. Sub. for H. B. 3048, Relating to collection of Tier II fees for chemical inventories; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 238**), and there were—yeas 92, nays 6, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Folk, Gearheart, McGeehan, Upson, Wagner and Wilson.

Absent and Not Voting: Boggs and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3048) passed.

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

H. B. 3088, Relating generally to teacher-pupil ratios; on third reading, coming up in regular order, was read a third time.

Delegate Rowan requested to be excused from voting on the passage of H. B. 3088 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 239**), and there were—yeas 45, nays 55, absent and not voting none, with the yeas being as follows:

Yeas: Arvon, Atkinson, Blair, Butler, Capito, Cowles, Criss, Dean, Deem, Ellington, Espinosa, A. Evans, G. Foster, N. Foster, Gearheart, Hamilton, Hamrick, Hanshaw, Harshbarger, Higginbotham, Hill, Hollen, Householder, Howell, Kelly, Kessinger, Lane, Maynard, McGeehan, Moore, Nelson, O'Neal, Overington, C. Romine, Shott, Sobonya, Statler, Storch, Sypolt, Upson, Walters, Westfall, Wilson, Zatezalo and Mr. Speaker, Mr. Armstead.

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the bill (H. B. 3088) rejected.

H. B. 3091, Relating generally to employer withholding taxes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 240**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: G. Foster and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 3091) passed.

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

Com. Sub. for H. B. 3095, Allowing retired teachers to be employed by a higher education institution; on third reading, coming up in regular order, was read a third time.

Delegates Ambler, E. Evans, Iaquinta and Wagner requested to be excused from voting on the passage of Com. Sub. for H. B. 3095 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 241**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3095) passed.

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

Com. Sub. for H. B. 3102, Relating to selling Hopemont Hospital; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

H. B. 3108, Relating to authorizing redirection of certain amounts to the General Revenue Fund; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for H. B. 2109, Relating to the West Virginia Land Reuse Agency Authorization Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 242**), and there were—yeas 67, nays 31, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Blair, Butler, Dean, Espinosa, Fast, Folk, N. Foster, Frich, Gearheart, Hicks, Hill, Iaquina, Kessinger, Love, Lynch, Marcum, Martin, McGeehan, Moore, Paynter, Robinson, Rodighiero, Sobonya, Sponaule, Statler, Summers, Sypolt, Thompson, Upson, Williams and Wilson.

Absent and Not Voting: Cowles and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2109) passed.

Delegate O'Neal moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 243**), and there were—yeas 78, nays 19, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Butler, Dean, Fast, Folk, Frich, Hicks, Iaquina, Lynch, Marcum, Martin, McGeehan, Paynter, Robinson, Rodighiero, Sponaule, Statler, Thompson, Williams and Wilson.

Absent and Not Voting: Cowles, Hornbuckle and C. Romine.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2109) takes effect from its passage.

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

H. B. 2188, Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 244**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Gearheart, McGeehan, Paynter and Wilson.

Absent and Not Voting: Cowles, Hornbuckle and C. Romine.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2188) passed.

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

Com. Sub. for H. B. 2520, Prohibiting the use of a tanning device by a person under the age of eighteen; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 245**), and there were—yeas 80, nays 18, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ambler, Arvon, Butler, Ferro, Folk, Frich, Gearheart, Harshbarger, Hill, Householder, Howell, Kessinger, Marcum, Martin, McGeehan, Paynter, Sobonya and Upson.

Absent and Not Voting: Cowles and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2520) passed.

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

Com. Sub. for H. B. 2552, Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 246**), and there were—yeas 84, nays 14, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Arvon, Blair, Folk, Gearheart, Hill, Householder, Howell, Kessinger, Marcum, McGeehan, Sobonya, Statler, Upson and Wilson.

Absent and Not Voting: Cowles and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2552) passed.

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

Second Reading

Com. Sub. for H. B. 2129, Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2195, Relating to requiring comprehensive drug awareness and prevention program in all public schools; on second reading, coming up in regular order, was read a second time.

Delegates Hornbuckle and Pushkin moved to amend the bill on page two, section seven-b, line twenty-five, following the semi-colon, by inserting the word “and”.

And,

On page two, section seven-b, by striking out lines twenty-six through thirty and inserting in lieu thereof, the following:

“(7) Promote student safety and understanding, the program may also include presentations from attorneys or persons representing civil rights organizations who have expertise in civil rights law and lawful arrest procedures about what to expect from law enforcement officers during a traffic stop or criminal investigation, what law enforcement officers can and cannot do, and how to respond to an officer during a vehicular stop or other police interaction, including problematic or dangerous behaviors that could result in a person being detained or arrested.”

On the adoption of the amendment, Delegate McGeehan demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 247**), and there were—yeas 40, nays 55, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Higginbotham, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, McGeehan, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Rodighiero, Rohrbach, Rowe, Sponaule, Storch, Thompson, Williams and Zatezalo.

Absent and Not Voting: Barrett, Cowles, Hornbuckle, Marcum and Robinson.

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

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2363, Requiring that a state employee with a commercial driver's license have a current medical evaluation certification; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2428, Establishing additional substance abuse treatment facilities; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Delegates Pushkin and Robinson moved to amend the bill on page two, section two, line one, by inserting "(a)" before the phrase "The Ryan Brown".

On page two, section two, line four, after the words "article from", by inserting the phrase "subsection (b) of this section and".

And,

On page two, section two, after line sixteen, by inserting a new subsection to read as follows:

"(b) If a legal action brought on behalf of the state against a pharmaceutical wholesaler, manufacturer and distributor involving an opioid product results in a monetary settlement or recovery, then the first \$25 million of each such monetary settlement or recovery shall be deposited in the Ryan Brown Addiction Prevention and Recovery Fund created in subsection (a) of this section. Any monies in excess of \$25 million shall be deposited in the General Revenue Fund."

Delegate Pushkin asked unanimous consent to advance the bill to third reading with the amendment pending, and the restricted right to amend jointly.

Delegate Pushkin then asked and obtained unanimous consent to withdraw his request.

Whereupon,

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

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2483, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday; on second reading, coming up in regular order, was read a second time.

Com. Sub. for H. B. 2708, Relating to a lawful method for a developmentally disabled person to purchase a base hunting license; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2759, Creating Statewide Interoperable Radio Network; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2851, Updating fee structure provisions for broker-dealers; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3062, The state Settlement and Recovered Funds Accountability Act; on second reading, coming up in regular order, was read a second time.

Delegate Shott moved to amend the bill on page five, section four, line fifteen, by striking out the word “six” and inserting the word “four”.

On the adoption of the amendment, Delegate Caputo demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 248**), and there were—yeas 78, nays 20, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ambler, Barrett, Blair, Butler, Ellington, Espinosa, Gearheart, Harshbarger, Hicks, Hill, Householder, Jaquinta, Love, Martin, Maynard, McGeehan, Paynter, Thompson, Wagner and Walters.

Absent and Not Voting: Cowles and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 3080, Requiring instruction in the Declaration of Independence and the United States Constitution; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for S. B. 437, Discontinuing WV Greyhound Breeding Development Fund; on second reading, having been reordered by the Committee on Rules, was read a second time.

Delegates Fluharty, Storch, Ferro and Canestraro moved to amend the bill on page sixteen, section ten-a, following line twenty-two, by inserting a new subsection to read as follows:

“(d) The West Virginia University Bureau of Business and Economic Research and the Center for Business and Economic Research at Marshall University in furtherance of section four, article three, chapter eighteen-b of this code shall study the economic impacts of Enrolled Senate Bill 437 as enacted during the 2017 Regular Session of the West Virginia Legislature. The study shall include analysis of:

(1) The impacts of the losses of employment of the estimated seventeen hundred jobs in the casino industry to the communities in West Virginia where the casinos are located;

(2) The costs to state government for unemployment compensation and other assistance to unemployed workers due to the loss of these jobs;

(3) The impact to state tourism from persons visiting our casinos because of dog track racing;

(4) The loss of revenue in other gambling at casinos by persons betting on other games beside dog track racing;

(5) The impact to the state budget as it relates to loss of revenues from dog racing;

(6) Impacts on city police and firefighters pension contributions;

(7) The impact to local government due to loss of tax revenue and local share contributions; and

(8) Any and all other identifiable impacts to the state.

(e) The study mandated by this section shall be provided to the Joint Committee on Government and Finance of the West Virginia Legislature by December 31, 2017.”

During the debate, points of order were raised regarding the content of the remarks of some Members. The Speaker replied and reminded Members to direct their remarks to the amendment before the House.

On the adoption of the amendment, Delegate Fluharty demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 249**), and there were—yeas 44, nays 54, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, McGeehan, Miley, R. Miller, Moye, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Storch, Thompson, Ward, Williams and Zatezalo.

Absent and Not Voting: Cowles and Hornbuckle.

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

Delegate Byrd moved to amend the bill on page two, by striking out the enacting section and inserting in lieu thereof a new enacting section to read as follows:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-21-12j; that §19-23-7, §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of said code as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §19-23-10a; that §29-22-18a of said code be amended and reenacted; that §29-22A-3, §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d, §29-22A-10e and §29-22A-12 of said code be amended and reenacted; and that §29-22C-3, §29-22C-8, §29-22C-10, §29-22C-27 and §29-22C-27a of said code be amended and reenacted, all to read as follows” followed by a comma.

And,

On page two, following the enacting section, by inserting a new section 12j, to read as follows:

“§11-21-12j. Tax Deduction for persons adopting greyhound dogs used by state greyhound industry.

For taxable years beginning on January 1, 2018, in addition to amounts subtracted from federal adjusted gross income pursuant to subsection (c), section twelve of this article, a deduction of five hundred dollars, for any state resident that adopts a greyhound dog

acquired from a greyhound breeder licensed in this state, either directly from the breeder or a humane society or other non-profit organization promoting adoption of the dogs is an authorized modification reducing federal adjusted gross income. This tax deduction expires effective January 1, 2021.”

On the adoption of the amendment, Delegate Byrd demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 250**), and there were—yeas 40, nays 58, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Jaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, Miley, R. Miller, Moye, Paynter, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Storch, Thompson and Williams.

Absent and Not Voting: Cowles and Hornbuckle.

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

Delegate Eldridge moved to amend the bill on page forty-eight, section ten, lines eighteen and nineteen, by striking out the words “West Virginia Racing Commission’s General Administrative Account created in section eleven, article twenty-three, chapter nineteen of this code” and the period, and inserting in lieu thereof, the words “the state road fund created pursuant to section one, article three, chapter seventeen of this code” followed by a period.

On page fifty-one, section ten, lines ninety-five through ninety-seven, by striking out paragraph (C) and inserting in lieu thereof the following:

“(C) Effective July 1, 2017, and thereafter, the one and one-half percent shall be deposited into the state road fund created pursuant to section one, article three, chapter seventeen of this code.”

On page seventy-nine, section twenty-seven, lines twenty-eight and twenty-twenty-nine, by striking out the words “State Excess Lottery Fund pursuant to section ten-a, article twenty-three, chapter nineteen of this article” and a semicolon, and inserting in lieu thereof “the state road fund created pursuant to section one, article three, chapter seventeen of this code.”

And,

On page eighty-three, section twenty-seven, lines one hundred twenty-five and one hundred twenty-six, by striking out the words “State Excess Lottery Revenue Fund pursuant to section ten-a, article twenty-three, chapter nineteen of this code” and the period and inserting in lieu thereof the words “the state road fund created pursuant to section one, article three, chapter seventeen of this code” and a period.

On the adoption of the amendment, Delegate Eldridge demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 251**), and there were—yeas 34, nays 64, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, Miley, R. Miller, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Storch, Thompson and Williams.

Absent and Not Voting: Cowles and Hornbuckle.

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

Delegate O’Neal asked unanimous consent that further action on the bill be postponed one day, which consent was not given, objection being heard.

Delegate O’Neal then moved that further action on the bill be postponed one day.

The question before the House being the motion to postpone the bill, the same was put and prevailed.

Com. Sub. for H. B. 2933, Relating to the consumers sales and service taxes and use taxes; on third reading, reordered by the Committee on Rules, was reported by the Clerk.

At the request of Delegate O'Neal, and by unanimous consent, the bill was postponed one day.

At the request of Delegate O'Neal and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Evans, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

S. B. 25, Creating farm-to-food bank tax credit,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (S. B. 25) was referred to the Committee on Finance.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

Com. Sub. for S. B. 345, Allowing certain hunting and trapping on private lands on Sundays,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 345) was referred to the Committee on the Judiciary.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

Com. Sub. for S. B. 473, Permitting collection and sale of naturally shed deer antlers.

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

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

Com. Sub. for S. B. 308, Clarifying administrative and law-enforcement activities of DNR police officers are important to conservation and management of state's fish and wildlife,

And,

S. B. 325, Relating to crossbow hunting,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 308 and S. B. 325) were each referred to the Committee on the Judiciary.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

S. B. 28, Creating new system for certain contiguous counties to establish regional recreation authorities,

And reports the same back with the recommendation that they each do pass, as amended, but that it first be referred to the Committee on the Government Organization.

In accordance with the former direction of the Speaker, the bill (S. B. 28) was referred to the Committee on Government Organization.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 36, Permitting school nurses to possess and administer opioid antagonists,

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

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 50, Lowe Mountain Memorial Highway,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 50 - "Requesting the Division of Highways to name an approximate nine-mile section of WV Route 14 beginning at the Lowe Family Cemetery (37.801837, -81.799640)

and ending at the intersection of WV Route 14 and WV Route 10 (37.812939, -81.934589) in Logan County the ‘Lowe Mountain Memorial Highway’,”

H. C. R. 75, Increasing the speed limit on highways to 75 miles per hour,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 75 - “Requesting the Commissioner of Highways to increase the speed limit on controlled access highways and interstate highways in rural areas to 75 miles per hour where appropriate,”

And,

H. C. R. 78, Almond Brothers and Family Veterans Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 78 - “Requesting the Division of Highways to name the Bridge Number 41-16-14.36 (PipeBridge) (37.74369, -81.22630) carrying WV Route 16 over Crab Orchard Creek in Raleigh County as the ‘Almond Brothers and Family Veterans Bridge’.”

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for H. C. R. 50, Com. Sub. for H. C. R. 75 and Com. Sub. for H. C. R. 78) were each referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

S. C. R. 28, US Army SPC4 Randall W. Arbogast Memorial Road,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (S. C. R. 28) was referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 9, Frenchburg Bridge,

H. C. R. 41, Major Martin Robison Delany Memorial Bridge,

And,

Com. Sub. for S. C. R. 15, US Army CPL Herbert "Herb" Linkous Memorial Bridge,

And reports the same back with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 535, Reorganizing Division of Tourism,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 535) was referred to the Committee on Finance.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

S. B. 41, Extending time person may be subject to probation,

Com. Sub. for S. B. 338, Relating to medical professional liability,

Com. Sub. for S. B. 442, Relating generally to crimes against persons,

Com. Sub. for S. B. 497, Relating to liability for health care providers who provide services at school athletic events,

Com. Sub. for S. B. 531, Relating to renewal date for apiary certificates of registration,

And,

S. B. 684, Relating generally to WV State Police,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 455, Relating generally to commitment of persons to custody of Commissioner of Corrections,

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

Miscellaneous Business

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegates Barrett and McGeehan regarding Com. Sub. for H. B. 2816 be printed in the Appendix to the Journal.

Delegate Walters announced that he was absent on today when the votes were taken on Roll Nos. 209 through 211, and that had he been present, he would have voted “Yea” thereon.

Delegate Thompson announced that he was absent on today when the votes were taken on Roll Nos. 209 through 212, and that had been present, he would have voted “Yea” thereon.

Delegate C. Romine announced that he was absent on today when the votes were taken on Roll Nos. 243 and 244, and that had he been present, he would have voted “Yea” thereon.

Delegate Boggs announced that he was absent on today when the votes were taken on Roll Nos. 234 and 238, and that had he been present, he would have voted “Yea” thereon.

Delegate Howell noted to the Clerk that he was absent on today when the votes were taken on Roll No. 225, and that had he been present, he would have voted “Nay” thereon.

At 5:33 p.m., the House of Delegates adjourned until 9:00 a.m., Wednesday, March 29, 2017.

Wednesday, March 29, 2017

FIFTIETH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Tuesday, March 28, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 2776, Com. Sub. for H. B. 2933 and H. B. 3108, on Third Reading, Special Calendar, to the foot of the calendar, Com. Sub. for S. B. 113, Com. Sub. for S. B. 362 and Com. Sub. for S. B. 419, on Second Reading, House Calendar to the Special Calendar, and S. B. 164, Com. Sub. for S. B. 233, Com. Sub. for S. B. 247, Com. Sub. for S. B. 248 and Com. Sub. for S. B. 347 on First Reading, House Calendar, to the Special Calendar.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 28, 2017, he approved **Com. Sub. for S. B. 301**.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 2506, Relating to the permit limit calculations and allowing overlapping mixing zones for calculating permit limits for drinking water criteria.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 2774, Defining special aircraft property.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 60 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-8-1, §9-8-2, §9-8-3, §9-8-4, §9-8-5, §9-8-6, §9-8-7, §9-8-8, §9-8-9, §9-8-10, §9-8-11, §9-8-12, §9-8-13 and §9-8-14, all relating to eligibility and fraud requirements for public assistance; defining terms; requiring the Department of Health and Human Resources to implement work requirements for applicants for the Supplemental Nutrition Assistance Program (SNAP); requiring discontinuance of a federal waiver; setting forth what meets work requirements; setting out exceptions to work requirements; providing for a good cause exception; allowing for a federal waiver; providing for rulemaking for suspension of benefits for noncompliance; providing for an asset test for SNAP benefits; requiring accessing information of various federal, state and miscellaneous sources; prohibiting payment of SNAP benefits in specified instances; requiring cooperation with the Bureau for Child Support Enforcement; requiring a design or establishment of a computerized income, asset and identity verification system for Temporary Assistance for Needy Families (TANF); allowing for contracting with a third-party vendor; setting out required contract terms; requiring accessing information of various federal, state and miscellaneous sources for TANF; requiring identity authentication as a condition to receive public assistance; setting forth notice requirements and right to a hearing; requiring referrals for fraud, misrepresentation and inadequate documentation; requiring report

to the Governor and Legislature; setting forth prohibitions on the use of an electronic benefit transfer card; tracking out-of-state spending of SNAP and TANF benefits; and providing for rulemaking”; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 74 - “A Bill to amend and reenact §7-1-3d of the Code of West Virginia, 1931, as amended; and to amend and reenact §7-17-12 of said code, all relating to funding sources for fire companies and departments; modifying procedures for county commissions to authorize reasonable fees charged for fire department or fire company response to fires or other calls for assistance; providing for reasonable reimbursement fees for fire services and the means to be used for calculating and charging fees for responding to fires or other calls for assistance; providing that an insurance company shall not be deemed liable for payment of reimbursement fees for fire services where coverage is limited or excluded by an insurance contract; modifying the maximum fee that may be charged for responding to any single incident involving certain property and material types; prohibiting fire company or fire department from seeking reimbursement where the property is assessed a fire service levy or fire service fee; and modifying procedures for increasing a county fire service fee by a county commission”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 217 - “A Bill to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended, relating to disclaimers of warranties with respect to goods which are the subject of, or are intended to become the subject of, a consumer transaction; permitting exclusion, modification or limitation of

warranty upon sale of a used manufactured home under certain circumstances; permitting consumer to waive a warranty as to a particular defect or malfunction which dealer has disclosed; and setting requirements for waiver to be effective”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 376 - “A Bill to amend and reenact §15-12-1a, §15-12-2, §15-12-2a, §15-12-2b, §15-12-3a and §15-12-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-5-103 of said code, all relating generally to amending the Sex Offender Registration Act; clarifying intent of Sex Offender Registration Act; requiring juveniles to register as sex offenders if adjudicated delinquent of certain sex crimes; imposing additional disclosure and registration requirements for persons required to register as sex offenders; requiring juveniles adjudicated delinquent of certain sex crimes to sign in open court a statement acknowledging their understanding of the requirements of the Sex Offender Registration Act; expanding the types of sex crimes that qualify as sexually violent offenses; permitting courts to designate certain juveniles adjudicated delinquent of sex crimes as sexually violent predators; establishing procedures for juveniles to appeal sexually violent predator designation; establishing length of time juveniles adjudicated delinquent of sex crimes must comply with provisions of Sex Offender Registration Act; and creating exception to the confidentiality of juvenile records to facilitate compliance with the Sex Offender Registration Act”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 401 - “A Bill to amend and reenact §18A-4-7a of the Code of West Virginia, 1931, as amended, relating to permitting a county

board of education to base its employment decisions, transfers, reassignments, reducing the number of professional personnel, reductions in classroom teaching positions and reductions in the workforce on an individual's qualifications; and setting forth the factors to be considered when determining an individual's qualifications"; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 578 - "A Bill to amend and reenact §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, all relating generally to copies of health care records furnished to patients and the fees charged therein"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 601 - "A Bill to amend and reenact §46A-4-101 and §46A-4-107 of the Code of West Virginia, 1931, as amended, all relating to requirements for making consumer loans in West Virginia; modifying the authority to make regulated consumer loans; providing that a person must first obtain a license from the Commissioner of Banking authorizing him or her to make regulated consumer loans before engaging in the business of making regulated consumer loans, taking assignments of or undertaking direct collection of payments from or enforcement of rights against consumers arising from regulated consumer loans; and adjusting threshold amounts of consumer loans for which certain finance charges can be imposed"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 621 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29A-3B-13, relating to providing that at any point after a county board of education provides written notice to the state board that it is considering or in the process of closing or consolidating a school or schools, any revision or supplementation to certain rules is not applicable to the school closing or consolidation project described in the county board’s notification to the state board”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 630 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-5F-1, §18-5F-2, §18-5F-3, §18-5F-4, §18-5F-5 and §18-5F-6, all relating to establishing the Accessibility and Equity in Public Education Enhancement Act; setting forth legislative findings and purpose; defining terms; allowing a county board or a multicounty consortium to create a virtual instruction program for one or more schools serving any composition of grades kindergarten through twelve by adopting a policy creating the program; allowing the county board or multicounty consortium after adopting the policy to contract with virtual school providers; delaying participation of eligible students in grades kindergarten through five until after the program has been in operation for one full school year; requiring eligible students to be counted in the net enrollment of the school district for the purposes of calculating and receiving state aid, be subject to the same state assessment requirements as other students in the school district and receive a diploma upon completing the same coursework required of regular public school students in the district; exempting, to a limited extent, certain students, parents and school districts from certain laws and state board policies that pertain to requiring the student to be in a school building receiving instruction for any set period of time; providing that a participating eligible student be considered to be attending a certain school; allowing the eligible student to

participate in any cocurricular and extracurricular activities of the school under the same participation requirements imposed on traditional students attending the school; exempting a county board from certain provisions of law or state board rule to the extent any conflict with the delivery of the program; exempting a county board from certain online course restrictions; requiring coursework offered through a program be aligned to certain academic standards; requiring the assessment results of a student be included in the assessment results of the school and the school district in which the student is considered to be enrolled for purposes of accountability; and requiring report to the Legislative Oversight Commission on Education Accountability on all aspects of the program”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 634 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-9a, relating generally to certain agreements between the Department of Health and Human Resources and the two largest state universities; and exempting such agreements from the requirements of the State Purchasing Division.”

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 634) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 647 - “A Bill to repeal §8A-12-21 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-22-2 of said code, relating generally to additional

county excise taxes on the privilege of transferring real property; repealing the additional county excise tax on the privilege of transferring real property in counties where the county commission has created a farmland protection program; authorizing an additional county excise tax on the privilege of transferring real property in counties where the county commission has created either a farmland protection program or a certified development community program; setting forth certain requirements; and authorizing a larger additional county excise tax in a county with both a farmland protection program and a certified development community program”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 686 - “A Bill to amend and reenact §5A-3-1 and §5A-3-3 of the Code of West Virginia, 1931, as amended, all relating to facilities providing direct patient care services that are managed, directed, controlled and governed by the Secretary of the Department of Health and Human Resources; exempting such facilities from statewide purchasing requirements and from the otherwise required oversight and review by the Purchasing Division of the Department of Administration; and requiring the Legislative Auditor to audit purchasing made by facilities and report the findings to the Joint Committee on Government and Finance”; which was referred to the Committee on Finance.

Special Calendar

Third Reading

Com. Sub. for H. B. 2129, Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 252**), and there were—yeas 77, nays 23, absent and not voting none, with the nays being as follows:

Nays: Ambler, Byrd, Capito, Diserio, Fluharty, Folk, Harshbarger, Hill, Hornbuckle, Isner, Marcum, Martin, McGeehan, Moore, Paynter, Pushkin, Robinson, Sponaugle, Storch, Thompson, Upson, Wagner and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2129) passed.

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

Com. Sub. for H. B. 2195, Relating to requiring comprehensive drug awareness and prevention program in all public schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 253**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2195) passed.

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

Com. Sub. for H. B. 2363, Requiring that a state employee with a commercial driver's license have a current medical evaluation certification; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 254**), and there were—yeas 88, nays 11, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Butler, Diserio, E. Evans, Folk, Iaquinta, Lewis, Love, McGeehan, Pushkin and Upson.

Absent and Not Voting: Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2363) passed.

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

Com. Sub. for H. B. 2428, Establishing additional substance abuse treatment facilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 255**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2428) passed.

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

On this question, the yeas and nays were taken (**Roll No. 256**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hicks.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2428) takes effect from its passage.

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

Com. Sub. for H. B. 2483, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 257**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Criss and Marcum.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2483) passed.

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

Com. Sub. for H. B. 2708, Relating to a lawful method for a developmentally disabled person to purchase a base hunting license; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 258**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2708) passed.

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

Com. Sub. for H. B. 2759, Creating Statewide Interoperable Radio Network; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 259**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Folk and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2759) passed.

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

On this question, the yeas and nays were taken (**Roll No. 260**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Folk and McGeehan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2759) takes effect from its passage.

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

Com. Sub. for H. B. 2851, Updating fee structure provisions for broker-dealers; on third reading, coming up in regular order, was read a third time.

Delegates Walters, Hornbuckle, Summers, Westfall and Capito requested to be excused from voting on the passage of Com. Sub. for H. B. 2851 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 261**), and there were—yeas 84, nays 16, absent and not voting none, with the nays being as follows:

Nays: Barrett, Eldridge, Fast, Folk, N. Foster, Gearheart, Hill, Howell, Kessinger, Love, Marcum, Martin, McGeehan, Paynter, Upson and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2851) passed.

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

Com. Sub. for H. B. 3062, The State Settlement and Recovered Funds Accountability Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 262**), and there were—yeas 95, nays 5, absent and not voting none, with the nays being as follows:

Nays: Arvon, Butler, Hamrick, Paynter and Statler.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3062) passed.

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

Com. Sub. for H. B. 3062 - “A Bill to repeal §5-3-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §5-3A-1, §5-3A-2, §5-3A-3, §5-3A-4, §5-3A-5 and §5-3A-6, all relating to creating the

State Settlement and Recovered Funds Accountability Act; providing a short title; setting forth legislative findings; directing that recovered funds and assets to be deposited into the state treasury in the general revenue fund of the state, and exceptions; directing that certain recovered funds and assets be held in trust to be deposited into a special revenue account in the State Treasury; prohibiting agreements to settlement or agreement terms that are contrary to the depositing of funds in the State Treasury; establishing a special fund to be known as the Consumer Protection Recovery Fund; requiring quarterly transfer of funds from the to the general revenue fund; authorizing the deposit and expenditure of attorney fees, expenses and costs awarded to the Attorney General from the fund; prohibiting agreements to settlement or agreement terms that are contrary to the provisions of law; requiring quarterly reporting by the Attorney General as to the disposition of matters; and repealing provisions governing the disposition of certain fees of the Attorney General taxed as costs in legal proceedings.”

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

Com. Sub. for H. B. 3080, Requiring instruction in the Declaration of Independence and the United States Constitution; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 263**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Iaquina, McGeehan and Wagner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3080) passed.

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

Com. Sub. for H. B. 3102, Relating to selling Hopemont Hospital; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 264**), and there were—yeas 51, nays 49, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, N. Foster, Hamilton, Hartman, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Marcum, Martin, Maynard, Miley, R. Miller, Moye, Paynter, Pethtel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, R. Romine, Rowan, Rowe, Sponaule, Storch, Sypolt, Thompson, Wagner, Ward and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3102) passed.

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

Second Reading

Com. Sub. for S. B. 113, Authorizing DEP promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 362, Authorizing redirection of certain amounts to General Revenue Fund; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Nelson, the bill was amended on page one, following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“CHAPTER 23. WORKERS’ COMPENSATION.

ARTICLE 2C. EMPLOYERS' MUTUAL INSURANCE COMPANY.

§23-2C-3. Creation of employers' mutual insurance company as successor organization of the West Virginia Workers' Compensation Commission.

(a) (1) On or before July 1, 2005, the executive director may take such actions as are necessary to establish an employers' mutual insurance company as a domestic, private, nonstock corporation to:

(A) Insure employers against liability for injuries and occupational diseases for which their employees may be entitled to receive compensation pursuant to this chapter and federal Longshore and Harbor Workers' Compensation Act, 33 U. S. C. §901, *et seq.*;

(B) Provide employer's liability insurance incidental to, and provided in connection with, the insurance specified in paragraph (A) of this subdivision, including coal workers' pneumoconiosis coverage and employer excess liability coverage as provided in this chapter; and

(C) Transact other kinds of property and casualty insurance for which the company is otherwise qualified under the provisions of this code.

(2) The company may not sell, assign or transfer substantial assets or ownership of the company.

(b) If the executive director establishes a domestic mutual insurance company pursuant to subsection (a) of this section:

(1) As soon as practical, the company established pursuant to the provisions of this article shall, through a vote of a majority of its provisional board, file its corporate charter and bylaws with the Insurance Commissioner and apply for a license with the Insurance Commissioner to transact insurance in this state. Notwithstanding any other provision of this code, the Insurance Commissioner shall act on the documents within fifteen days of the filing by the company.

(2) In recognition of the workers' compensation insurance liability insurance crisis in this state at the time of enactment of this article and the critical need to expedite the initial operation of the company, the Legislature authorizes the Insurance Commissioner to review the documentation submitted by the company and to determine the initial capital and surplus requirements of the company, notwithstanding the provisions of section five-b, article three, chapter thirty-three of this code. The company shall furnish the Insurance Commissioner with all information and cooperate in all respects necessary for the Insurance Commissioner to perform the duties set forth in this section and in other provisions of this chapter and chapter thirty-three of this code. The Insurance Commissioner shall monitor the economic viability of the company during its initial operation on not less than a monthly basis, until the commissioner, in his or her discretion, determines that monthly reporting is not necessary. In all other respects the company shall comply with the applicable provisions of chapter thirty-three of this code.

(3) Subject to the provisions of subdivision (4) of this subsection, the Insurance Commissioner may waive other requirements imposed on mutual insurance companies by the provisions of chapter thirty-three of this code the Insurance Commissioner determines are necessary to enable the company to begin insuring employers in this state at the earliest possible date.

(4) Within forty months of the date of the issuance of its license to transact insurance, the company shall comply with the capital and surplus requirements set forth in subsection (a), section five-b, article three, chapter thirty-three of this code in effect on the effective date of this enactment, unless the deadline is extended by the Insurance Commissioner.

(c) For the duration of its existence, the company is not a department, unit, agency or instrumentality of the state for any purpose. All debts, claims, obligations and liabilities of the company, whenever incurred, are the debts, claims, obligations and liabilities of the company only and not of the state or of any department, unit, agency, instrumentality, officer or employee of the state.

(d) The moneys of the company are not part of the General Revenue Fund of the state. The debts, claims, obligations and liabilities of the company are not a debt of the state or a pledge of the credit of the state.

(e) The company is not subject to provisions of article nine-a, chapter six of this code; the provisions of article two, chapter six-c of this code; the provisions of chapter twenty-nine-b of this code; the provisions of article three, chapter five-a of this code; the provisions of article six, chapter twenty-nine of this code; or the provisions of chapter twelve of this code.

(f) If the commission has been terminated, effective upon the termination, private carriers, including the company, are not subject to payment of premium taxes, surcharges and credits contained in article three, chapter thirty-three of this code on premiums received for coverage under this chapter. In lieu thereof, the workers' compensation insurance market is subject to the following:

(1) (A) Each fiscal year, the Insurance Commissioner shall calculate a percentage surcharge to be collected by each private carrier from its policyholders. The surcharge percentage shall be calculated by dividing the previous fiscal year's total premiums collected plus deductible payments by all employers into the portion of the Insurance Commissioner's budget amount attributable to regulation of the private carrier market. This resulting percentage shall be applied to each policyholder's premium payment and deductible payments as a surcharge and remitted to the Insurance Commissioner. Said surcharge shall be remitted within ninety days of receipt of premium payments;

(B) With respect to fiscal years beginning on and after July 1, 2008, in lieu of the surcharge set forth in the preceding paragraph, each private carrier shall collect a surcharge in the amount of five and five-tenths percent of the premium collected plus the total of all premium discounts based on deductible provisions that were applied: *Provided*, That prior to June 30, 2013, and every five years thereafter, the commissioner shall review the percentage surcharge and determine a new percentage as he or she deems necessary;

(C) The amounts required to be collected under paragraph (B) of this subdivision shall be remitted to the Insurance Commissioner on or before the twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year.

(2) Each fiscal year, the Insurance Commissioner shall calculate a percentage surcharge to be remitted on a quarterly basis by self-insured employers and said percentage shall be calculated by dividing previous year's self-insured payroll in the state into the portion of the Insurance Commissioner's budget amount attributable to regulation of the self-insured employer market. This resulting percentage shall be applied to each self-insured employer's payroll and the resulting amount shall be remitted as a regulatory surcharge by each self-insured employer. The Industrial Council may promulgate a rule for implementation of this section. The company, all other private carriers and all self-insured employers shall furnish the Insurance Commissioner with all required information and cooperate in all respects necessary for the Insurance Commissioner to perform the duties set forth in this section and in other provisions of this chapter and chapter thirty-three of this code. The surcharge shall be calculated so as to only defray the costs associated with the administration of this chapter and the funds raised shall not be used for any other purpose except as set forth in subdivision (4) of this subsection.

(3) (A) Each private carrier shall collect a premiums surcharge from its policyholders as annually determined, by May 1 of each year, by the Insurance Commissioner to produce \$45 million annually, of each policyholder's periodic premium amount for workers' compensation insurance: *Provided*, That the surcharge rate on policies issued or renewed on or after July 1, 2008, shall be nine percent of the premium collected plus the total of all premium discounts based on deductible provisions that were applied.

(B) By May 1 each year, the self-insured employer community shall be assessed a cumulative total of \$9 million. The methodology for the assessment shall be fair and equitable and determined by exempt legislative rule issued by the Industrial

Council. The amount collected pursuant to this subdivision shall be remitted to the Insurance Commissioner for deposit in the Workers' Compensation Debt Reduction Fund created in section five, article two-d of this chapter: *Provided*, That notwithstanding any provision of this subdivision or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of the amount collected pursuant to this subdivision, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the fund otherwise mandated in this subdivision, in article two-d, chapter twenty-three of this code or in any other provision of this code: *Provided, however*, That notwithstanding any provision of this subdivision or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of the amount collected pursuant to this subdivision, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this subdivision, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety: *Provided further*, That notwithstanding any provision of this subdivision or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect seventy-five percent of the deposits of the amount collected pursuant to this subdivision, for any period commencing after June 30, 2017, and ending before July 1, 2018, to the General Revenue Fund, instead of to the funds otherwise mandated in this subdivision, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.

(4) On or before July 1, 2009, the Insurance Commissioner shall make a one-time lump sum transfer of \$40 million generated

from the surcharges assessed pursuant to paragraph (B), subdivision (1) of this subsection and subdivision (2) of this subsection to the Bureau of Employment Programs' Commissioner for deposit with the Secretary of the Treasury of the United States as a credit of this state in the Unemployment Trust Fund Account maintained pursuant to section four, article eight, chapter twenty-one-a of this code.

(g) The new premiums surcharge imposed by paragraphs (A) and (B), subdivision (3), subsection (f) of this section sunset and are not collectible with respect to workers' compensation insurance premiums paid when the policy is renewed on or after the first day of the month following the month in which the Governor certifies to the Legislature that the revenue bonds issued pursuant to article two-d of this chapter have been retired and that the unfunded liability of the Old Fund has been paid or has been provided for in its entirety, whichever occurs last.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-10d. Changes in distribution of net terminal income; distributions from excess lottery fund.

(a) Notwithstanding any provision of subsection (b), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the commission may transfer up to \$9 million as actual costs and expenses to the Licensed Racetrack Modernization Fund.

(b) Notwithstanding any provision of subsection (c), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (c), section ten of this article, shall be reduced by one hundred percent. Payments shall not be made pursuant to section ten of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(c) The total amount of reductions resulting from subsection (b) of this section shall be paid into the State Excess Lottery Revenue Fund, created by section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (c), section ten of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

(d) Notwithstanding any other provision of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance with appropriations.

(e) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(f) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

(g)(1) Except as provided in subdivision (2) of this subsection, notwithstanding the provisions of paragraph (B), subdivision (9), subsection (c), section ten of this article, upon certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (c), section ten of this article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to appropriation.

(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from net terminal income imposed under this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code.

(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.

(C) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect seventy-five percent of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2017, and ending before July 1, 2018, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has

determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.

§29-22A-10e. Changes in distribution of excess net terminal income; distributions from excess lottery fund.

(a) Notwithstanding any provision of subsection (a), section ten-b of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (a), section ten-b of this article, shall be reduced by one hundred percent. Payments shall not be made pursuant to section ten-b of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(b) The total amount of reductions resulting from subsection (a) of this section shall be paid into the State Excess Lottery Revenue Fund created in section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (a), section ten-b of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

(c) Notwithstanding any other provision of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance with appropriations.

(d) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d, and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(e) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

(f)(1) Except as provided in subdivision (2) of this subsection, notwithstanding the provisions of paragraph (B), subdivision (9), subsection (a), section ten-b of this article, upon certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (a), section ten-b of this article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to appropriation.

(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from net terminal income imposed under this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code.

(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise

mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.

(C) Notwithstanding any provision of subdivision (1) of this subsection or any provision of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision of this code to the contrary, the Governor may, by Executive Order, redirect seventy-five percent of the deposits of revenues derived from net terminal income imposed under this article, for any period commencing after June 30, 2017, and ending before July 1, 2018, to the General Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of this code or in any other provision of this code, until certification of the Governor to the Legislature that an independent actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety.”

The bill was ordered to third reading.

Com. Sub. for S. B. 419, Creating special revenue fund sources for Division of Labor to meet statutory obligations; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Nelson, the bill was amended on page two, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

“That §21-3-7 of the Code of West Virginia, 1931, as amended be amended and reenacted; that §21-3C-11 of said code be amended and reenacted; that §21-3D-8 of said code be amended and reenacted; that §21-5-5c of said code be amended and reenacted; that §21-14-9 of said code be amended and reenacted; that §21-16-10 of said code be amended and reenacted; that §47-1-8, §47-1-20, §47-1-21 and §47-1-22 of said code be amended and

reenacted; and that §47-1A-10 and §47-1A-14 of said code be amended and reenacted, all to read as follows:

CHAPTER 21. LABOR.

ARTICLE 3. SAFETY AND WELFARE OF EMPLOYEES.

§21-3-7. Regulation of operation of steam boilers.

(a) Any person owning or operating a steam boiler carrying more than fifteen pounds pressure per square inch (except boilers on railroad locomotives subject to inspection under federal laws, portable boilers used for agricultural purposes, boilers on automobiles, boilers of steam fire engines brought into the state for temporary use in times of emergency for the purpose of checking conflagrations, boilers used in private residences which are used solely for residential purposes, any sectional boilers, small portable boilers commonly used in the oil and gas industry about their wells and tool houses, and boilers under the jurisdiction of the United States) in this state shall first obtain a permit to operate a steam boiler from the Commissioner of Labor, or from an inspector working under his or her jurisdiction.

(b) Applications for permits to operate a steam boiler must be accompanied by a sworn statement made by the owner or operator of such boiler, setting forth the condition of the boiler and its appurtenances at which time, if the facts disclosed by such statement meet the safety requirements established under this article, the Commissioner of Labor shall issue a temporary permit, which shall be valid until such boiler has been inspected by a boiler inspector authorized by the State Commissioner of Labor; thereupon, if the boiler meets the safety requirements established under this article, the Commissioner of Labor shall issue an annual permit to operate such steam boiler: *Provided*, That boilers which are insured by an insurance company operating in this state and which are inspected by such insurance company's boiler inspector shall not be subject to inspection by the state ~~department~~ Division of Labor, during any twelve ~~months~~ months period during which an inspection is made by the insurance company's boiler inspector.

(c) The Commissioner of Labor or state boiler inspector shall have the authority to inspect steam boilers in this state. To carry out the provisions of this section, the Commissioner of Labor shall prescribe rules and regulations under which boilers may be constructed and operated, according to their class. The Commissioner of Labor ~~shall be authorized to~~ may revoke any permit to operate a steam boiler if the rules prescribed by the Commissioner of Labor, or his or her authorized representative, are violated or if a condition shall prevail which is hazardous to the life and health of persons operating or employed at or around the boiler. Any person or corporation who shall operate a steam boiler for which a permit is necessary under the provisions of this section, without first obtaining such permit to operate a steam boiler, ~~shall be~~ is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500. Every day a steam boiler requiring a permit to operate is operated without ~~such~~ the permit ~~shall be considered~~ is a separate offense.

(d) The commissioner ~~may charge such fee as he determines reasonable~~ shall charge an annual fee to be established by legislative rule for the inspection of boilers by the ~~department of labor boiler inspector of the commissioner's authorized boiler inspection agency division,~~ for the processing of inspection reports from insurance companies, for the issuing of annual permits to operate boilers and for the commissioning of insurance company boiler inspectors. ~~Such fees shall be established by a rule promulgated in accordance with the provisions of chapter twenty-nine a of this code~~ The commissioner shall propose rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code for the implementation and enforcement of this section. No fee ~~shall~~ may be charged for the inspection of boilers used on mobile equipment or vehicles used for occasional entertainment or display purposes.

(e) All moneys collected pursuant to this section shall be deposited in a special account in the State Treasury to be known as the 'Steam Boiler Fund' to be administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this section and are not authorized from collections but are

to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand eighteen, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

ARTICLE 3C. ELEVATOR SAFETY.

§21-3C-11. Disposition of fees; legislative rules.

(a) The division shall propose rules for legislative approval in accordance with ~~the provisions of~~ article three, chapter twenty-nine-a of this code, for the implementation and enforcement of the provisions of this article, which shall provide:

(1) Standards, qualifications and procedures for submitting applications, taking examinations, and issuing and renewing licenses, certificates of competency and certificates of operation of the three licensure classifications set forth in section ~~ten (a)~~ ten-a of this article;

(2) For the renewal of a license, even if the licensee is unemployed or not working in the industry: *Provided*, That to engage or offer to engage in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator or related conveyance covered by this article, the licensee shall be a contractor, or be employed by a contractor licensed pursuant to ~~the provisions of section ten (a) six~~, article eleven, chapter twenty-one of the code;

(3) Qualifications and supervision requirements for elevator apprentices;

(4) Provisions for the granting of licenses without examination, to applicants who present satisfactory evidence of having the expertise required to perform work as defined in this article and who apply for licensure on or before July 1, 2010: *Provided*, That if a license issued under the authority of this subsection subsequently lapses, the applicant may, at the discretion of the

commissioner, be subject to all licensure requirements, including the examination;

(5) Provisions for the granting of emergency licenses in the event of an emergency due to disaster, act of God or work stoppage when the number of persons in the state holding licenses issued pursuant to this article is insufficient to cope with the emergency;

(6) Provisions for the granting of temporary licenses in the event that there are no elevator mechanics available to engage in the work of an elevator mechanic as defined by this article;

(7) Continuing education requirements;

(8) Procedures for investigating complaints and revoking or suspending licenses, certificates of competency and certificates of operation, including appeal procedures;

(9) Fees for testing, issuance and renewal of licenses, certificates of competency and certificates of operation, and other costs necessary to administer the provisions of this article;

(10) Enforcement procedures; and

(11) Any other rules necessary to effectuate the purposes of this article.

(b) The rules proposed for promulgation pursuant to subsection (a) of this section shall establish the amount of any fee authorized pursuant to the provisions of this article: *Provided*, That in no event may the fees established for the issuance of certificates of operation exceed \$50 ~~\$90~~.

~~(c) All fees collected pursuant to the provisions of this article shall be deposited in an appropriated special revenue account hereby created in the State Treasury known as the 'Elevator Safety Fund' and expended for the implementation and enforcement of this article: *Provided*, That Amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature.~~

The ‘Elevator Safety Fund’ is hereby continued. All moneys collected pursuant to this article shall be deposited into the fund to be administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code.

(d) The division may enter into agreements with counties and municipalities whereby such counties and municipalities be permitted to retain the inspection fees collected to support the enforcement activities at the local level.

~~(e) The commissioner and his or her deputy commissioner or any compliance officer of the division as authorized by the commissioner or his or her authorized representative~~ may consult with engineering authorities and organizations concerned with standard safety codes, rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation and the qualifications which are adequate, reasonable and necessary for the elevator mechanic and inspector.

ARTICLE 3D. CRANE OPERATOR CERTIFICATION ACT.

§21-3D-8. Crane operator certification fund; fees; disposition of funds.

~~(a) There is hereby established a crane operator certification fund in the State Treasurer’s office~~ All moneys from fees collected pursuant to this article shall be deposited in a special account in the State Treasury to be known as the ‘Crane Operator Certification Fund’ to be administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve

of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code.

(b) The commissioner may set reasonable application fees for the issuance or renewal of certificates and other services associated with crane operator certification.

~~(c)(1) The commissioner shall receive and account for all money that is derived pursuant to the provisions of this article. The commissioner shall pay all money collected into the crane operator certification fund that has been established pursuant to subsection (a), section eight of this article, with the exception of money received as fines. This money shall be used exclusively by the commissioner for purposes of administration and enforcement of his or her duties pursuant to this article.~~

~~(2) Expenditures from the crane operator certification fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code: *Provided*, That for the fiscal year ending June 30, 1999, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature. Amounts collected which are found from time to time to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature~~

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-5c. License required for psychophysiological detection of deception examiners; qualifications; promulgation of rules governing administration of psychophysiological detection of deception examinations.

(a) No person, firm or corporation shall administer a psychophysiological detection of deception examination, lie detector or other similar examination utilizing mechanical or

electronic measures of physiological reactions to evaluate truthfulness without holding a current valid license to do so as issued by the Commissioner of Labor. No examination shall be administered by a licensed corporation except by an officer or employee thereof who is also licensed.

(b) A person is qualified to receive a license as an examiner if he or she:

(1) Is at least twenty-one years of age;

(2) Is a citizen of the United States;

(3) Has not been convicted of a misdemeanor involving moral turpitude or a felony;

(4) Has not been released or discharged with other than honorable conditions from any of the armed services of the United States or that of any other nation;

(5) Has passed an examination conducted by the Commissioner of Labor or under his or her supervision, to determine his or her competency to obtain a license to practice as an examiner;

(6) Has satisfactorily completed not less than six months of internship training; and

(7) Has met any other qualifications of education or training established by the Commissioner of Labor in his or her sole discretion which qualifications are to be at least as stringent as those recommended by the American polygraph association.

(c) The Commissioner of Labor may designate and administer any test the commissioner considers appropriate to those persons applying for a license to administer psychophysiological detection of deception, lie detector or similar examination. The test shall be designed to ensure that the applicant is thoroughly familiar with the code of ethics of the American Polygraph Association and has been trained in accordance with association rules. The test must also include a rigorous examination of the applicant's knowledge of and familiarity with all aspects of operating psychophysiological

detection of deception equipment and administering psychophysiological detection of deception examinations.

(d) The license to administer psychophysiological detection of deception, lie detector or similar examinations to any person shall be issued for a period of one year. It may be reissued from year to year. The licenses to be issued are:

(1) 'Class I license' which authorizes an individual to administer psychophysiological detection of deception examinations for all purposes which are permissible under the provisions of this article and other applicable laws and rules.

(2) 'Class II license' which authorizes an individual who is a full-time employee of a law-enforcement agency to administer psychophysiological detection of deception examinations to its employees or prospective employees only.

(e) The Commissioner of Labor shall charge ~~a fee~~ an annual fee to be established by legislative rule. The fees shall be deposited in the General Revenue Fund of the state All moneys collected pursuant to this section shall be deposited in a special account in the State Treasury to be known as the 'Psychophysiological Examiners Fund' and administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand eighteen, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature. In addition to any other information required, an application for a license shall include the applicant's social security number.

(f) The Commissioner of Labor shall propose rules for legislative approval in accordance with ~~the provisions of~~ article three, chapter twenty-nine-a of this code governing the administration of psychophysiological detection of deception, lie

detector or similar examination to any person: *Provided*, That all applicable rules in effect on the effective date of sections five-a, five-b, five-c and five-d of this article will remain in effect until amended, withdrawn, revoked, repealed or replaced. The legislative rules shall include:

(1) The type and amount of training or schooling necessary for a person before which he or she may be licensed to administer or interpret a psychophysiological detection of deception, lie detector or similar examination;

(2) Testing requirements including the designation of the test to be administered to persons applying for licensure;

(3) Standards of accuracy which shall be met by machines or other devices to be used in psychophysiological detection of deception, lie detector or similar examination;

(4) The conditions under which a psychophysiological detection of deception, lie detector or similar examination may be administered;

(5) Fees for licenses, renewals of licenses and other services provided by the commissioner;

(6) Any other qualifications or requirements, including continuing education, established by the commissioner for the issuance or renewal of licenses; and

(7) Any other purpose to carry out the requirements of sections five-a, five-b, five-c and five-d of this article.

ARTICLE 14. SUPERVISION OF PLUMBING WORK.

§21-14-9. Disposition of fees.

All fees paid pursuant to ~~the provisions of~~ this article, shall be paid to the Commissioner of Labor and deposited in a special revenue account with in the State Treasurer State Treasury to be known as the 'Plumbing Work Fund' to be administered by ~~for the use of~~ the Commissioner of Labor to enforce the provisions of this

article. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code.

ARTICLE 16. REGULATION OF HEATING, VENTILATING AND COOLING WORK.

§21-16-10. Disposition of fees.

All fees paid pursuant to this article, shall be paid to the Commissioner of Labor and deposited in ~~'West Virginia Contractor Licensing Board Fund'~~ for the use of the Commissioner of Labor in a manner consistent with section seventeen, article eleven, chapter twenty one of this Code a special account in the State Treasury to be known as the 'HVAC Fund' to be administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand eighteen, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 1. WEIGHTS AND MEASURES.

§47-1-8. Requirements for the registration of service persons and service agencies for commercial weighing and measuring devices.

(a) The uniform regulation for the voluntary registration of service persons and service agencies for commercial weighing and measuring devices as adopted by the ~~national conference of weights and measures~~ National Conference of Weights and Measures and published in ~~national institute of standards and~~

~~technology handbook~~ National Institute of Standards and Technology Handbook 130, 'Uniform Laws and Regulations' and supplements thereto or revisions thereof, shall apply to the registration of service persons and service agencies in the state, except insofar as modified or rejected by legislative rule.

(b) Beginning January 1, 2018, the commissioner shall charge an annual registration fee for service persons and service agencies to be established by legislative rule. The commissioner may file an emergency rule prior to January 1, 2018, to implement and administer the amendments made to this section in 2017. The commissioner may also propose rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code for the implementation and enforcement of this section.

§47-1-20. State measurement laboratory and Weights and Measures Fund

The commissioner shall operate and maintain a state measurement laboratory certified and approved by the national institute of standards and technology. The laboratory shall be used to both house and maintain the state primary standards and secondary standards as traceable to the national standards and to test or calibrate any secondary or working standards which are submitted for test as required by this article.

The commissioner shall promulgate rules, pursuant to chapter twenty-nine-a of this code to assess fees for weights and measures laboratory calibration and testing. All fees collected by the commissioner of labor under the provisions of this ~~section~~ article shall be deposited into a special revenue account in the State Treasury to be known as the 'Weights and Measures Fund' to be administered by the Commissioner of Labor. The moneys in the fund shall be used by the commissioner solely for the enforcement of this article. The commissioner is hereby authorized to allocate moneys from the weights and measures fund to enforce the provisions of this article without legislative appropriation of moneys from the fund until June 30, 2006. Effective July 1, 2006, no moneys may be expended from the fund except by legislative appropriation. Expenditures from the fund shall be for the purposes

set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand eighteen, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

The commissioner shall provide such personnel as required to operate the laboratory in a manner which is consistent with the needs of this article. Personnel shall be trained and certified to perform all such calibrations and tests as required by the ~~national institute of standards and technology~~ National Institute of Standards and Technology to maintain traceability of the state standards to national standards, and to properly maintain the laboratory facility as certified and traceable to the ~~national institute of standards and technology~~ National Institute of Standards and Technology.

§47-1-21. Registration of business.

(a) On or before October 1, 1994, every commercial business in the state which, in the course of conducting business, utilizes weights, measures and weighing and measuring devices covered by this article shall obtain a certificate of device registration for the commercial devices covered by this article, from the division. After October 1, 1994, it shall be unlawful in the state to conduct business subject to the provisions of this article without having first obtained a certificate of device registration from the division. Application for a certificate of device registration shall be made on a form provided by the division.

(b) A certificate of device registration is valid for twelve months from the date of issue. The certificate of device registration shall be posted within the place of business.

(c) Application for the renewal of a certificate of device registration shall be made on a form provided by the division at least thirty days prior to the renewal due date. The commissioner

may deny the renewal of device registration for cause where the cause is the result of the conviction of the applicant, in a court of competent jurisdiction, for a violation of this article.

(d) Beginning January 1, 2018, the division shall charge an annual device registration fee, to be established by legislative rule. The commissioner may file an emergency rule prior to January 1, 2018, to implement and administer the amendments made to this section in the 2017 regular legislative session. The commissioner may also propose rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code for the implementation and enforcement of this section.

§47-1-22. Civil penalties.

(a) No person ~~shall~~ may:

(1) Use or have in possession for use in commerce any incorrect weight or measure;

(2) Sell or offer for sale for use in commerce any incorrect weight or measure;

(3) Remove any tag, seal or mark from any weight or measure, without specific authorization from the Weights and Measures Section; or

(4) Violate any provisions of this article or rules promulgated under it, not defined in subsection (a), section twenty-three of this article.

(b) Any person who violates subsection (a) of this section or any rule promulgated by the commissioner may be assessed a civil penalty by the commissioner, which penalty ~~shall~~ may not be more than \$1,000 for each violation. Each violation shall constitute a separate offense. In determining the amount of the penalty, the commissioner shall consider the person's history of previous violations, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation.

(c) All civil penalties paid pursuant to this section shall be paid to the Commissioner of Labor and deposited in the Weights and Measures Fund created in section twenty of this article.

(d) A civil penalty may be assessed by the commissioner only after the commissioner ~~shall have~~ has given at least ten days' notice to the person. Notice shall be in writing, shall contain a short, plain statement of the matter asserted and shall designate a time and place for a hearing where the person may show cause why the civil penalty should not be imposed. Notice of hearing shall be sent by ~~registered~~ certified mail. The person may, at the time designated for the hearing, produce evidence on his or her behalf and be represented by ~~council~~ counsel.

(e) Any person aggrieved by a decision of the commissioner shall ~~have~~ has the right to a contested case hearing under ~~the provisions of~~ article five, chapter twenty-nine-a of this code, *et seq*.

ARTICLE 1A. REGULATION AND CONTROL OF BEDDING AND UPHOLSTERY BUSINESSES.

§47-1A-10. Sterilization processes; annual permits. fees

(1) Any sterilization process used in connection herewith shall be approved by the commissioner. Every person desiring to operate such sterilization process shall first obtain a numbered permit from the commissioner and shall not operate such process unless such permit is kept conspicuously posted in his or her establishment. ~~The fee for an original permit shall be \$25~~ Application for such permit shall be accompanied by the specifications for the sterilization process to be employed by the applicant, in such form as the commissioner shall require. Such permit shall expire one year from date of issue ~~and the fee for annual renewal of the sterilization permit shall be \$10.~~

~~(2) Every application for a sterilization permit to be held in a state other than West Virginia shall be approved only after personal inspection of the applicant's sterilizer or disinfecter by the commissioner or an authorized employee of the bedding division~~

~~of the department. The expenses for such inspections out of the state shall be paid by the applicant~~

~~(3) (2)~~ The commissioner may revoke or suspend any permit for violation of the provisions of this article. Upon notification of such revocation or suspension, the person to whom the permit was issued, or his or her successor or assignee, shall forthwith return such permit to the commissioner. ~~For reissuing a revoked or expired permit, the fee shall be the same as for an original permit.~~

§47-1A-14. Annual registration and permit fees.

(a) The annual registration fee for all manufacturers shipping or selling articles of bedding and for upholsterers or renovators, as defined in this article, in the State of West Virginia shall be ~~\$50~~ \$90, payable on the first day of the fiscal year. Any manufacturer, upholsterer or renovator who submits an annual registration fee on or after July 16 shall pay a \$25 late fee in addition to the annual fee.

(b) The annual ~~registration sterilizer permit fee for an upholsterer or renovator of articles of bedding~~, as defined in this article, in the State of West Virginia shall be ~~\$10~~ \$90, payable on the first day of the fiscal year. Any sterilizer who submits an annual permit fee on or after July 16 shall pay a \$25 late fee in addition to the annual fee.

(c) The fee for reissuing a revoked or expired registration or permit shall be \$90.

(d) All fees collected pursuant to this article shall be deposited in a special account in the State Treasury to be known as the 'Bedding and Upholstery Fund' to be administered by the Commissioner of Labor. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of

June, two thousand eighteen, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.”

The bill was ordered to third reading.

Com. Sub. for S. B. 437, Discontinuing WV Greyhound Breeding Development Fund; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 36, Permitting school nurses to possess and administer opioid antagonists,

S. B. 41, Extending time person may be subject to probation,

S. B. 164, Relating to traffic regulations and special load limits,

Com. Sub. for S. B. 233, Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act,

Com. Sub. for S. B. 247, Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes,

Com. Sub. for S. B. 248, Clarifying composition and chairmanship of Commission on Special Investigations,

Com. Sub. for S. B. 338, Relating to medical professional liability,

Com. Sub. for S. B. 347, Relating to modernization of Physician Assistant Practice Act,

Com. Sub. for S. B. 442, Relating generally to crimes against persons,

Com. Sub. for S. B. 455, Relating generally to commitment of persons to custody of Commissioner of Corrections,

Com. Sub. for S. B. 473, Permitting collection and sale of naturally shed deer antlers,

Com. Sub. for S. B. 497, Relating to liability for health care providers who provide services at school athletic events,

Com. Sub. for S. B. 531, Relating to renewal date for apiary certificates of registration,

And,

S. B. 684, Relating generally to WV State Police.

Third Reading

-continued-

Com. Sub. for H. B. 2776, Creating of special revenue funding sources for the Division of Labor; on third reading, having been reordered by the Committee on Rules, coming up in regular order, was, on motion of Delegate Cowles, laid upon the table.

H. B. 3108, Relating to authorizing redirection of certain amounts to the General Revenue Fund; on third reading, having been reordered by the Committee on Rules, coming up in regular order, was, on motion of Delegate Cowles, laid upon the table.

At 1:02 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 3:30 p.m.

* * * * *

Evening Session

* * * * *

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 38 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2 and §11-28-3, all relating to creating five-year tax credit for businesses locating on post coal mining sites; defining terms; setting eligibility requirements for credit; establishing amount of tax credit allowed; establishing how credit may be applied; and providing rulemaking ability”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect August 1, 2017, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 40 - “A Bill to amend and reenact §18-9F-9 of the Code of West Virginia, 1931, as amended, relating to requiring that the State Board of Education include, in the legislative rule on a model school crisis plan that it promulgates, certain protocols for responding to injuries and other medical emergencies on school property after normal school hours in school crisis response plans by certain date; providing the applicability and requirements of those protocols as they apply to sports injuries; setting forth a limitation of liability and providing for an effective date”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 57 - “A Bill to amend and reenact §11-21-12d of the Code of West Virginia, 1931, as amended, relating to

continuing personal income tax adjustment to gross income of certain retirees receiving pensions from defined pension plans that terminated and are being paid a reduced maximum benefit guarantee”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 238 - “A Bill to amend and reenact §11-21-8a of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-24-23a of said code, all relating to increasing the tax credits allowed for rehabilitation of certified historic structures from ten percent to twenty-five percent of expenditures made after December 31, 2017”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 282 - “A Bill to amend and reenact §64-8-1 of the Code of West Virginia, 1931, as amended, relating to directing Office of Administrative Hearings to amend and promulgate a current legislative rule relating to appeal procedures”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 294 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6, §5B-2I-7, §5B-2I-8, §5B-2I-9, §5B-2I-10, §5B-2I-11 and §5B-2I-12, all relating to Community Sustainability Investment Pilot Program; providing legislative findings and intent; creating the fund;

establishing Community Sustainability Investment Board; providing requirements for applications for use of matching funds from Community Sustainability Investment Fund; providing for review of applications by West Virginia Development Office; establishing that Community Sustainability Investment Board shall have authority to approve matching grants from Community Sustainability Investment Fund; establishing matching requirements from applicants; establishing eligible expenditures; and defining parameters of agreement between West Virginia Development Office and a community for use”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 333 - “A Bill to amend and reenact §60A-9-4, §60A-9-5 and §60A-9-5a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §60A-9-9, all relating to the Controlled Substances Monitoring Program database; requiring reporting instances of an overdose or a suspected overdose to the database; setting out elements to be reported; allowing access to the database to deans of the state’s medical schools or their designees for monitoring prescribing practices of prescribing faculty and residents; allowing access to designated physician reviewers for medical provider employers and hospital chief medical officers; allowing the Board of Pharmacy to require that drugs of concern be reported to the database; exempting reporting requirements for drugs of concern from criminal penalties; allowing agents for the Office of Health Facility Licensure and Certification to access the database; allowing the Board of Pharmacy to develop administrative penalties for not reporting drugs of concern; providing for rulemaking; requiring the licensing boards to report to the Board of Pharmacy when notified of unusual prescribing habits of a licensee; and making technical corrections”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 343 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-29-15a, relating to transportation network companies; prohibiting solicitation of rides; prohibiting occupation of designated taxi stands; and providing criminal penalties and fines”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 369 - “A Bill to amend and reenact §11A-3-19, §11A-3-21, §11A-3-23, §11A-3-52, §11A-3-54 and §11A-3-56 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto four new sections, designated §11A-3-23a, §11A-3-23b, §11A-3-58a and §11A-3-58b; and to amend and reenact §11A-4-4 of said code, all relating to permitting surface owners to purchase the mineral interests that lay below the property when the mineral interest becomes subject to a tax lien; permitting mineral owners to purchase the surface interest that lies above the mineral interest when the surface tract become subject to establishing procedures; requiring notice; establishing the purchase prices; establishing nonrefundable \$20 administrative fee; providing a procedure if more than one surface owner seeks to purchase the delinquent mineral interest; modifying notices to redeem that are sent to property owners; and providing remedies relating to tax sales”; which was referred to the Committee on Energy then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 399 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5I-1, §21-5I-2 and §21-5I-3, all relating to prohibiting political subdivisions from enacting any ordinance, regulation, local policy, local resolution or other legal requirement regulating certain areas of the employer-employee relationship; establishing a short title; establishing areas where political subdivisions are prohibited from enacting or promulgating ordinances, local policies or local regulations; and providing for exceptions and applicability”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 402 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-11E-1, §47-11E-2, §47-11E-3, §47-11E-4 and §47-11E-5, all relating to covenants not to compete between physicians and hospitals; defining terms; setting forth prohibition against contract terms in certain circumstances; providing for enforceability of other contract terms; providing for exemptions; and setting forth an effective date”; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 406 - “A Bill to amend and reenact §30-5-12b of the Code of West Virginia, 1931, as amended, relating generally to generic drug products; providing definitions; providing that when a pharmacist substitutes a drug, the patient shall receive the savings which shall be equal to the difference in acquisition cost of the product prescribed and the acquisition cost of the substituted product; providing an exception for covered individuals; and clarifying that the West Virginia Board of

Pharmacy has primary responsibility for enforcement”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 409 - “A Bill to amend the Code of West Virginia, 1931, as amended, by repealing §11-8-6e; to amend said code by amending and reenacting §11-8-6f; to amend said code by repealing §11-8-6g; to amend said code by adding thereto a new section, designated §11-13A-26; to amend said code by amending and reenacting §11-15-3, §11-15-3a, §11-15-8, §11-15-9, §11-15A-2; to amend said code by adding thereto a new section, designated §11-21-4g, all relating generally to the 2017 Tax Reform Act; to the repeal of certain procedures relating to increased tax assessments; to the prospective balancing of the rate of the severance tax on the production of coal; to the increase of the rate of the consumers sales and service tax; to the elimination of certain exemptions from the consumers sales and service tax; to the increase of the rate of the use tax; to the reduction of the rate of the personal income tax and establishing effective dates with respect thereto”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 50 – “Urging the Congress of the United States to pass a law to reschedule marijuana from a Schedule I drug to an alternative drug schedule and to authorize state governments to regulate marijuana at their own discretion.”

Whereas, Marijuana is currently classified as a Schedule I drug under the United States Controlled Substances Act; and

Whereas, Schedule I drugs are defined as drugs with no currently accepted medical use and a high potential for abuse, placing marijuana on par with heroin, lysergic acid, diethylamide, 3,4-methylenedioxymethamphetamine and methaqualone and signifying that marijuana poses a greater risk for abuse than Schedule II drugs, including cocaine, oxycodone, fentanyl and morphine; and

Whereas, The continued classification of marijuana as a Schedule I drug is inappropriate given the growing domestic and international consensus that marijuana has medicinal value and given marijuana's limited potential for abuse relative to other Schedule I and II drugs; and

Whereas, The medical use of marijuana or cannabis has been studied outside the United States for years and has shown efficacy in treating numerous conditions, including epilepsy, wasting syndrome, chemotherapy-induced nausea, glaucoma, migraine headaches, and chronic pain and/or anxiety; and

Whereas, Twenty-eight states and the District of Columbia have similarly recognized that marijuana has some medicinal value by legalizing the medical use of marijuana. It is estimated that as many as 2.3 million patients have been prescribed marijuana as of March 2017; and

Whereas, Numerous health organizations representing both physicians and patients have also called upon Congress to reschedule marijuana, including the American College of Physicians, the American Academy of Pediatrics, Americans for Safe Access, and the Epilepsy Foundation; and

Whereas, The American Legion, our nation's largest veterans organization representing 2.4 million members, has also joined this growing consensus, calling for increased research on marijuana's potential use for treating post-traumatic stress disorder and traumatic brain injuries in soldiers returning home from Iraq and Afghanistan; and

Whereas, The continued classification of marijuana as a Schedule I drug prevents the scientific and medical community from heeding the call of our veterans, as research institutions are prohibited from examining the potential medical uses of Schedule I drugs; and

Whereas, Marijuana's current classification also puts states in the unacceptable position having to choose between complying with federal law and providing a full complement of medical treatments to their citizens; and

Whereas, In recognition of this dilemma, the Law and Criminal Justice Committee of the National Conference of State Legislatures, which serves the legislatures of all fifty states, called upon Congress to reschedule marijuana and to allow states to regulate marijuana at their own discretion; and

Whereas, By rescheduling marijuana and authorizing states to set their own marijuana policies, Congress would not only allow states to meet the medical needs of their citizens without violating federal law, but Congress would also liberate state governments to become centers of innovation with respect to marijuana policy, exploring different ways to maximize public safety, health and economic development through competing research and regulatory regimes; and

Whereas, Authorizing states to set their own marijuana policy would also remove the threat of federal criminal prosecution and forfeiture for individuals and corporations that are involved in the medical use of marijuana and that have otherwise lawfully complied with their respective state's regulatory regime; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature urges the Congress of the United States to pass legislation to reschedule marijuana from a Schedule I drug to an alternative schedule, thereby allowing doctors to prescribe marijuana and to allow research institutions to experiment with marijuana's potential medical uses; and, be it

Further Resolved, That the Legislature urges the Congress of the United States to amend the Controlled Substances Act explicitly to allow states to set their own marijuana policies without federal interference; and, be it

Further Resolved, That the Legislature urges the President of the United States to sign such legislation; and, be it

Further Resolved, That the Clerk of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the United States Senate, and to each Senator and Representative from West Virginia in the Congress of the United States.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 151, Authorizing Department of Administration promulgate legislative rules,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 206, Expanding definition of ‘kidnapping’ to include taking or gaining custody of, confining or concealing person by force,

S. B. 256, Relating to prohibiting aiding and abetting of sexual abuse by school personnel,

And,

Com. Sub. for S. B. 214, Adopting Uniform Electronic Legal Material Act,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 261, Relating to increasing salary or wages of judgment debtor,

Com. Sub. for S. B. 445, Amending definition of “abused child”,

Com. Sub. for S. B. 5, Disqualifying CDL for DUI conviction in certain cases,

Com. Sub. for S. B. 456, Relating to standards for termination of parental rights in child abuse and neglect cases,

And,

Com. Sub. for S. B. 225, Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 222, Relating to disqualification for unemployment benefits,

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

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Seventh Order of Business for the purpose of introducing resolutions.

Resolutions Introduced

Delegate Cowles offered the following resolution, which was read by the Clerk as follows:

H. C. R. 109 - "Extending the Committee of Conference relating to consideration of Com. Sub. for H. B. 2099, Defining the act of leaving the scene of a crash involving death or serious bodily injury as a felony; Erin's Law."

Resolved by the Legislature of West Virginia:

That pursuant to Rule No. 3 of the Joint Rules of the Senate and House of Delegates, the Committee of Conference is hereby extended for a period of three day for the express purpose of consideration of matters of disagreement between the two houses as to Com. Sub. for H. B. 2099.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. C. R. 109) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

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

Delegate Cowles offered the following resolution, which was read by the Clerk as follows:

H. C. R. 110 – “Extending the Committee of Conference relating to consideration of Com. Sub. for H. B. 2028, Relating to the venue for suits and other actions against the state.”

Resolved by the Legislature of West Virginia:

That pursuant to Rule No. 3 of the Joint Rules of the Senate and House of Delegates, the Committee of Conference is hereby extended for a period of three day for the express purpose of consideration of matters of disagreement between the two houses as to Com. Sub. for H. B. 2028.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. C. R. 110) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

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

Special Calendar

Third Reading

-continued-

Com. Sub. for H. B. 2933, Relating to the consumers sales and service taxes and use taxes; on third reading, having been reordered by the Committee on Rules, coming up in regular order, was, at the request of Delegate Cowles, and by unanimous consent, postponed one day.

Miscellaneous Business

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Robinson regarding Com. Sub. for H. B. 2428 be printed in the Appendix to the Journal.

Delegate Arvon asked and obtained unanimous consent that the debate regarding Com. Sub. for H. B. 3080 be printed in the Appendix to the Journal.

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Eldridge regarding Com. Sub. for H. B. 2483 be printed in the Appendix to the Journal.

Delegate Sypolt noted to the Clerk that she was absent on yesterday when the votes were taken on Roll Nos. 228 and 229, and that had she been present, she would have voted "Yea" thereon.

At 6:12 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, March 30, 2017.

Thursday, March 30, 2017

FIFTY-FIRST DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Wednesday, March 29, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

S. B. 493, Providing increase in compensation for conservation officers,

And reports the same back, with a title amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (S. B. 493) was referred to the Committee on Finance.

Delegate Hanshaw, Chair of 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 29th day of March, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed

by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for H. B. 2811, Relating to the definition of above ground storage tanks.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

S. B. 468, Removing restrictions on where traditional lottery games may be played,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (S. B. 468) was referred to the Committee on Finance.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 173, Relating generally to autocycles,

Com. Sub. for S. B. 224, Repealing requirement for employer's bond for wages and benefits,

Com. Sub. for S. B. 230, Relating to certain WV officials carrying concealed firearm nationwide,

S. B. 554, Relating to false swearing in legislative proceeding,

Com. Sub. for S. B. 204, Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses,

And,

Com. Sub. for S. B. 575, Limiting nuisance actions against shooting ranges for noise,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 125, Authorizing DHHR promulgate legislative rules,

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

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 29, 2017, he approved **Com. Sub. for S. B. 302**.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 286 - "A Bill to amend and reenact §48-10-802 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §48-10-803, all relating to specifying forms of grandparent visitation; allowing daytime and overnight visits, as well as electronic communication; and defining the term 'electronic communication'"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 446 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §4-1-24; to amend said code by adding thereto a new section, designated §4-2-13; to amend said code by adding thereto a new section, designated §4-3-6; to amend said code by adding thereto a new article, designated §5-30-1, §5-30-2, §5-30-3, §5-30-4, §5-30-5 and §5-30-6; and to amend said code by adding thereto a new section, designated §51-3-19, all relating generally to the furlough of public employees during declared fiscal emergency; defining terms; permitting declaration of fiscal emergency by Governor under certain defined circumstances; permitting Governor to issue executive orders instituting furloughs of certain state employees; setting forth conditions of furlough; providing for termination of declared fiscal emergency; authorizing furlough of employees by constitutional officers; setting forth conditions of furlough of those employees; authorizing President of the Senate to furlough employees of State Senate; authorizing Speaker of the House of Delegates to furlough employees of the House of Delegates; authorizing President of the Senate and Speaker of the House of Delegates jointly to direct furlough of employees of Legislative Auditor and Joint Committee on Government and Finance; setting forth conditions of furlough of legislative employees; authorizing Supreme Court of Appeals to furlough employees and personnel of Supreme Court of Appeals; authorizing Supreme Court of Appeals to issue orders directing or authorizing furlough of other employees and personnel of circuit courts, family courts and magistrate courts; and setting forth terms of furlough of judicial employees”; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 465 - “A Bill to amend and reenact §55-7B-6 of the Code of West Virginia, 1931, as amended, relating to medical professional liability; clarifying requirements for screening certificates of merit; and requiring person who signs

screening certificate of merit be from the profession and within the specialty field, if any, or another specialty field that encompasses the area of practice of the health care provider upon whom a notice is required to be served in a medical professional liability action”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 469 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5i, relating to prohibiting the wanton waste of game animals, game birds and game fish or parts thereof; providing exclusions; and setting forth misdemeanor criminal penalties and fines”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 515 - “A Bill to amend and reenact §62-12-13 and §62-12-23 of the Code of West Virginia, 1931, as amended, all relating generally to parole; eliminating redundant and outdated reporting requirements regarding parolees; and modifying notice requirements to certain persons for parole hearings and inmate release”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 521 - “A Bill to amend and reenact §29-21-2, §29-21-6, §29-21-8, §29-21-9 and §29-21-13a of the Code of West Virginia, 1931, as amended, all relating generally to Public Defender Services; transferring initial authority to review, approve, reduce or reject panel attorney vouchers from circuit courts to

Public Defender Services; providing for resubmission of vouchers previously reduced or rejected; establishing protocol for handling of rejected or reduced vouchers; maintaining final authority over payment vouchers with the appointing courts; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to establish conflict public defender corporations and establishing criteria therefor; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to contract for legal services or specialized legal services in any circuit; revising order of preference for the appointment of attorneys; and requiring panel attorneys to maintain time-keeping records on a daily basis"; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 534 - "A Bill to amend and reenact §7-11B-3, §7-11B-4 and §7-11B-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §7A-2-4 of said code; to amend said code by adding thereto a new section, designated §7A-2-5; and to amend and reenact §31-20-10a of said code, all relating to incentives for consolidating local governments; amending certain terms to include municipalities that successfully consolidated; allowing consolidation of local governments to include public school districts, library districts and fire districts; creating certain incentives for municipalities that consolidate; creating certain incentives for counties that consolidate; creating certain incentives for municipalities and counties that form metro governments by consolidation; and requiring the Division of Corrections to pay for regional jail bills of counties that consolidate from the point of a felony conviction, rather than after sentencing"; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 562 - “A Bill to amend and reenact §17-10-17 of the Code of West Virginia, 1931, as amended, relating to civil actions for damages brought against county commissions and municipalities by persons injured by reason of a slip, trip, fall or similar injury resulting from defect, disrepair, maintenance of, or failure to maintain or repair any road, bridge, street, sidewalk, alleyway or public walkway”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 588 - “A Bill to amend and reenact §11-1C-2, §11-1C-4 and §11-1C-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §59-1-10 of said code, all relating to the reproduction, distribution and sale of tax maps; defining terms; specifying powers of the Property Valuation Training and Procedures Commission to promulgate rules; specifying duties of county assessors; requiring that sale, reproduction and distribution of certain records be in accordance with specified legislative rules; and specifying certain fees”; which was referred to the Committee on Government Organization.

Resolutions Introduced

Delegates Ambler, Anderson, Mr. Speaker (Mr. Armstead), Arvon, Atkinson, Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Capito, Caputo, Cooper, Cowles, Criss, Dean, Deem, Diserio, Eldridge, Ellington, Espinosa, A. Evans, E. Evans, Fast, Ferro, Fleischauer, Fluharty, Folk, G. Foster, N. Foster, Frich, Gearheart, Hamilton, Hamrick, Hanshaw, Harshbarger, Hartman, Hicks, Higginbotham, Hill, Hollen, Hornbuckle, Householder, Howell, Iaquinta, Isner, Kelly, Kessinger, Lane, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, Maynard, McGeehan, Miley, C. Miller, R. Miller, Moore, Moye, Nelson, O’Neal, Overington, Paynter, Pethel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero,

Rohrbach, C. Romine, R. Romine, Rowan, Rowe, Shott, Sobonya, Sponaugle, Statler, Storch, Summers, Sypolt, Thompson, Upson, Wagner, Walters, Ward, Westfall, White, Williams, Wilson and Zatezalo offered the following resolution, which was read by the Clerk as follows:

H. R. 16 - “Honoring and memorializing the life of Gerald ‘Jerry’ L. Crosier, former member of the West Virginia House of Delegates, Sheriff of Monroe County and Sergeant in the United States Army.”

Whereas, Delegate Gerald “Jerry” L. Crosier was born December 11, 1933 in Union, the son of retired Game Warden, Virgil “Cap” and Mabel Shaver Crosier. He graduated from Union High School and served in the U.S. Army; and

Whereas, Delegate Crosier retired from the Department of Natural Resources as a Conservation Officer at the rank of Sergeant, after 26 years of service. He also served as past President of the Union Rotary Club, past Little League Coach of the Blue Sox, Elder of the Union Presbyterian Church and President of the Monroe County Building Commission; and

Whereas, Delegate Crosier also served as Sheriff of Monroe County for eight years; and

Whereas, Delegate Crosier ably represented the 26th District of the House of Delegates for 10 years. While in the House, Delegate Crosier received an award for his outstanding work in the Legislature with Emergency Services in the state and secured over \$2 million in funding for organizations in his district. In 2011, Delegate Crosier was awarded Outstanding Democrat for Monroe County; and he received the Distinguished West Virginian Award in 2012 from Governor Tomblin; and

Whereas, Delegate Crosier passed away on April 23, 2016 at Carilion Roanoke Memorial Hospital, Roanoke, Virginia, and left behind his wife of 56 years, Margie Hanifin Crosier; two daughters, Erin Netzel and husband Norbert of Union, and Kelly Crosier of

Union, one son, Sean Crosier and wife Twila of Union; three sisters, Jean Nichols of Union, Shirley Neel and husband Jack of Union, and Sandra Sue Parker and husband Dick of Stuarts Draft, Virginia; two brothers, Robert “Bob” Crosier and wife Mary of Grandview, and William “Bill” Crosier of Union, and eight grandchildren and four great grandchildren; and

Whereas, Following funeral services on April 29, 2016 at the Union Presbyterian Church in Union, with Nancy Bulla and Pastor Gene Fullen officiating, Delegate Crosier was laid to rest in private ceremony on the family farm; therefore, be it

Resolved by the House of Delegates:

That the members of the House of Delegates hereby honor and memorialize one of its own, Delegate Gerald “Jerry” L. Crosier, and remembers that he leaves behind a lasting imprint of his honorable service to his state, his district and his home county; and, be it

Further Resolved, That the Clerk of the House of Delegates prepare a certified copy of this resolution for his surviving family.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 16) to a committee was dispensed with, and it was taken up for immediate consideration.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 265**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. R. 16) adopted.

Special Calendar

Third Reading

Com. Sub. for S. B. 113, Authorizing DEP promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 266**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Cooper and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 113) passed.

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

On this question, the yeas and nays were taken (**Roll No. 267**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Cooper and Hornbuckle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 113) takes effect from its passage.

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

Com. Sub. for S. B. 362, Authorizing redirection of certain amounts to General Revenue Fund; on third reading, coming up in regular order, was read a third time.

Delegate Walters requested to be excused from voting on the passage of Com. Sub. for S. B. 362 under the provisions of House Rule 49.

The Speaker replied that Delegate Walters may have a direct personal or pecuniary interest therein and not as a member of a class of persons, and excused the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 268**), and there were—yeas 72, nays 27, excused 1, absent and not voting none, with the nays and excused being as follows:

Nays: Baldwin, Barrett, Canestraro, Caputo, Diserio, Eldridge, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Lynch, Marcum, Miley, R. Miller, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Excused: Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 362) passed.

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

Com. Sub. for S. B. 362 – “A Bill to amend and reenact §23-2C-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-22A-10d and §29-22A-10e of said code, all relating to authorizing the redirection of certain amounts to the General Revenue Fund; authorizing the redirection of amounts collected from certain surcharges and assessments on workers’ compensation insurance policies for periods prior to July 1, 2018; and authorizing the redirection of amounts collected from certain deposits of revenues from net terminal income for periods prior to July 1, 2018.”

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

Com. Sub. for S. B. 419, Creating special revenue fund sources for Division of Labor to meet statutory obligations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 269**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk, Gearheart, Marcum, McGeehan and Wilson.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 419) passed.

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

Com. Sub. for S. B. 419 – “A Bill to amend and reenact §21-3-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-3C-11 of the said code; to amend and reenact §21-3D-8 of said code; to amend and reenact §21-5-5c of said code; to amend and reenact §21-14-9 of said code; to amend and reenact §21-16-10 of said code; to amend and reenact §47-1-8, §47-1-20, §47-1-21 and §47-1-22 of said code; and to amend and reenact §47-1A-10 and §47-1A-14 of said code, all relating generally to the Division of Labor; establishing ‘Steam Boiler Fund’; establishing ‘HVAC Fund’; establishing ‘Plumbing Work Fund’; establishing ‘Psychophysiological Examiners Fund’; establishing ‘Bedding and Upholstery Fund’; requiring the commissioner to charge certain fees for steam boilers; authorizing the commissioner to promulgate legislative and emergency rules to administer and enforce fees on service persons and service agencies and businesses using weighing and measuring devices; directing civil penalty fees to the Weights and Measures Fund; removing requirement that the commissioner approve applications for sterilization permits held in states other than West Virginia only after personal inspection of such sterilizer or disinfectant; increasing maximum fees for the issuance of certificates of operation of elevators; establishing

certain late fees; establishing certain reissuance fees for revoked or expired permits; increasing certain fees for sterilizers, manufacturers, shippers or sellers of bedding or upholstery, upholsters and renovators; and authorizing the commissioner to promulgate legislative rules.”

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

Com. Sub. for H. B. 2933, Relating to the consumers sales and service taxes and use taxes; on third reading, coming up in regular order, with amendments pending, and the restricted right to amend jointly by Delegates Nelson and Boggs, was, on motion of Delegate Cowles, laid upon the table.

Second Reading

Com. Sub. for S. B. 36, Permitting school nurses to possess and administer opioid antagonists; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page one, section twenty-two-d, line six, by striking out subsections (b) and (c) and inserting new subsections (b) and (c) to read as follows:

“(b) A school nurse, as set forth in section twenty-two of this article, is authorized to administer an opioid antagonist to a student, school personnel or a person during regular school hours, at a school function, or at an event of school property when the school nurse medically believes the individual is experiencing an adverse opioid event.

(c) Nonmedical school personnel who have been trained in the administration of an opioid antagonist and who have been designated and authorized by the school to administer the opioid antagonist are authorized to administer an opioid antagonist to a student, school personnel or a person during regular school hours, at a school function, at an event on school property when the

authorized and designated nonmedical school personnel reasonably believes, based upon their training, that the individual is experiencing an adverse opioid event.”

And,

On page two, line twenty-two, by striking out the words “to a student or to school personnel”.

The bill was ordered to third reading.

S. B. 41, Extending time person may be subject to probation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 164, Relating to traffic regulations and special load limits; on second reading, coming up in regular order, was read a second time.

Delegate Pyles moved to amend the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §17-4-27 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §17C-17-5 and §17C-17-12 of said code be amended and reenacted, all to read as follows:

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 4. STATE ROAD SYSTEM.

§17-4-27. Same — Control of connecting parts of state road system within municipalities.

(a) (1) The ~~State Road~~ Commissioner of Highways shall exercise the same control over connecting parts of the state road system in municipalities, except the regulation of traffic, that he or she exercises over such system generally, but he or she shall assume no greater duty or obligation in the construction, reconstruction and maintenance of streets which are part of the state road system than he or she is required to assume in the case of state roads outside of municipalities.

(2) For purposes of this subsection, “regulation of traffic” includes the power to regulate the weight and size of vehicles traveling in a municipality when there is at least one reasonable alternate route available to avoid traveling within the municipality.

(b) Subject to subsection (a) of this section, in order, however, to promote the safe and efficient utilization of such streets, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any municipality on any highway or street hereafter constructed with state or federal aid shall be subject to the approval of the state ~~Road~~ Commissioner of Highways.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 17. SIZE, WEIGHT AND LOAD.

§17C-15-5. Special load limits.

(a) Subject to the foregoing provisions of this article limiting the length of vehicles and loads, the load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than three feet beyond the foremost part of the vehicle, and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than six feet beyond the rear of the bed or body of such vehicle: *Provided*, That a digger/derrick line truck may be operated with a load of no more than ~~forty~~ forty-five feet in length, with the load extending no more than ~~six~~ nine feet beyond the foremost part of the truck and no more than ~~nine~~ eleven feet beyond the rear of the bed of the body of the truck, between sunrise and sunset except in an emergency, and the operation of the truck shall comply with the provisions of section fourteen, article fifteen of this chapter.

(b) The limitations as to length of vehicles and loads heretofore stated in section four of this article and subsection (a) of this section

shall not apply to any load upon a pole trailer when transporting poles or pipes or structural material which cannot be dismembered: *Provided*, That no pole or pipe or other material exceeding eighty feet in length shall be so transported unless a permit has first been obtained as authorized in section eleven of this article.

§17C-17-12. When ~~state road commission~~ Commissioner of Highways or local authorities may restrict right to use highways.

(a) Local authorities with respect to highways ~~under their jurisdiction~~ within their borders may by ordinance or resolution prohibit the operation of vehicles upon any such highway or impose restrictions as to the weight of vehicles to be operated upon any such highway, for a total period of not to exceed ninety days in any one calendar year, whenever ~~any said~~ the highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

(b) The local authority enacting any such ordinance or resolution shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby, and the ordinance or resolution ~~shall~~ is not be effective unless and until ~~such~~ the signs are erected and maintained.

(c) Local authorities with respect to highways ~~under their jurisdiction~~ within their borders may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, on designated highways, ~~which~~ when there is at least one reasonable alternate route available to avoid traveling within their borders. The prohibitions and limitations shall be designated by appropriate signs placed on ~~such~~ the highways.

(d) Subject to subsections (a), (b) and (c) of this section, the ~~state road commission shall likewise have~~ Commissioner of Highways has the same authority, as ~~hereinabove~~ granted in this section to local authorities to ~~determine by resolution and to~~ impose restrictions as to the weight of vehicles operated upon any highway under the jurisdiction of ~~said commission~~ the commissioner and

~~such~~ the restrictions ~~shall be~~ are effective when signs giving notice thereof are erected upon the highway or portion of any highway affected. ~~by such resolution.~~”

The question being on the adoption of the amendment, the same was put and did not prevail.

The bill was then ordered to third reading.

Com. Sub. for S. B. 233, Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §62-1D-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1D. WIRETAPPING AND ELECTRONIC SURVEILLANCE ACT.

§62-1D-2. Definitions.

As used in this article, unless the context in which used clearly requires otherwise, the following terms have the meanings indicated:

(a) ‘Aggrieved person’ means a person who was a party to any intercepted wire, oral or electronic communication or a person against whom the interception was directed.

(b) ‘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, that is licensed by Department of Health and Human Resources for the care of children in any setting.

~~(b)~~ (c) ‘Communications common carrier’ means any telegraph company or telephone company and any radio common carrier.

(e) (d) 'Contents', when used with respect to any wire, oral or electronic communication, includes any information concerning the substance, purport or meaning of that communication.

(d) (e) 'Electronic, mechanical or other device' means any device or apparatus (i) which can be used to intercept a wire, oral or electronic communication or (ii) the design of which renders it primarily useful for the surreptitious interception of any such communication. There is excepted from this definition:

(1) Any telephone or telegraph instrument, equipment or facility or any component thereof: (a) Furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or furnished by ~~such~~ the subscriber or user for connection to the facilities of ~~such~~ the service and used in the ordinary course of its business; or (b) being used by a communications common carrier in the ordinary course of its business or by an investigative or law-enforcement officer in the ordinary course of his or her duties; or

(2) A hearing aid or similar device being used to correct subnormal hearing to not better than normal; or

(3) Any device used in a lawful consensual monitoring including, but not limited to, tape recorders, telephone induction coils, answering machines, body transmitters and pen registers.

(e) (f) 'Intercept' means the aural or other acquisition of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device.

(f) (g) 'Designated judge' means a circuit court judge designated by the chief justice of the West Virginia Supreme Court of Appeals to hear and rule on applications for the interception of wire, oral or electronic communications.

(g) (h) 'Investigative or law-enforcement officer' means a member or members of the ~~department of public safety~~ West Virginia State Police who is or are empowered by law to conduct

investigations of or to make arrest for offenses enumerated in this chapter.

(h) (i) 'Oral communication' means any oral communication uttered by a person exhibiting an expectation that ~~such the~~ the communication is not subject to interception under circumstances justifying ~~such the~~ the expectation, ~~but such~~ The term does not include: ~~any electronic communication.~~

(A) An electronic communication; or

(b) An oral communication uttered in any child care center where there are written notices posted informing persons that their oral communications are subject to being intercepted.

(i) (j) 'Pen register' means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which ~~such the~~ the device is attached, but ~~such the~~ the term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by ~~such the~~ the provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

(j) (k) 'Person' means any person, individual, partnership, association, joint stock company, trust or corporation and includes any police officer, employee or agent of this state or of a political subdivision thereof.

(k) (l) 'Wire communication' means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception (including the use of ~~such the~~ the connection in a switching station) furnished or operated by any person engaged in providing or operating ~~such the~~ the facilities for the transmission of interstate or foreign communications or communications affecting interstate or foreign commerce and ~~such the~~ the term includes any electronic storage of

~~such~~ the communication, but ~~such~~ the term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.

(~~h~~) (m) ‘Electronic communication’ means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system but does not include:

(1) The radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

(2) Any wire or oral communication; or

(3) Any combination made through a tone-only paging device.

(~~m~~) (n) ‘User’ means any person or entity who or which uses an electronic communication service and is duly authorized by the provider of ~~such~~ the service to engage in ~~such~~ the use.

(~~n~~) (o) ‘Electronic communications system’ means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of ~~such~~ the communications.

(~~o~~) (p) ‘Electronic communication service’ means any service which provides to users thereof the ability to send or receive wire or electronic communications.

(~~p~~) (q) ‘Aural transfer’ means a transfer containing the human voice at any point between and including the point of origin and the point of reception.

(~~q~~) (r) ‘Trap and trace device’ means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted.”

The bill was ordered to third reading.

Com. Sub. for S. B. 247, Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 2. GRAND JURIES.

§52-2-11. Materials subpoenaed by grand jury; authorizing custodian possession and use thereof.

(a) For purposes of this section:

(1) ‘Prosecuting attorney’ means a prosecuting attorney, assistant prosecuting attorney or duly appointed special prosecuting attorney.

(2) ‘Investigator’ means an investigator employed by a prosecuting attorney’s office or an employee of a state agency authorized by the provisions of this code to perform criminal investigations. For purposes of this definition, state agency shall include a legislative committee, commission or entity authorized by the provisions of this code to perform criminal investigations.

(3) ‘Law-enforcement officer’ shall have the same meaning as is set forth in section one, article twenty-nine, chapter thirty of this code: *Provided*, That for purposes of this section, ‘law-enforcement officer’ shall also include those individuals meeting the definition of ‘chief executive’ set forth in section one, article twenty-nine, chapter thirty of this code.

(4) ‘Subpoenaed material’ means books, records, documents, papers, computers, laptops, computer hard drives, electronic records, including but not limited to, emails, electronic files,

electronic documents, metadata or any other thing in any form in which it may exist.

(b) Notwithstanding any provision of this code to the contrary, material subpoenaed and received by a prosecuting attorney pursuant to a grand jury subpoena may thereafter, in the discretion of the prosecuting attorney, be delivered to a designated law-enforcement officer or investigator. Upon receipt from the prosecuting attorney, the designated law-enforcement officer or investigator may keep, review and analyze the subpoenaed materials and otherwise use the subpoenaed materials for investigative purposes.

(c) Prior to providing subpoenaed material to a designated law-enforcement officer or investigator, as authorized by subsection (b) of this section, the prosecuting attorney shall prepare and have the designated law-enforcement officer or investigator execute a nondisclosure statement acknowledging the existence and content of the subpoenaed material is secret under Rule 6(e) of the West Virginia Rules of Criminal Procedure. The prosecuting attorney shall file all nondisclosure statements, under seal, with the clerk of the circuit court. The existence or contents of any subpoenaed material subject to the provisions of this section may only be disclosed to another law-enforcement officer or investigator for investigative purposes with the prior written authorization of the prosecuting attorney and the receiving law-enforcement officer's or investigator's execution of a nondisclosure statement.

(d) The designated law-enforcement officer or investigator, as authorized by subsection (b) of this section, may, in the discretion of the prosecuting attorney, retain the subpoenaed material or other evidence in his or her possession, care, custody or control until the termination of the investigation or presentation of the subpoenaed matter to the grand jury.”

The bill was ordered to third reading.

Com. Sub. for S. B. 248, Clarifying composition and chairmanship of Commission on Special Investigations; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill was amended on page two, section two, line two, following the word “may”, by striking out the clause “upon a ~~majority~~ vote by a quorum of the members appointed, to”, and inserting the clause “by majority vote” followed by a colon.

And,

On page five, section three, line one, by striking out the phrase “Upon a quorum vote” and inserting the phrase “By majority vote”, followed by a comma.

The bill was ordered to third reading.

Com. Sub. for S. B. 338, Relating to medical professional liability; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 347, Relating to modernization of Physician Assistant Practice Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page one, by striking out the enacting section and inserting in lieu thereof the following:

“That §30-3E-8 of the Code of West Virginia, 1931, as amended, be repealed; that §16-5-19 of said code be amended and reenacted; that §30-3-5 of said code be amended and reenacted; that §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-6, §30-3E-7, §30-3E-9, §30-3E-10, §30-3E-11, §30-3E-12, §30-3E-15, §30-3E-16 and §30-3E-17 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §30-3E-12a, and that §33-15-14 of said code be amended and reenacted, all to read as follows” and a colon.

On page eight, section one, line twenty-six, after the word “rendered”, by inserting a period and striking out the remainder of the sentence.

On page ten, section three, line ten, by striking out subdivision (7) in its entirety and inserting the following:

“(7) The eligibility and extent to which a physician assistant may prescribe at the direction of his or her supervising collaborating physician, including a state formulary classifying those categories of drugs which shall not be prescribed by a physician assistant including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals and general anesthetics. Drugs listed under Schedule III shall be limited to a thirty-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a practice agreement as set forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a chronic condition is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity.”

On page thirteen, section seven, line five, by striking out subdivision (3) in its entirety and inserting in lieu thereof the following:

“Proof that he or she has passed Physician Assistant National Certifying Examination; and”.

On page fifteen, section nine, line twenty-six, by striking out subsection (e) in its entirety.

On page nineteen, section sixteen, line four, after the word, “jurisdiction”, by inserting a semicolon and striking the remainder of the sentence.

And,

On page twenty-one, after line eighteen, by inserting the following:

“CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-14. Policies discriminating among health care providers.

Notwithstanding any other provisions of law, when any health insurance policy, health care services plan or other contract provides for the payment of medical expenses, benefits or procedures, such policy, plan or contract shall be construed to include payment to all health care providers including medical physicians, osteopathic physicians, podiatric physicians, chiropractic physicians, midwives, physician assistants and nurse practitioners who provide medical services, benefits or procedures which are within the scope of each respective provider’s license. Any limitation or condition placed upon services, diagnoses or treatment by, or payment to any particular type of licensed provider shall apply equally to all types of licensed providers without unfair discrimination as to the usual and customary treatment procedures of any of the aforesaid providers.”

The bill was ordered to third reading.

Com. Sub. for S. B. 437, Discontinuing WV Greyhound Breeding Development Fund; on second reading, coming up in regular order, having been read a second time on March 28, 2017, was reported by the Clerk.

Delegate Eldridge moved to amend the bill on page two, by striking out the enacting section and inserting in lieu thereof, the following:

“That 19-23-10 and 19-23-13b of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows” and a colon.

And,

On page two, following the enacting section, by striking out the remainder of the bill, and inserting in lieu thereof the following:

“PART VII. TAXATION OF HORSE AND DOG RACING AND PARI-MUTUEL WAGERING; DISPOSITION OF REVENUES.

§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes paid; alternate tax; credits.

(a) Any racing association conducting thoroughbred racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of \$250. Any racing association conducting harness racing at any horse racetrack in this state shall pay each day upon which horse races are run a daily license tax of \$150. Any racing association conducting dog races shall pay each day upon which dog races are run a daily license tax of \$150. In the event thoroughbred racing, harness racing, dog racing or any combination of the foregoing are conducted on the same day at the same racetrack by the same racing association, only one daily license tax in the amount of \$250 shall be paid for that day. Any daily license tax shall not apply to any local, county or state fair, horse show or agricultural or livestock exposition at which horse racing is conducted for not more than six days.

(b) Any racing association licensed by the Racing Commission to conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax set forth in subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on thoroughbred racing a tax calculated on the total daily contribution of all pari-mutuel pools conducted or made at any and every thoroughbred race meeting of the licensee licensed under the provisions of this article. The tax, on the pari-mutuel pools conducted or made each day during the months of January, February, March, October, November and December, shall be calculated at four-tenths of one percent of the pool; and, on the pari-mutuel pools conducted or made each day during all other months, shall be calculated at one and four-tenths percent of the pool: *Provided*, That out of the amount realized from the three tenths of

one percent decrease in the tax effective for fiscal year 1991 and thereafter, which decrease correspondingly increases the amount of commission retained by the licensee, the licensee shall annually expend or dedicate: (i) One half of the realized amount for capital improvements in its barn area at the track, subject to the Racing Commission's prior approval of the plans for the improvements; and (ii) the remaining one half of the realized amount for capital improvements as the licensee may determine appropriate at the track. The term 'capital improvement' shall be as defined by the Internal Revenue Code: *Provided, however,* That any racing association operating a horse racetrack in this state having an average daily pari-mutuel pool on horse racing of \$280,000 or less per day for the race meetings of the preceding calendar year shall, in lieu of payment of the pari-mutuel pool tax, calculated as in this subsection, be permitted to conduct pari-mutuel wagering at the horse racetrack on the basis of a daily pari-mutuel pool tax fixed as follows: On the daily pari-mutuel pool not exceeding \$300,000 the daily pari-mutuel pool tax shall be \$1,000 plus the otherwise applicable percentage rate imposed by this subsection of the daily pari-mutuel pool, if any, in excess of \$300,000: *Provided further,* That upon the effective date of the reduction of the daily pari-mutuel pool tax to \$1,000 from the former \$2,000, the association or licensee shall daily deposit \$500 into the special fund for regular purses established by subdivision (1), subsection (b), section nine of this article: *And provided further,* That if an association or licensee qualifying for the foregoing alternate tax conducts more than one racing performance, each consisting of up to thirteen races in a calendar day, the association or licensee shall pay both the daily license tax imposed in subsection (a) of this section and the alternate tax in this subsection for each performance: *And provided further,* That a licensee qualifying for the foregoing alternate tax is excluded from participation in the fund established by section thirteen-b of this article: *And provided further,* That this exclusion shall not apply to any thoroughbred racetrack at which the licensee has participated in the West Virginia Thoroughbred Development Fund for more than four consecutive years prior to December 31, 1992.

(c) Any racing association licensed by the Racing Commission to conduct harness racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in

addition to the daily license tax required under subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on harness racing, as a tax, three percent of the first \$100,000 wagered, or any part thereof; four percent of the next \$150,000; and five and three-fourths percent of all over that amount wagered each day in all pari-mutuel pools conducted or made at any and every harness race meeting of the licensee licensed under the provisions of this article.

(d) Any racing association licensed by the Racing Commission to conduct dog racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax required under subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on dog racing, as a tax, four percent of the first \$50,000 or any part thereof of the pari-mutuel pools, five percent of the next \$50,000 of the pari-mutuel pools, six percent of the next \$100,000 of the pari-mutuel pools, seven percent of the next \$150,000 of the pari-mutuel pools, and eight percent of all over \$350,000 wagered each day: *Provided*, That the licensee shall deduct daily from the pari-mutuel tax an amount equal to one tenth of one percent of the daily pari-mutuel pools in dog racing in fiscal year 1990; fifteen hundredths of one percent in fiscal year 1991; two tenths of one percent in fiscal year 1992; one quarter of one percent in fiscal year 1993; and three tenths of one percent in fiscal year 1994 and every fiscal year thereafter. The amounts deducted shall be paid to the Racing Commission to be deposited by the Racing Commission in a banking institution of its choice in a special account to be known as 'West Virginia Racing Commission-Special Account-West Virginia Greyhound Breeding Development Fund': *Provided*, That effective July 1, 2017, and thereafter, fifty percent of the amount deducted and any others moneys required by this section to be deposited in the West Virginia Greyhound Breeding Development Fund shall instead be deposited into the State Excess Lottery Revenue Fund pursuant to section ten-a of this article. The purpose of the fund is to promote better breeding, training track facilities and racing of greyhounds in the state through awards and

purses to bona fide resident registered greyhound owners of accredited West Virginia whelped greyhounds. In order to participate and be eligible to receive an award or purse through the fund, the registered greyhound owner must have an appropriate license from the Racing Commission to race in West Virginia. The registered greyhound dam at the time of breeding must be wholly or solely owned or leased by a bona fide resident or residents of West Virginia. The accredited West Virginia whelped greyhound must be wholly or solely owned by a bona fide resident or residents of this state. To qualify as a bona fide resident of West Virginia, a registered greyhound owner may not claim residency in any other state. A registered greyhound owner must prove bona fide residency by providing to the commission personal income tax returns filed in the State of West Virginia for the most recent tax year and the three previous tax years, has real or personal property in this state on which the owner has paid real or personal property taxes during the most recent tax year and the previous three tax years and an affidavit stating that the owner claims no other state of residency. The Racing Commission shall maintain a registry for West Virginia bred greyhounds. The moneys shall be expended by the Racing Commission for purses for stake races, training track facilities, supplemental purse awards, administration, promotion, education and greyhound adoption programs involving West Virginia whelped dogs, owned by residents of this state under rules promulgated by the Racing Commission. The Racing Commission shall pay out of the greyhound breeding development fund to each of the licensed dog racing tracks the sum of \$75,000 for the fiscal year ending June 30, 1994. The licensee shall deposit the sum into the special fund for regular purses established under the provisions of section nine of this article. The funds shall be expended solely for the purpose of supplementing regular purses under rules promulgated by the Racing Commission.

Supplemental purse awards will be distributed as follows: Supplemental purses shall be paid directly to the registered greyhound owner of an accredited greyhound.

The registered greyhound owner of accredited West Virginia whelped greyhounds that earn points at any West Virginia meet

will receive a bonus award calculated at the end of each month as a percentage of the fund dedicated to the owners as purse supplements, which shall be a minimum of fifty percent of the total moneys deposited into the West Virginia Greyhound Breeding Development fund monthly.

The total amount of the fund available for the owners' awards shall be distributed according to the ratio of points earned by an accredited greyhound to the total amount earned in races by all accredited West Virginia whelped greyhounds for that month as a percentage of the funds dedicated to the owners' purse supplements. The point value at all greyhound tracks shall be the same as approved by the Racing Commission to be effective April 1, 2007. The West Virginia Greyhound Owners and Breeders Association shall submit a list of any additions or deletions to the registry of accredited West Virginia whelped greyhounds on the first of each month. The Racing Commission shall not require anyone to be a member of a particular association in order to participate in the West Virginia Greyhound Breeding Development Fund.

The registered greyhound owner of an accredited West Virginia whelped greyhound shall file a purse distribution form with the Racing Commission for a percentage of his or her dog's earnings to be paid directly to the registered greyhound owner or owners of the greyhound. Distribution shall be made on the fifteenth day of each month for the preceding month's achievements.

In no event shall points earned at a meet held at a track which did not make contributions to the West Virginia Greyhound Breeding Development Fund out of the daily pool on the day the meet was held qualify or count toward eligibility for supplemental purse awards.

Any balance in the purse supplement funds after all distributions have been made for the year revert to the general account of the fund for distribution in the following year: *Provided*, That not more than \$2 million from the balance in the purse supplemental fund shall be used for the construction and

maintenance of two dog training track facilities if such be approved by the Racing Commission: *Provided, however*, That not more than \$1 million may be allocated for the construction and maintenance of each training track: *Provided further*, That both training track facilities must be located in West Virginia. The West Virginia Racing Commission shall be authorized to promulgate rules governing dog training tracks: *And provided further*, That the Racing Commission shall: (1) Provide a process in its rules for competitive bidding of the construction or maintenance, or both, of the training tracks; and (2) set standards to assure that only the actual costs of construction and maintenance shall be paid out of the foregoing fund.

In an effort to further promote the breeding of quality West Virginia whelped greyhounds, a bonus purse supplement shall be established in the amount of \$50,000 per annum, to be paid in equal quarterly installments of \$12,500 per quarter using the same method to calculate and distribute these funds as the regular supplemental purse awards. This bonus purse supplement is for three years only, commencing on July 1, 1993, and ending June 30, 1996. This money would come from the current existing balance in the greyhound development fund.

Each pari-mutuel greyhound track shall provide stakes races for accredited West Virginia whelped greyhounds: *Provided*, That each pari-mutuel track shall have one juvenile and one open stake race annually. Each pari-mutuel dog track shall provide at least three restricted races for accredited West Virginia whelped greyhounds per race card: *Provided, however*, That sufficient dogs are available. To assure breeders of accredited West Virginia whelped greyhounds an opportunity to participate in the West Virginia Greyhound Breeding Development Fund the West Virginia Racing Commission by July 1, each year shall establish and announce the minimum number of accredited West Virginia whelped greyhounds that greyhound racing kennels at West Virginia dog tracks must have on their racing active list during the calendar year following such action. The minimum number may vary from dog track to dog track. The minimum number shall be established after consultation with the West Virginia Greyhound

Owners and Breeders Association and kennel owners and operators. Factors to be considered in establishing this minimum number shall be the number of individually registered accredited West Virginia whelped greyhounds whelped in the previous two years. The number of all greyhounds seeking qualification at each West Virginia dog track, the ratio of active running greyhounds to housed number of greyhounds at each West Virginia dog track, and the size and number of racing kennels at each West Virginia dog track. Any greyhound racing kennel not having the minimum number of accredited West Virginia whelped greyhounds determined by the West Virginia Racing Commission on their active list shall only be permitted to race the maximum allowable number on the active list less the number of accredited West Virginia whelped greyhounds below the established minimum number. Consistent violations of this minimum requirement may be reviewed by the Racing Commission and may constitute cause for denial or revocation of a kennel's racing license. The Racing Commission shall oversee and approve racing schedules and purse amounts.

Ten percent of the deposits into the greyhound breeding development fund beginning July 1, 1993 and continuing each year thereafter, shall be withheld by the Racing Commission and placed in a special revenue account hereby created in the State Treasury called the 'administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account' The Racing Commission is authorized to expend the moneys deposited in the administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account at such times and in such amounts as the commission determines to be necessary for purposes of administering and promoting the greyhound development program: *Provided*, That beginning with fiscal year 1995 and in each fiscal year thereafter in which the commission anticipates spending any money from the account, the commission shall submit to the executive department during the budget preparation period prior to the Legislature convening before that fiscal year for inclusion in the executive budget document and budget bill, the recommended expenditures, as well as requests of

appropriations for the purpose of administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering. The commission shall make an annual report to the Legislature on the status of the administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account, including the previous year's expenditures and projected expenditures for the next year.

The Racing Commission, for the fiscal year 1994 only, may expend up to \$35,000 from the West Virginia Greyhound Breeding Development Fund to accomplish the purposes of this section without strictly following the requirements in the previous paragraph.

(e) All daily license and pari-mutuel pools tax payments required under the provisions of this section shall be made to the Racing Commission or its agent after the last race of each day of each horse or dog race meeting, and the pari-mutuel pools tax payments shall be made from all contributions to all pari-mutuel pools to each and every race of the day.

(f) Every association or licensee subject to the provisions of this article, including the changed provisions of sections nine and ten of this article, shall annually submit to the Racing Commission and the Legislature financial statements, including a balance sheet, income statement, statement of change in financial position and an audit of any electronic data system used for pari-mutuel tickets and betting, prepared in accordance with generally accepted auditing standards, as certified by an experienced public accountant or a certified public accountant.

§19-23-13b. West Virginia Thoroughbred Development Fund; distribution; restricted races; nonrestricted purse supplements; preference for West Virginia accredited thoroughbreds.

(a) The Racing Commission shall deposit moneys required to be withheld by an association or licensee in subsection (b), section nine of this article in a banking institution of its choice in a special

account to be known as West Virginia Racing Commission Special Account – West Virginia Thoroughbred Development Fund: *Provided*, That after the West Virginia Lottery Commission has divided moneys between the West Virginia Thoroughbred Development Fund and the West Virginia Greyhound Breeding Development Fund, pursuant to the provisions of sections ten and ten-b, article twenty-two-a, chapter twenty-nine of this code, the Racing Commission shall, beginning October 1, 2005, deposit the remaining moneys required to be withheld from an association or licensee designated to the Thoroughbred Development Fund under the provisions of subsection (b), section nine of this article, subdivision (3), subsection (e), section twelve-b of this article, subsection (b), section twelve-c of this article, paragraph (B), subdivision (3), subsection (b), section thirteen-c of this article and sections ten and ten-b, article twenty-two-a, chapter twenty-nine of this code into accounts for each thoroughbred racetrack licensee with a banking institution of its choice with a separate account for each association or licensee: *Provided*, That effective July 1, 2017, and thereafter, fifty percent of the total amounts deducted and any other moneys required by this section to be deposited in the West Virginia Thoroughbred Development Fund shall instead be deposited into the State Excess Lottery Revenue Fund pursuant to section ten-a if this article. Each separate account shall be a special account to be known as West Virginia Racing Commission Special Account – West Virginia Thoroughbred Development Fund and shall name the licensee for which the special account has been established: *Provided, however*, That the Racing Commission shall deposit all moneys paid into the Thoroughbred Development Fund by a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, from July 8, 2005, until the effective date of the amendment to this section passed during the fourth extraordinary session of the seventy-seventh Legislature shall be paid into the purse fund of that thoroughbred racetrack licensee: *Provided further*, That the moneys paid into the Thoroughbred Development Fund by a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, shall be transferred into that licensee's purse fund until

April 1, 2006. Notice of the amount, date and place of the deposits shall be given by the Racing Commission, in writing, to the State Treasurer. The purpose of the funds is to promote better breeding and racing of thoroughbred horses in the state through awards and purses for accredited breeders/raisers, sire owners and thoroughbred race horse owners: *Provided*, That five percent of the deposits required to be withheld by an association or licensee in subsection (b), section nine of this article shall be placed in a special revenue account hereby continued in the State Treasury called the Administration and Promotion Account: *Provided, however*, That four and one-half percent of the deposits into the Thoroughbred Development Fund shall be placed in the Administration and Promotion Account, except that of this percentage, no more than \$305,000 shall be placed in the account in any year.

(b) The Racing Commission is authorized to expend the moneys deposited in the administration and promotion account at times and in amounts as the commission determines to be necessary for purposes of administering and promoting the thoroughbred development program: *Provided*, That during any fiscal year in which the commission anticipates spending any money from the account, the commission shall submit to the executive department during the budget preparation period prior to the Legislature convening before that fiscal year for inclusion in the executive budget document and budget bill the recommended expenditures, as well as requests of appropriations for the purpose of administration and promotion of the program. The commission shall make an annual report to the Legislature on the status of the administration and promotion account, including the previous year's expenditures and projected expenditures for the next year.

(c) The fund or funds and the account or accounts established in subsection (a) of this section shall operate on an annual basis.

(d) Funds in the Thoroughbred Development Fund or funds in the separate accounts for each association or licensee as provided in subsection (a) of this section shall be expended for awards and purses except as otherwise provided in this section. Annually, the first \$800,000 shall be available for distribution for a minimum of

fourteen accredited stakes races at a racetrack which has participated in the West Virginia Thoroughbred Development Fund for a period of more than four consecutive calendar years prior to December 31, 1992. The weights for all accredited stakes races shall be weight for age. One of the stakes races shall be the West Virginia Futurity and the second shall be the Frank Gall Memorial Stakes. For the purpose of participating in the West Virginia Futurity only, all mares, starting with the breeding season beginning February 1 through July 31, 2004, and each successive breeding season thereafter, shall be bred back that year to an accredited West Virginia stallion only which is registered with the West Virginia Thoroughbred Breeders Association. The accredited stake races shall be chosen by the committee set forth in subsection (f) of this section.

(e) Awards and purses shall be distributed as follows:

(1) The breeders/raisers of accredited thoroughbred horses that earn a purse at a participating West Virginia meet shall receive a bonus award calculated at the end of the year as a percentage of the fund dedicated to the breeders/raisers, which shall be sixty percent of the fund available for distribution in any one year. The total amount available for the breeders'/raisers' awards shall be distributed according to the ratio of purses earned by an accredited race horse to the total amount earned in the participating races by all accredited race horses for that year as a percentage of the fund dedicated to the breeders/raisers. However, no breeder/raiser may receive from the fund dedicated to breeders'/raisers' awards an amount in excess of the earnings of the accredited horse at West Virginia meets. In addition, should a horse's breeder and raiser qualify for the same award on the same horse, they will each be awarded one half of the proceeds. The bonus referred to in this subdivision may only be paid on the first \$100,000 of any purse and not on any amounts in excess of the first \$100,000.

(2) The owner of an accredited West Virginia sire of an accredited thoroughbred horse that earns a purse in any race at a participating West Virginia meet shall receive a bonus award calculated at the end of the year as a percentage of the fund dedicated to sire owners, which shall be fifteen percent of the fund

available for distribution in any one year. The total amount available for the sire owners' awards shall be distributed according to the ratio of purses earned by the progeny of accredited West Virginia stallions in the participating races for a particular stallion to the total purses earned by the progeny of all accredited West Virginia stallions in the participating races. However, no sire owner may receive from the fund dedicated to sire owners an amount in excess of thirty-five percent of the accredited earnings for each sire. The bonus referred to in this subdivision shall only be paid on the first \$100,000 of any purse and not on any amounts in excess of the first \$100,000.

(3) The owner of an accredited thoroughbred horse that earns a purse in any participating race at a West Virginia meet shall receive a restricted purse supplement award calculated at the end of the year, which shall be twenty-five percent of the fund available for distribution in any one year, based on the ratio of the earnings in the races of a particular race horse to the total amount earned by all accredited race horses in the participating races during that year as a percentage of the fund dedicated to purse supplements. However, the owners may not receive from the fund dedicated to purse supplements an amount in excess of thirty-five percent of the total accredited earnings for each accredited race horse. The bonus referred to in this subdivision shall only be paid on the first \$100,000 of any purse and not on any amounts in excess of the first \$100,000.

(4) In no event may purses earned at a meet held at a track which did not make a contribution to the Thoroughbred Development Fund out of the daily pool on the day the meet was held qualify or count toward eligibility for an award under this subsection.

(5) Any balance in the breeders/raisers, sire owners and purse supplement funds after yearly distributions shall first be used to fund the races established in subsection (f) of this section. Any amount not so used shall revert into the general account of the Thoroughbred Development Fund for each racing association or licensee for distribution in the next year.

Distribution shall be made on the fifteenth day of each February for the preceding year's achievements.

(f)(1) Each pari-mutuel thoroughbred horse track shall provide at least one restricted race per racing day: *Provided*, That sufficient horses and funds are available. For purposes of the one restricted race required by this subdivision, there are sufficient horses if there are at least seven single betting interests received for the race: *Provided, however*, That, if sufficient horses and funds are available, any thoroughbred horse racetrack whose licensee participated in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, shall provide three restricted races per racing day, at least one of which may be split at the discretion of the racing secretary. For the purposes of a second restricted race there shall be at least seven single betting interests and for purposes of a third restricted race there must be at least nine single betting interests in one of the restricted races run that day. The restricted race required by this section must be included in the first nine races written in the condition book for that racing day.

(2) The restricted races established in this subsection shall be administered by a three-member committee at each track consisting of:

(A) The racing secretary at each track;

(B) A member appointed by the authorized representative of a majority of the owners and trainers at the thoroughbred track; and

(C) A member appointed by the West Virginia Thoroughbred Breeders Association.

(3) Restricted races shall be funded by each racing association from:

(A) Moneys placed in the general purse fund: *Provided*, That a thoroughbred horse racetrack which did not participate in the West Virginia Thoroughbred Development fund for a period of more than four consecutive years prior to December 31, 1992, may fund restricted races in an amount not to exceed \$1,000,000 per year.

(B) Moneys as provided in subdivision (5), subsection (e) of this section, which shall be placed in a special fund called the West Virginia Accredited Race Fund.

(4) The racing schedules, purse amounts and types of races are subject to the approval of the West Virginia Racing Commission.

(g) As used in this section, 'West Virginia-bred foal' means a horse that was born in the State of West Virginia.

(h) To qualify for the West Virginia Accredited Race Fund, the breeder must qualify under one of the following:

(1) The breeder of the West Virginia-bred foal is a West Virginia resident;

(2) The breeder of the West Virginia-bred foal is not a West Virginia resident, but keeps his or her breeding stock in West Virginia year round; or

(3) The breeder of the West Virginia-bred foal is not a West Virginia resident and does not qualify under subdivision (2) of this subsection, but either the sire of the West Virginia-bred foal is a West Virginia stallion, or the mare is covered only by a West Virginia accredited stallion or stallions before December 31 of the calendar year following the birth of that West Virginia-bred foal.

(i) From July 1, 2001, West Virginia accredited thoroughbred horses have preference for entry in all accredited races at a thoroughbred race track at which the licensee participates in the West Virginia Thoroughbred Development Fund.

(j) Beginning July 1, 2006, any racing association licensed by the Racing Commission to conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the provisions of this article must have a West Virginia Thoroughbred Racing Breeders Program.”

During debate on the amendment before the House, Delegate Fluharty was called out of order by Mr. Speaker, Mr. Armstead, for his remarks.

Delegate Cowles was addressing the House when Delegate Fluharty arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker replied that the remarks of the Delegate were related to the amendment.

On the adoption of the amendment, Delegate Eldridge demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 270**), and there were—yeas 39, nays 57, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Storch, Thompson, Ward and Williams.

Absent and Not Voting: Arvon, Dean, Lewis and Maynard.

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

The bill was ordered to third reading.

Com. Sub. for S. B. 442, Relating generally to crimes against persons; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 455, Relating generally to commitment of persons to custody of Commissioner of Corrections; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page three, section ten, line fifty-nine, by striking out the phrase “this incarceration” and inserting in lieu thereof the phrase “incarceration in the regional jail pending transfer”.

The bill was ordered to third reading.

Com. Sub. for S. B. 473, Permitting collection and sale of naturally shed deer antlers; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 497, Relating to liability for health care providers who provide services at school athletic events; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 531, Relating to renewal date for apiary certificates of registration; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 634, Relating generally to certain agreements between DHHR and state's medical schools; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 684, Relating generally to WV State Police; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 5, Disqualifying CDL for DUI conviction in certain cases,

Com. Sub. for S. B. 151, Authorizing Department of Administration promulgate legislative rules,

Com. Sub. for S. B. 206, Expanding definition of "kidnapping" to include taking or gaining custody of, confining or concealing person by force,

Com. Sub. for S. B. 214, Adopting Uniform Electronic Legal Material Act,

Com. Sub. for S. B. 222, Relating to disqualification for unemployment benefits,

Com. Sub. for S. B. 225, Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court,

S. B. 256, Relating to prohibiting aiding and abetting of sexual abuse by school personnel,

Com. Sub. for S. B. 261, Relating to increasing salary or wages of judgment debtor,

Com. Sub. for S. B. 445, Amending definition of “abused child”,

And,

Com. Sub. for S. B. 456, Relating to standards for termination of parental rights in child abuse and neglect cases.

At 12:51 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

* * * * *

Evening Session

* * * * *

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Hill, Chair of the Committee on Small Business, Entrepreneurship and Economic Development, submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

Com. Sub. for S. B. 341, Establishing WV business growth in low-income communities tax credit,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 341) was referred to the Committee on Finance.

Delegate Westfall, Chair of the Committee on Banking and Insurance submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

Com. Sub. for S. B. 522, Relating to pharmacy audits,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Health and Human Resources be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 522) to the Committee on Health and Human Resources was abrogated.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 239, Limiting use of wages by employers and labor organizations for political activities,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 349, Repealing outdated code related to Division of Corrections,

And,

S. B. 400, Regarding appointments to WV Infrastructure and Jobs Development Council,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 172, Eliminating salary for Water Development Authority board members,

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2459, Relating to regulation of health care and the certificate of need process.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §16-2D-5f of the Code of West Virginia, 1931, as amended, be repealed; that §16-5F-1; §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5, §16-5F-6 and §16-5F-7 be repealed; that §16-29B-6, §16-29B-7, §16-29B-9, §16-29B-10, §16-29B-11, §16-29B-17, §16-29B-18, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25, §16-25B-27, and §16-29B-29 be repealed; that §16-29I-1, §16-29I-2, §16-29I-3, §16-29I-4, §16-29I-5, §16-29I-6, §16-29I-7, §16-29I-8, §16-29I-9 and §16-29I-10 be repealed; that §5F-1-3a of said code be amended and reenacted; that §6-7-2a of said code be amended and reenacted; that §9-4C-7 and §9-4C-8 of said code be amended and reenacted; that §11-27-9 and §11-27-11 of said code be amended and reenacted; that §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-13, §16-2D-15 and §16-2D-16 of said code be amended and reenacted; that §16-5B-17 of said code be amended and reenacted; that §16-29B-2, §16-29B-3, §16-29B-5, §16-29B-8, §16-29B-12, §16-29B-26 and §16-29B-28; that said code be amended by adding thereto a new section, designated §16-29B-5a; that said code be amended by adding thereto a new section, designated §16-29B-30; that said code be amended by adding thereto a new section, designated §16-29G-1a; that §16-29G-4 of said code be amended and reenacted; that §21-5F-4 of said code be amended and reenacted; that §33-4A-1, §33-4A-2, §33-4A-3, §33-4A-5, §33-4A-6 and §33-4A-7 of said code be amended and reenacted; and that §33-16D-16 of said code be amended and reenacted, all to read as follows:

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

ARTICLE 1. GENERAL PROVISIONS.

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

There is hereby created an executive compensation commission composed of three members, one of whom shall be the secretary of administration, one of whom shall be appointed by the

Governor from the names of two or more nominees submitted by the President of the Senate, and one of whom shall be appointed by the Governor from the names of two or more nominees submitted by the Speaker of the House of Delegates. The names of such nominees shall be submitted to the Governor by not later than June 1, 2000, and the appointment of such members shall be made by the Governor by not later than July 1, 2000. The members appointed by the Governor shall have had significant business management experience at the time of their appointment and shall serve without compensation other than reimbursement for their reasonable expenses necessarily incurred in the performance of their commission duties. For the 2001 regular session of the Legislature and every four years thereafter, the commission shall review the compensation for cabinet secretaries and other appointed officers of this state, including, but not limited to, the following: Commissioner, Division of Highways; commissioner, Bureau of Employment Programs; director, Division of Environmental Protection; commissioner, Bureau of Senior Services; director of tourism; commissioner, division of tax; administrator, division of health; commissioner, Division of Corrections; director, Division of Natural Resources; superintendent, state police; administrator, lottery division; director, Public Employees Insurance Agency; administrator, Alcohol Beverage Control Commission; commissioner, Division of Motor Vehicles; director, Division of Personnel; Adjutant General; ~~chairman, Health Care Authority; members, Health Care Authority~~ the Executive Director of the Health Care Authority; director, Division of Rehabilitation Services; executive director, educational broadcasting authority; executive secretary, Library Commission; chairman and members of the Public Service Commission; director of emergency services; administrator, division of human services; executive director, Human Rights Commission; director, division of Veterans Affairs; director, office of miner's health safety and training; commissioner, Division of Banking; commissioner, division of insurance; commissioner, Division of Culture and History; commissioner, Division of Labor; director, Prosecuting Attorneys Institute; director, Board of Risk and Insurance Management; commissioner, oil and gas conservation commission; director, geological and economic

survey; executive director, water development authority; executive director, Public Defender Services; director, state rail authority; chairman and members of the Parole Board; members, employment security review board; members, workers' compensation appeal board; chairman, Racing Commission; executive director, women's commission; and director, hospital finance authority.

Following this review, but not later than the twenty-first day of such regular session, the commission shall submit an executive compensation report to the Legislature to include specific recommendations for adjusting the compensation for the officers described in this section. The recommendation may be in the form of a bill to be introduced in each house to amend this section to incorporate the recommended adjustments.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of officers.

(a) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers' successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each office.

The annual salary of each named appointive state officer is as follows:

Commissioner, Division of Highways, \$92,500; Commissioner, Division of Corrections, \$80,000; Director, Division of Natural Resources, \$75,000; Superintendent, State Police, \$85,000; Commissioner, Division of Banking, \$75,000; Commissioner, Division of Culture and History, \$65,000; Commissioner, Alcohol Beverage Control Commission, \$75,000; Commissioner, Division of Motor Vehicles, \$75,000; ~~Chairman, Health Care Authority, \$80,000; members, Health Care Authority, \$70,000~~ Director, Human Rights Commission, \$55,000; Commissioner, Division of Labor, \$70,000; prior to July 1, 2011, Director, Division of Veterans Affairs, \$65,000; Chairperson, Board of Parole, \$55,000; members, Board of Parole, \$50,000; members, Employment Security Review Board, \$17,000; and Commissioner, Workforce West Virginia, \$75,000. Secretaries of the departments shall be paid an annual salary as follows: Health and Human Resources, \$95,000: *Provided*, That effective July 1, 2013, the Secretary of the Department of Health and Human Resources shall be paid an annual salary not to exceed \$175,000; Transportation, \$95,000: *Provided, however*, That if the same person is serving as both the Secretary of Transportation and the Commissioner of Highways, he or she shall be paid \$120,000; Revenue, \$95,000; Military Affairs and Public Safety, \$95,000; Administration, \$95,000; Education and the Arts, \$95,000; Commerce, \$95,000; Veterans' Assistance, \$95,000; and Environmental Protection, \$95,000: *Provided further*, That any officer specified in this subsection whose salary is increased by more than \$5,000 as a result of the amendment and reenactment of this section during the 2011 regular session of the Legislature shall be paid the salary increase in increments of \$5,000 per fiscal year beginning July 1, 2011, up to the maximum salary provided in this subsection.

(b) Each of the state officers named in this subsection shall continue to be appointed in the manner prescribed in this code and shall be paid an annual salary as follows:

Director, Board of Risk and Insurance Management, \$80,000; Director, Division of Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director, Educational

Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director, Geological and Economic Survey, \$75,000; Executive Director, Prosecuting Attorneys Institute, \$80,000; Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of Senior Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital Finance Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service Commission, \$85,000; members, Public Service Commission, \$85,000; Director, Division of Forestry, \$75,000; Director, Division of Juvenile Services, \$80,000; ~~and~~ Executive Director, Regional Jail and Correctional Facility Authority, \$80,000 and Executive Director of the Health Care Authority, \$80,000.

(c) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers' successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each office.

The annual salary of each named appointive state officer shall be as follows:

Commissioner, State Tax Division, \$92,500; Insurance Commissioner, \$92,500; Director, Lottery Commission, \$92,500; Director, Division of Homeland Security and Emergency Management, \$65,000; and Adjutant General, \$125,000.

(d) No increase in the salary of any appointive state officer pursuant to this section may be paid until and unless the appointive state officer has first filed with the State Auditor and the Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General, certifying that his or her spending unit is in compliance with any general law providing for a salary increase

for his or her employees. The Attorney General shall prepare and distribute the form to the affected spending units.

CHAPTER 9. HUMAN SERVICES.

ARTICLE 4C. HEALTH CARE PROVIDER MEDICAID ENHANCEMENT ACT.

§9-4C-7. Powers and duties.

(a) Each board created pursuant to this article shall:

(1) Develop, recommend and review reimbursement methodology where applicable, and develop and recommend a reasonable provider fee schedule, in relation to its respective provider groups, so that the schedule conforms with federal Medicaid laws and remains within the limits of annual funding available to the single state agency for the Medicaid program. In developing the fee schedule the board may refer to a nationally published regional specific fee schedule, if available, as selected by the secretary in accordance with section eight of this article. The board may consider identified health care priorities in developing its fee schedule to the extent permitted by applicable federal Medicaid laws, and may recommend higher reimbursement rates for basic primary and preventative health care services than for other services. In identifying basic primary and preventative health care services, the board may consider factors, including, but not limited to, services defined and prioritized by the basic services task force of the health care planning commission in its report issued in December of the year 1992; and minimum benefits and coverages for policies of insurance as set forth in section fifteen, article fifteen, chapter thirty-three of this code and section four, article sixteen-c of said chapter and rules of the Insurance Commissioner promulgated thereunder. If the single state agency approves the adjustments to the fee schedule, it shall implement the provider fee schedule;

(2) Review its respective provider fee schedule on a quarterly basis and recommend to the single state agency any adjustments it considers necessary. If the single state agency approves any of the

board's recommendations, it shall immediately implement those adjustments and shall report the same to the Joint Committee on Government and Finance on a quarterly basis;

(3) Assist and enhance communications between participating providers and the Department of Health and Human Resources;

(4) Meet and confer with representatives from each specialty area within its respective provider group so that equity in reimbursement increases or decreases may be achieved to the greatest extent possible and when appropriate to meet and confer with other provider boards; and

(5) Appoint a chairperson to preside over all official transactions of the board.

(b) Each board may carry out any other powers and duties as prescribed to it by the secretary.

(c) Nothing in this section gives any board the authority to interfere with the discretion and judgment given to the single state agency that administers the state's Medicaid program. If the single state agency disapproves the recommendations or adjustments to the fee schedule, it is expressly authorized to make any modifications to fee schedules as are necessary to ensure that total financial requirements of the agency for the current fiscal year with respect to the state's Medicaid plan are met and shall report such modifications to the Joint Committee on Government and Finance on a quarterly basis. The purpose of each board is to assist and enhance the role of the single state agency in carrying out its mandate by acting as a means of communication between the health care provider community and the agency.

(d) In addition to the duties specified in subsection (a) of this section, the ambulance service provider Medicaid board shall ~~work with the health care cost review authority to develop a method for regulating rates charged by ambulance services. The health care cost review authority shall report its findings to the Legislature by January 1, 1994. The costs of the report shall be paid by the health care cost review authority. In this capacity only, the chairperson of~~

~~the health care cost review authority shall serve as an ex officio, nonvoting member of the board~~

(e) On a quarterly basis, the single state agency and the board shall report the status of the fund, any adjustments to the fee schedule and the fee schedule for each health care provider identified in section two of this article to the Joint Committee on Government and Finance.

§9-4C-8. Duties of secretary of Department of Health and Human Resources.

(a) The secretary, or his or her designee, shall serve on each board created pursuant to this article as an ex officio, nonvoting member and shall keep and maintain records for each board.

(b) In relation to outpatient hospital services, the secretary shall ~~cooperate with the health care cost review authority to~~ furnish information needed for reporting purposes. This information includes, but is not limited to, the following:

(1) For each hospital, the amount of payments and related billed charges for hospital outpatient services each month;

(2) The percentage of the state's share of Medicaid program financial obligation from time to time as necessary; and

(3) Any other financial and statistical information necessary ~~for the health care cost review authority~~ to determine the net effect of any cost shift.

(c) The secretary shall determine an appropriate resolution for conflicts arising between the various boards.

(d) The secretary shall purchase nationally published fee schedules to be used, if available, as a reference by the Medicaid enhancement boards in developing fee schedules.

CHAPTER 11. TAXATION.

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-9. Imposition of tax on providers of inpatient hospital services.

(a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the business of providing inpatient hospital services, there is hereby levied and shall be collected from every person rendering such service an annual broad-based health care related tax: ~~Provided, That a hospital which meets all the requirements of section twenty one, article twenty nine b, chapter sixteen of this code and regulations thereunder may change or amend its schedule of rates to the extent necessary to compensate for the tax in accordance with the following procedures:~~

~~(1) The health care cost review authority shall allow a temporary change in a hospital's rates which may be effective immediately upon filing and in advance of review procedures when a hospital files a verified claim that such temporary rate changes are in the public interest, and are necessary to prevent insolvency, to maintain accreditation or for emergency repairs or to relieve undue financial hardship. The verified claim shall state the facts supporting the hospital's position, the amount of increase in rates required to alleviate the situation and shall summarize the overall effect of the rate increase. The claim shall be verified by either the chairman of the hospital's governing body or by the chief executive officer of the hospital.~~

~~(2) Following receipt of the verified claim for temporary relief, the health care cost review authority shall review the claim through its usual procedures and standards; however, this power of review does not affect the hospital's ability to place the temporary rate increase into effect immediately. The review of the hospital's claim shall be for a permanent rate increase and the health care cost review authority may include such other factual information in the review as may be necessary for a permanent rate increase review. As a result of its findings from the permanent review, the health care cost review authority may allow the temporary rate increase to become permanent, to deny any increase at all, to allow a lesser increase, or to allow a greater increase.~~

~~(3) When any change affecting an increase in rates goes into effect before a final order is entered in the proceedings, for whatever reasons, where it deems it necessary and practicable, the health care cost review authority may order the hospital to keep a detailed and accurate account of all amounts received by reason of the increase in rates and the purchasers and third party payors from whom such amounts were received. At the conclusion of any hearing, appeal or other proceeding, the health care cost review authority may order the hospital to refund with interest to each affected purchaser and/or third party payor any part of the increase in rates that may be held to be excessive or unreasonable. In the event a refund is not practicable, the hospital shall, under appropriate terms and conditions determined by the health care cost review authority, charge over and amortize by means of a temporary decrease in rates whatever income is realized from that portion of the increase in rates which was subsequently held to be excessive or unreasonable.~~

~~(4) The health care cost review authority, upon a determination that a hospital has overcharged purchasers or charged purchasers at rates not approved by the health care cost review authority or charged rates which were subsequently held to be excessive or unreasonable, may prescribe rebates to purchasers and third party payors in effect by the aggregate total of the overcharge.~~

~~(5) the rate adjustment provided for in this section is limited to a single adjustment during the initial year of the imposition of the tax provided for in this section.~~

(b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section shall be two and one-half percent of the gross receipts derived by the taxpayer from furnishing inpatient hospital services in this state.

(c) *Definitions.* —

(1) ‘Gross receipts’ means the amount received or receivable, whether in cash or in kind, from patients, third-party payors and others for inpatient hospital services furnished by the provider, including retroactive adjustments under reimbursement

agreements with third-party payors, without any deduction for any expenses of any kind: *Provided*, That accrual basis providers shall be allowed to reduce gross receipts by their contractual allowances, to the extent such allowances are included therein, and by bad debts, to the extent the amount of such bad debts was previously included in gross receipts upon which the tax imposed by this section was paid.

(2) ‘Contractual allowances’ means the difference between revenue (gross receipts) at established rates and amounts realizable from third-party payors under contractual agreements.

(3) ‘Inpatient hospital services’ means those services that are inpatient hospital services for purposes of Section 1903(w) of the Social Security Act.

~~(d) *Effective date.*—The tax imposed by this section shall apply to gross receipts received or receivable by providers after May 31, 1993.~~

§11-27-11. Imposition of tax on providers of nursing facility services, other than services of intermediate care facilities for individuals with an intellectual disability.

(a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the business of providing nursing facility services, other than those services of intermediate care facilities for individuals with an intellectual disability, there is levied and shall be collected from every person rendering such service an annual broad-based health care-related tax: ~~*Provided*, That hospitals which provide nursing facility services may adjust nursing facility rates to the extent necessary to compensate for the tax: without first obtaining approval from the Health Care Authority *Provided, however*, That the rate adjustment is limited to a single adjustment during the initial year of the imposition of the tax which adjustment is exempt from prospective review by the Health Care Authority and further which is limited to an amount not to exceed the amount of the tax which is levied against the hospital for the provision of nursing facility services pursuant to this section. The Health Care Authority shall retroactively review~~

~~the rate increases implemented by the hospitals under this section during the regular rate review process. A hospital which fails to meet the criteria established by this section for a rate increase exempt from prospective review is subject to the penalties imposed under article twenty nine b, chapter sixteen of the code.~~

(b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section is five and one-half percent of the gross receipts derived by the taxpayer from furnishing nursing facility services in this state, other than services of intermediate care facilities for individuals with an intellectual disability. ~~This rate shall be increased to five and seventy two one hundredths percent of the gross receipts received or receivable by providers of nursing facility services on and after October 1, 2015, and shall again be decreased to five and one-half percent of the gross receipts received or receivable by providers of nursing services after June 30, 2016.~~

(c) *Definitions.* —

(1) ‘Gross receipts’ means the amount received or receivable, whether in cash or in kind, from patients, third-party payors and others for nursing facility services furnished by the provider, including retroactive adjustments under reimbursement agreements with third-party payors, without any deduction for any expenses of any kind: *Provided*, That accrual basis providers are allowed to reduce gross receipts by their bad debts, to the extent the amount of those bad debts was previously included in gross receipts upon which the tax imposed by this section was paid.

(2) ‘Nursing facility services’ means those services that are nursing facility services for purposes of §1903(w) of the Social Security Act.

~~(d) *Effective date.* — The tax imposed by this section applies to gross receipts received or receivable by providers after May 31, 1993.~~

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 2D. CERTIFICATE OF NEED.

§16-2D-2. Definitions.

As used in this article:

(1) ‘Affected person’ means:

(A) The applicant;

(B) An agency or organization representing consumers;

(C) An individual residing within the geographic area but within this state served or to be served by the applicant;

(D) An individual who regularly uses the health care facilities within that geographic area;

(E) A health care facility located within this state which provide services similar to the services of the facility under review and which will be significantly affected by the proposed project;

(F) A health care facility located within this state which, before receipt by the authority of the proposal being reviewed, ~~have~~ has formally indicated an intention to provide similar services within this state in the future;

(G) Third-party payors who reimburse health care facilities within this state; ~~similar to those proposed for services or~~

~~(H) An agency that establishes rates for health care facilities within this state similar to those proposed; or~~

~~(H)~~ (H) An organization representing health care providers;

(2) ‘Ambulatory health care facility’ means a facility that provides health services to noninstitutionalized and nonhomebound persons on an outpatient basis;

(3) ‘Ambulatory surgical facility’ means a facility not physically attached to a health care facility that provides surgical treatment to patients not requiring hospitalization;

(4) ‘Applicant’ means a person ~~proposing a proposed health service~~ applying for a certificate of need, exemption or determination of review;

(5) ‘Authority’ means the West Virginia Health Care Authority as provided in article twenty-nine-b of this chapter;

(6) ‘Bed capacity’ means the number of beds licensed to a health care facility or the number of adult and pediatric beds permanently staffed and maintained for immediate use by inpatients in patient rooms or wards in an unlicensed facility;

(7) ‘Behavioral health services’ means services provided for the care and treatment of persons with mental illness or developmental disabilities; ~~in an inpatient or outpatient setting~~

(8) ‘Birthing center’ means a short-stay ambulatory health care facility designed for low-risk births following normal uncomplicated pregnancy;

(9) ‘Campus’ means the adjacent grounds and buildings, or grounds and buildings not separated by more than a public right-of-way, of a health care facility;

(10) ‘Capital expenditure’ means:

(A) (i) An expenditure made by or on behalf of a health care facility, which:

(i) (I) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance; or

(ii) (II) Is made to obtain either by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and

~~(B)~~(i) (ii) (I) Exceeds the expenditure minimum;

(ii) (II) Is a substantial change to the bed capacity of the facility with respect to which the expenditure is made; or

(iii) (III) Is a substantial change to the services of such facility;

(C) (B) The transfer of equipment or facilities for less than fair market value if the transfer of the equipment or facilities at fair market value would be subject to review; or

(D) (C) A series of expenditures, if the sum total exceeds the expenditure minimum and if determined by the ~~state agency~~ authority to be a single capital expenditure subject to review. In making this determination, the ~~state agency~~ authority shall consider: Whether the expenditures are for components of a system which is required to accomplish a single purpose; or whether the expenditures are to be made within a two-year period within a single department such that they will constitute a significant modernization of the department.

(11) 'Charges' means the economic value established for accounting purposes of the goods and services a hospital provides for all classes of purchasers;

(12) 'Community mental health and intellectual disability facility' means a facility which provides comprehensive services and continuity of care as emergency, outpatient, partial hospitalization, inpatient or consultation and education for individuals with mental illness, intellectual disability;

(13) 'Diagnostic imaging' means the use of radiology, ultrasound, mammography,

(14) 'Drug and Alcohol Rehabilitation Services' means a medically or psychotherapeutically supervised process for assisting individuals ~~on an inpatient or outpatient basis~~ through the processes of withdrawal from dependency on psychoactive substances;

(15) 'Expenditure minimum' means the cost of acquisition, improvement, expansion of any facility, equipment, or services including the cost of any studies, surveys, designs, plans, working drawings, specifications and other activities, including staff effort and consulting at and above \$5 million;

(16) 'Health care facility' means a publicly or privately owned facility, agency or entity that offers or provides health services, whether a for-profit or nonprofit entity and whether or not licensed, or required to be licensed, in whole or in part;

(17) 'Health care provider' means a person authorized by law to provide professional health ~~service~~ services in this state to an individual;

(18) 'Health services' means clinically related preventive, diagnostic, treatment or rehabilitative services;

(19) 'Home health agency' means an organization primarily engaged in providing professional nursing services either directly or through contract arrangements and at least one of the following services:

(A) Home health aide services;

(B) Physical therapy;

(C) Speech therapy;

(D) Occupational therapy;

(E) Nutritional services; or

(F) Medical social services to persons in their place of residence on a part-time or intermittent basis.

(20) 'Hospice' means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of a licensed hospice program which provides palliative and supportive medical and other health services to terminally ill individuals and their families.

(21) 'Hospital' means a facility licensed pursuant to the provisions of article five-b of this chapter and any acute care facility operated by the state government, that primarily provides inpatient diagnostic, treatment or rehabilitative services to injured, disabled or sick persons under the supervision of physicians.

(22) ‘Intermediate care facility’ means an institution that provides health-related services to individuals with conditions that require services above the level of room and board, but do not require the degree of services provided in a hospital or skilled-nursing facility.

(23) ‘Like equipment’ means medical equipment in which functional and technological capabilities are similar to the equipment being replaced; and the replacement equipment is to be used for the same or similar diagnostic, therapeutic, or treatment purposes as currently in use; and it does not constitute a substantial change in health service or a proposed health service.

(24) ‘Major medical equipment’ means a single unit of medical equipment or a single system of components with related functions which is used for the provision of medical and other health services and costs in excess of the expenditure minimum. This term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician’s office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs ten and eleven, Section 1861(s) of such act, Title 42 U.S.C. §1395x. In determining whether medical equipment is major medical equipment, the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition of such equipment shall be included. If the equipment is acquired for less than fair market value, the term ‘cost’ includes the fair market value.

(25) ‘Medically underserved population’ means the population of an area designated by the authority as having a shortage of a specific health service.

(26) ‘Nonhealth-related project’ means a capital expenditure for the benefit of patients, visitors, staff or employees of a health care facility and not directly related to health services offered by the health care facility.

(27) 'Offer' means the health care facility holds itself out as capable of providing, or as having the means to provide, specified health services.

(28) 'Opioid treatment program' means as that term is defined in article five-y of chapter sixteen.

~~(28)~~ (29) 'Person' means an individual, trust, estate, partnership, limited liability corporation, committee, corporation, governing body, association and other organizations such as joint-stock companies and insurance companies, a state or a political subdivision or instrumentality thereof or any legal entity recognized by the state.

~~(29)~~ (30) 'Personal care agency' means an entity that provides personal care services approved by the Bureau of Medical Services.

~~(30)~~ (31) 'Personal care services' means personal hygiene; dressing; feeding; nutrition; environmental support and health-related tasks provided by a personal care agency.

~~(31)~~ (32) 'Physician' means an individual who is licensed practice allopathic medicine by the board of Medicine or licensed to practice osteopathic medicine by the board of ~~steopathy to practice in West Virginia-Osteopathic Medicine.~~

~~(32)~~ (33) 'Proposed health service' means any service as described in section eight of this article.

~~(33)~~ (34) 'Purchaser' means an individual who is directly or indirectly responsible for payment of patient care services rendered by a health care provider, but does not include third-party payers.

~~(34)~~ (35) 'Rates' means charges imposed by a health care facility for health services.

~~(35)~~ (36) 'Records' means accounts, books and other data related to health service costs at health care facilities subject to the provisions of this article which do not include privileged medical information, individual personal data, confidential information, the disclosure of which is prohibited by other provisions of this code

and the laws enacted by the federal government, and information, the disclosure of which would be an invasion of privacy

~~(36)~~ (37) ‘Rehabilitation facility’ means an inpatient facility licensed in West Virginia operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services.

~~(37)~~ (38) ‘Related organization’ means an organization, whether publicly owned, nonprofit, tax-exempt or for profit, related to a health care facility through common membership, governing bodies, trustees, officers, stock ownership, family members, partners or limited partners, including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subdivision ‘family members’ means parents, children, brothers and sisters whether by the whole or half blood, spouse, ancestors and lineal descendants.

(39) ‘Secretary’ means the Secretary of the West Virginia Department of Health and Human Resources;

~~(38)~~ (40) ‘Skilled nursing facility’ means an institution, or a distinct part of an institution, that primarily provides inpatient skilled nursing care and related services, or rehabilitation services, to injured, disabled or sick persons.

~~(39)~~ (41) ‘Standard’ means a health service guideline developed by the authority and instituted under section six.

~~(40)~~ (42) ‘State health plan’ means a document prepared by the authority that sets forth a strategy for future health service needs in ~~the~~ this state.

~~(41)~~ (43) ‘Substantial change to the bed capacity’ of a health care facility means any change, associated with a capital expenditure, that increases or decreases the bed capacity or relocates beds from one physical facility or site to another, but does not include a change by which a health care facility reassigns existing beds. ~~as swing beds between acute care and long term care categories or a decrease in bed capacity in response to federal rural health initiatives~~

~~(43)~~ (44) ‘Substantial change to the health services’ means:

(A) The addition of a health service offered by or on behalf of the health care facility which was not offered by or on behalf of the facility within the twelve-month period before the month in which the service ~~is~~ was first offered; or

(B) The termination of a health service offered by or on behalf of the facility but does not include the termination of ambulance service, wellness centers or programs, adult day care or respite care by acute care facilities.

(45) ‘Telehealth’ means the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration.

~~(44)~~ (46) ‘Third-party payor’ means an individual, person, corporation or government entity responsible for payment for patient care services rendered by health care providers.

~~(45)~~ (47) ‘To develop’ means to undertake those activities which upon their completion will result in the offer of a proposed health service or the incurring of a financial obligation in relation to the offering of such a service.

§16-2D-3. Powers and duties of the authority.

(a) The authority shall:

(1) Administer the certificate of need program;

(2) Review the state health plan, the certificate of need standards, and the cost effectiveness of the certificate of need program and make any amendments and modifications to each that it may deem necessary, no later than September 1, 2017, and biennially thereafter.

(3) Shall adjust the expenditure minimum annually and publish to its website the updated amount on or before December 31, of each year. The expenditure minimum adjustment shall be based on

the DRI inflation index. ~~published in the Global Insight DRI/WEFA Health Care Cost Review~~

(4) Create a standing advisory committee to advise and assist in amending the state health plan, the certificate of need standards, and performing the state agencies' responsibilities.

(b) The authority may:

(1) (A) Order a moratorium upon the offering or development of a health service when criteria and guidelines for evaluating the need for the health service have not yet been adopted or are obsolete or when it determines that the proliferation of the health service may cause an adverse impact on the cost of health services or the health status of the public.

(B) A moratorium shall be declared by a written order which shall detail the circumstances requiring the moratorium. Upon the adoption of criteria for evaluating the need for the health service affected by the moratorium, or one hundred eighty days from the declaration of a moratorium, whichever is less, the moratorium shall be declared to be over and applications for certificates of need are processed pursuant to section eight.

~~(2) Issue grants and loans to financially vulnerable health care facilities located in underserved areas that the authority and the Office of Community and Rural Health Services determine are collaborating with other providers in the service area to provide cost effective health services.~~

~~(3)~~ (2) Approve an emerging health service or technology for one year.

~~(4)~~ (3) Exempt from certificate of need or annual assessment requirements to financially vulnerable health care facilities located in underserved areas that the state agency and the Office of Community and Rural Health Services determine are collaborating with other providers in the service area to provide cost effective health services.

§16-2D-4. ~~Rule-making Authority~~ Rulemaking.

(a) The authority shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the following:

(1) Information a person shall provide when applying for a certificate of need;

(2) Information a person shall provide when applying for an exemption;

(3) Process for the issuance of grants and loans to financially vulnerable health care facilities located in underserved areas;

(4) ~~The required~~ Information a person shall provide in a letter of intent;

(5) Process for an expedited certificate of need;

(6) Determine medically underserved population. The authority may consider unusual local conditions that are a barrier to accessibility or availability of health services. The authority may consider when making its determination of a medically underserved population designated by the federal Secretary of Health and Human Services under Section 330(b)(3) of the Public Health Service Act, as amended, Title 42 U.S.C. §254;

(7) Process to review an approved certificate of need; and

(8) Process to review approved proposed health services for which the expenditure maximum is exceeded or is expected to be exceeded.

~~(b) The authority shall propose emergency rules by December 31, 2016, to effectuate the changes to this article~~

~~(e)~~ (b) All of the authority's rules in effect and not in conflict with the provisions of this article, shall remain in effect until they are amended or rescinded.

§16-2D-5. Fee; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the ~~board~~ authority shall be deposited in a separate special revenue fund in the State Treasury which is continued and shall be known as the 'Certificate of Need Program Fund'. Expenditures from this fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending June 30, 2017, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

(b) Any amounts received as administrative fines imposed pursuant to this article shall be deposited into the General Revenue Fund of the State Treasury.

§16-2D-8. Proposed health services that require a certificate of need.

(a) Except as provided in sections nine, ten and eleven of this article, the following proposed health services may not be acquired, offered or developed within this state except upon approval of and receipt of a certificate of need as provided by this article:

(1) The construction, development, acquisition or other establishment of a health care facility;

(2) The partial or total closure of a health care facility with which a capital expenditure is associated;

(3) (A) An obligation for a capital expenditure incurred by or on behalf of a health care facility, in excess of the expenditure minimum; or

(B) An obligation for a capital expenditure incurred by a person to acquire a health care facility.

(4) An obligation for a capital expenditure is considered to be incurred by or on behalf of a health care facility:

(i) (A) When a valid contract is entered into by or on behalf of the health care facility for the construction, acquisition, lease or financing of a capital asset;

(ii) (B) When the health care facility takes formal action to commit its own funds for a construction project undertaken by the health care facility as its own contractor; or

(iii) (C) In the case of donated property, on the date on which the gift is completed under state law.

(5) A substantial change to the bed capacity of a health care facility with which a capital expenditure is associated;

(6) The addition of ventilator services by a hospital;

(7) The elimination of health services previously offered on a regular basis by or on behalf of a health care facility which is associated with a capital expenditure;

(8) (A) A substantial change to the bed capacity or health services offered by or on behalf of a health care facility, whether or not the change is associated with a proposed capital expenditure;

(B) If the change is associated with a previous capital expenditure for which a certificate of need was issued; and

(C) If the change will occur within two years after the date the activity which was associated with the previously approved capital expenditure was undertaken.

(9) The acquisition of major medical equipment;

(10) A substantial change in an approved health service for which a certificate of need is in effect;

(11) An expansion of the service area for hospice or home health agency regardless of the time period in which the expansion is contemplated or made; and

(12) The addition of health services offered by or on behalf of a health care facility which were not offered on a regular basis by

or on behalf of the health care facility within the twelve-month period prior to the time the services would be offered.

(b) The following health services are required to obtain a certificate of need regardless of the minimum expenditure:

(1) Constructing, developing, acquiring or establishing of a birthing center;

(2) Providing radiation therapy;

(3) Providing computed tomography;

(4) Providing positron emission tomography;

(5) Providing cardiac surgery;

(6) Providing fixed magnetic resonance imaging;

(7) Providing comprehensive medical rehabilitation;

(8) Establishing an ambulatory care center;

(9) Establishing an ambulatory surgical center;

(10) Providing diagnostic imaging;

(11) Providing cardiac catheterization services;

(12) Constructing, developing, acquiring or establishing of kidney disease treatment centers, including freestanding hemodialysis units;

(13) Providing megavoltage radiation therapy;

(14) Providing surgical services;

(15) Establishing operating rooms;

(16) Adding acute care beds;

(17) Providing intellectual developmental disabilities services;

(18) Providing organ and tissue transplants;

(19) Establishing an intermediate care facility for individuals with intellectual disabilities;

(20) Providing inpatient services;

(21) Providing hospice services;

(22) Establishing a home health agency; and

(23) Providing personal care services.

(c) A certificate of need previously approved under this article remains in effect unless revoked by the authority.

§16-2D-9. Health services that cannot be developed.

Notwithstanding section eight and eleven, these health services require a certificate of need but the authority may not issue a certificate of need to:

(1) A health care facility adding intermediate care or skilled nursing beds to its current licensed bed complement, except as provided in subdivision twenty-three, subsection (c), section eleven;

(2) A person developing, constructing or replacing a skilled nursing facility except in the case of facilities designed to replace existing beds in existing facilities that may soon be deemed unsafe or facilities utilizing existing licensed beds from existing facilities which are designed to meet the changing health care delivery system;

(3) Add beds in an intermediate care facility for individuals with an intellectual disability, except that prohibition does not apply to an intermediate care facility for individuals with intellectual disabilities beds approved under the Kanawha County circuit court order of August 3, 1989, civil action number MISC-81-585 issued in the case of E.H. v. Matin, 168 W.V. 248, 284 S.E. 2d 232 (1981); and

(4) An opioid treatment ~~facility or~~ program.

§16-2D-10. Exemptions from certificate of need.

Notwithstanding section eight, a person may provide the following health services without obtaining a certificate of need or applying to the authority for approval:

(1) The creation of a private office of one or more licensed health professionals to practice in this state pursuant to chapter thirty of this code;

(2) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees that does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four hours;

(3) A place that provides remedial care or treatment of residents or patients conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination;

(4) Telehealth;

(5) A facility owned or operated by one or more health professionals authorized or organized pursuant to chapter thirty or ambulatory health care facility which offers laboratory services or diagnostic imaging to patients regardless of the cost associated with the proposal. To qualify for this exemption seventy-five percent of the laboratory services are for the patients of the practice or ambulatory health care facility of the total laboratory services performed and seventy-five percent of diagnostic imaging services are for the patients of the practice or ambulatory health care facility of the total imaging services performed. The authority may, at any time, request from the entity information concerning the number of patients who have been provided laboratory services or diagnostic imaging;

(6) (A) Notwithstanding the provisions of section seventeen of this article, any hospital that holds a valid certificate of need issued pursuant to this article, may transfer that certificate of need to a person purchasing that hospital, or all or substantially all of its

assets, if the hospital is financially distressed. A hospital is financially distressed if, at the time of its purchase:

(i) It has filed a petition for voluntary bankruptcy;

(ii) It has been the subject of an involuntary petition for bankruptcy;

(iii) It is in receivership;

(iv) It is operating under a forbearance agreement with one or more of its major creditors;

(v) It is in default of its obligations to pay one or more of its major creditors and is in violation of the material, substantive terms of its debt instruments with one or more of its major creditors; or

(vi) It is insolvent: evidenced by balance sheet insolvency and/or the inability to pay its debts as they come due in the ordinary course of business.

(B) A financially distressed hospital which is being purchased pursuant to the provisions of this subsection shall give notice to the authority of the sale thirty days prior to the closing of the transaction and shall file simultaneous with that notice evidence of its financial status. The financial status or distressed condition of a hospital shall be evidenced by the filing of any of the following:

(i) A copy of a forbearance agreement;

(ii) A copy of a petition for voluntary or involuntary bankruptcy;

(iii) Written evidence of receivership, or

(iv) Documentation establishing the requirements of subparagraph (v) or (vi), paragraph (A) of this subdivision. The names of creditors may be redacted by the filing party.

(C) Any substantial change to the capacity of services offered in that hospital made subsequent to that transaction would remain

subject to the requirements for the issuance of a certificate of need as otherwise set forth in this article.

(D) Any person purchasing a financially distressed hospital, or all or substantially all of its assets, that has applied for a certificate of need after January 1, 2017, shall qualify for an exemption from certificate of need;

(7) The acquisition by a qualified hospital which is party to an approved cooperative agreement as provided in section twenty-eight, article twenty-nine-b, chapter sixteen of this code, of a hospital located within a distance of twenty highway miles of the main campus of the qualified hospital; and

(8) The acquisition by a hospital of a physician practice group which owns an ambulatory surgical center as defined in this article.

§16-2D-11. Exemptions from certificate of need which require approval from the authority.

(a) To obtain an exemption under this section a person shall:

(1) File an exemption application;

(2) Pay the \$1,000 application fee; and

(3) Provide a statement detailing which exemption applies and the circumstances justifying the approval of the exemption.

(b) The authority has forty-five days to review the exemption request. The authority may not hold an administrative hearing to review the application. ~~An affected party~~ A person may not file an objection to the request for an exemption. The applicant may request or agree with the authority to a fifteen day extension of the timeframe. If the authority does not approve or deny the application within forty-five days, then the exemption is immediately approved. If the authority denies the approval of the exemption, only the applicant may appeal the authority's decision to the Office of Judges or refile the application with the authority. ~~The Office of Judges shall follow the procedure provided in section sixteen to perform the review~~

(c) Notwithstanding section eight and ten and except as provided in section nine of this article, the Legislature finds that a need exists and these health services are exempt from the certificate of need process:

~~(1) A computed tomography scanner that is installed in a private office practice where at minimum seventy five percent of the scans are for the patients of the practice and the fair market value of the installation and purchase is less than \$250,000 for calendar year 2016. The authority shall adjust the dollar amount specified in this subdivision annually and publish an update of the amount on or before December 31, of each year. The adjustment of the dollar amount shall be based on the DRI inflation index published in the Global Insight DRI/WEFA Health Care Cost Review. The authority may at any time request from the private office practice information concerning the number of patients who have been provided scans;~~

The acquisition and utilization of one computed tomography scanner with a purchase price up to \$750,000 that is installed in a private office practice where at minimum seventy-five percent of the scans are performed on the patients of the practice. The private office practice shall obtain and maintain accreditation from the American College of Radiology prior to, and at all times during, the offering of this service. The authority may at any time request from the private office practice information relating to the number of patients who have been provided scans and proof of active and continuous accreditation from the American College of Radiology. If a physician owns or operates a private office practice in more than one location, this exemption shall only apply to the physician's primary place of business and if a physician wants to expand the offering of this service to include more than one computed topography scanner, he or she shall be required to obtain a certificate of need prior to expanding this service. All current certificates of need issued for computed tomography services, with a required percentage threshold of scans to be performed on patients of the practice in excess of seventy-five percent, shall be reduced to seventy-five percent: *Provided*, That these limitations on the exemption for a private office practice with more than one

location shall not apply to a private office practice with more than twenty locations in the state at the time of the changes made to this article during the 2017 Regular Session of the Legislature.

(2) (A) A birthing center established by a nonprofit primary care center that has a community board and provides primary care services to people in their community without regard to ability to pay; or

(B) A birthing center established by a nonprofit hospital with less than one hundred licensed acute care beds.

(i) To qualify for this exemption, an applicant shall be located in an area that is underserved with respect to low-risk obstetrical services; and

(ii) Provide a proposed health service area.

(3) (A) A health care facility acquiring major medical equipment, adding health services or obligating a capital expenditure to be used solely for research;

(B) To qualify for this exemption, the health care facility shall show that the acquisition, offering or obligation will not:

(i) Affect the charges of the facility for the provision of medical or other patient care services other than the services which are included in the research;

(ii) Result in a substantial change to the bed capacity of the facility; or

(iii) Result in a substantial change to the health services of the facility.

(C) For purposes of this subdivision, the term ‘solely for research’ includes patient care provided on an occasional and irregular basis and not as part of a research program;

(4) The obligation of a capital expenditure to acquire, either by purchase, lease or comparable arrangement, the real property, equipment or operations of a skilled nursing facility: *Provided,*

That a skilled nursing facility developed pursuant to subdivision (17) of this section and subsequently acquired pursuant to this subdivision may not transfer or sell any of the skilled nursing home beds of the acquired skilled nursing facility until the skilled nursing facility has been in operation for at least ten years.

(5) Shared health services between two or more hospitals licensed in West Virginia providing health services made available through existing technology that can reasonably be mobile. This exemption does not include providing mobile cardiac catheterization;

(6) The acquisition, development or establishment of a certified interoperable electronic health record or electronic medical record system;

(7) The addition of forensic beds in a health care facility;

(8) A behavioral health service selected by the Department of Health and Human Resources in response to its request for application for services intended to return children currently placed in out-of-state facilities to the state or to prevent placement of children in out-of-state facilities is not subject to a certificate of need;

(9) The replacement of major medical equipment with like equipment, only if the replacement major medical equipment cost is more than the expenditure minimum;

(10) Renovations within a hospital, only if the renovation cost is more than the expenditure minimum. The renovations may not expand the health care facility's current square footage, incur a substantial change to the health services, or a substantial change to the bed capacity;

(11) Renovations to a skilled nursing facility;

(12) The construction, development, acquisition or other establishment by a ~~licensed West Virginia~~ hospital of an ambulatory health care facility in the county in which it is located; ~~and in a contiguous county within or outside this state~~

(13) The donation of major medical equipment to replace like equipment for which a certificate of need has been issued and the replacement does not result in a substantial change to health services. This exemption does not include the donation of major medical equipment made to a health care facility by a related organization;

(14) A person providing specialized foster care personal care services to one individual and those services are delivered in the provider's home;

(15) A hospital converting the use of beds except a hospital may not convert a bed to a skilled nursing home bed and conversion of beds may not result in a substantial change to health services provided by the hospital;

(16) The construction, renovation, maintenance or operation of a state owned veterans skilled nursing facilities established pursuant to the provisions of article one-b of this chapter;

(17) ~~A nonprofit community group designated by a county to develop and operate a nursing home bed facility with no more than thirty six beds in any county in West Virginia that currently is without a skilled nursing facility;~~ To develop and operate a skilled nursing facility with no more than thirty-six beds in a county that currently is without a skilled nursing facility;

(18) A critical access hospital, designated by the state as a critical access hospital, after meeting all federal eligibility criteria, previously licensed as a hospital and subsequently closed, if it reopens within ten years of its closure;

(19) The establishing of a health care facility or offering of health services for children under one year of age suffering from Neonatal Abstinence Syndrome;

(20) The construction, development, acquisition or other establishment of community mental health and intellectual disability facility;

(21) Providing behavioral health facilities and services;

(22) The construction, development, acquisition or other establishment of kidney disease treatment centers, including freestanding hemodialysis units but only to a medically underserved population;

~~(23) The transfer, or acquisition of intermediate care or skilled nursing beds from an existing health care facility to a nursing home providing intermediate care and skilled nursing services~~ purchase or sale of intermediate care or skilled nursing beds from a skilled nursing facility or a skilled nursing unit of an acute care hospital to a skilled nursing facility providing intermediate care and skilled nursing services. No state agency may deny payment to an acquiring nursing home or place any restrictions on the beds transferred under this subsection. The transferred beds shall retain the same certification status that existed at the nursing home or hospital skilled nursing unit from which they were acquired. If construction is required to place the transferred beds into the acquiring nursing home, the acquiring nursing home has one year from the date of purchase to commence construction;

(24) The construction, development, acquisition or other establishment by a health care facility of a nonhealth related project, only if the nonhealth related project cost is more than the expenditure minimum;

~~(25) A facility owned or operated by one or more health professionals authorized or organized pursuant to chapter thirty or ambulatory health care facility which offers laboratory or imaging services to patients regardless of the cost associated with the proposal. To qualify for this exemption seventy five percent of the laboratory services are for the patients of the practice or ambulatory health care facility of the total laboratory services performed and seventy five percent of imaging services are for the patients of the practice or ambulatory health care facility of the total imaging services performed;~~

~~(26)~~ (25) The construction, development, acquisition or other establishment of an alcohol or drug treatment facility and drug and

alcohol treatment services unless the construction, development, acquisition or other establishment is an opioid treatment facility or programs as set forth in subdivision (4) of section nine of this article;

~~(27)~~ (26) Assisted living facilities and services; and

~~(28)~~ (27) The creation, construction, acquisition or expansion of a community-based nonprofit organization with a community board that provides or will provide primary care services to people without regard to ability to pay and receives approval from the Health Resources and Services Administration.

§16-2D-13. Procedures for certificate of need reviews.

(a) An application for a certificate of need shall be submitted to the authority prior to the offering or ~~development~~ developing of a proposed health service.

(b) A person proposing a proposed health service shall:

(1) Submit a letter of intent ten days prior to submitting the certificate of need application. If the tenth day falls on a weekend or holiday, the certificate of need application shall be filled on the next business day. The information required within the letter of intent shall be detailed by the authority in legislative rule;

(2) Submit the appropriate application fee;

(A) Up to \$1,500,000 a fee of \$1,500.00;

(B) From \$1,500,001 to \$ 5,000,000 a fee of \$5,000.00;

(C) From \$5,000,001 to 25,000,000 a fee of \$25,000.00; and

(D) From \$25,000,001 and above a fee of \$35,000.00.

(3) Submit to the Director of the Office of Insurance Consumer Advocacy a copy of the application;

(c) The authority shall determine if the submitted application is complete within ten days of receipt of the application. The

authority shall provide written notification to the applicant of this determination. If the authority determines an application to be incomplete, the authority may request additional information from the applicant.

(d) Within five days of receipt of a letter of intent, the authority shall provide notification to the public through a newspaper of general circulation in the area where the health service is being proposed and by placing of copy of the letter of intent on its website. The newspaper notice shall contain a statement that, further information regarding the application is on the authority's web site.

(e) The authority may batch completed applications for review on the fifteenth day of the month or the last day of month in which the application is deemed complete.

(f) When the application is submitted, ten days after filing the letter of intent, the application shall be placed on the authority's website.

(g) An affected party has thirty days starting from the date the application is batched to request the authority hold an administrative hearing.

(1) A hearing order shall be approved by the authority within fifteen days from the last day an affected person may requests an administrative hearing on a certificate of need application.

(2) A hearing shall take place no later than three months from that date the hearing order was approved by the authority.

(3) The authority shall conduct the administrative hearing in accordance with administrative hearing requirements in section twelve, article twenty-nine-b of this chapter and article five, chapter twenty-nine-a of this code.

(4) In the administrative hearing an affected person has the right to be represented by counsel and to present oral or written arguments and evidence relevant to the matter which is the subject of the public hearing. An affected person may conduct reasonable

questioning of persons who make factual allegations relevant to its certificate of need application.

(5) The authority shall maintain a verbatim record of the administrative hearing.

(6) After the commencement of the administrative hearing on the application and before a decision is made with respect to it, there may be no ex parte contacts between:

(A) The applicant for the certificate of need, any person acting on behalf of the applicant or holder of a certificate of need or any person opposed to the issuance of a certificate for the applicant; and

(B) Any person in the authority who exercises any responsibility respecting the application.

(7) The authority may not impose fees to hold the administrative hearing.

(8) The authority shall render a decision within forty-five days of the conclusion of the administrative hearing.

(h) If an administrative hearing is not conducted during the review of an application, the authority shall provide a file closing date five days after an affected party may no longer request an administrative hearing, after which date no other factual information or evidence may be considered in the determination of the application for the certificate of need. A detailed itemization of documents in the authority's file on a proposed health service shall, on request, be made available by the authority at any time before the file closing date.

(i) The extent of additional information received by the authority from the applicant for a certificate of need after a review has begun on the applicant's proposed health service, with respect to the impact on the proposed health service and additional information which is received by the authority from the applicant, may be cause for the authority to determine the application to be a new proposal, subject to a new review cycle.

(j) The authority shall have five days to provide the written status update upon written request by the applicant or an affected person. The status update shall include the findings made in the course of the review and any other appropriate information relating to the review.

(k) (1) The authority shall annually prepare and publish to its website, a status report of each ongoing and completed certificate of need application reviews.

(2) For a status report of an ongoing review, the authority shall include in its report all findings made during the course of the review and any other appropriate information relating to the review.

(3) For a status report of a completed review, the authority shall include in its report all the findings made during the course of the review and its detailed reasoning for its final decision.

(l) The authority shall provide for access by the public to all applications reviewed by the authority and to all other pertinent written materials essential to agency review.

§16-2D-15. Agency Authority to render final decision; issue certificate of need; write findings; specify capital expenditure maximum.

(a) The authority shall render a final decision on an application for a certificate of need in the form of an approval, a denial or an approval with conditions. The final decision with respect to a certificate of need shall be based solely on:

(1) The authority's review conducted in accordance with procedures and criteria in this article and the certificate of need standards; and

(2) The record established in the administrative hearing held with respect to the certificate of need.

(b) Approval with conditions does not give the authority the ability to mandate a health service not proposed by the health care

facility. Issuance of a certificate of need or exemption may not be made subject to any condition unless the condition directly relates to criteria in this article, or in the certificate of need standards. Conditions may be imposed upon the operations of the health care facility for not longer than a three-year period.

(c) The authority shall send its decision along with written findings to the person proposing the proposed health service or exemption and shall make it available to others upon request.

(d) In the case of a final decision to approve or approve with conditions a proposal for a proposed health service, the authority shall issue a certificate of need to the person proposing the proposed health service.

(e) The authority shall specify in the certificate of need the maximum amount of capital expenditures which may be obligated. The authority shall adopt legislative rules pursuant to section four to prescribe the method used to determine capital expenditure maximums and a process to review the implementation of an approved certificate of need for a proposed health service for which the capital expenditure maximum is exceeded or is expected to be exceeded.

§16-2D-16. Appeal of certificate of need a decision.

(a) ~~The authority's final decision shall upon request of an affected person be reviewed by the Office of Judges~~ An applicant or an affected person may appeal the authority's final decision in a certificate of need review to the Office of Judges. The request shall be received within thirty days after the date of the authority's decision. The appeal hearing shall commence within thirty days of receipt of the request.

(b) The Office of Judges shall conduct its proceedings in conformance with the West Virginia Rules of Civil Procedure for trial courts of record and the local rules for use in the civil courts of Kanawha County and shall review appeals in accordance with the provisions governing the judicial review of contested

administrative cases in article five, chapter twenty-nine-a of this code.

(c) The decision of the Office of Judges shall be made in writing within forty-five days after the conclusion of the hearing.

(d) The written findings of the Office of Judges shall be sent to the person who requested the ~~review appeal~~, to the person proposing the proposed health service and to the authority, and shall be made available by the authority to others upon request.

(e) The decision of the Office of Judges shall be considered the final decision of the authority; however, the Office of Judges may remand the matter to the authority for further action or consideration.

(f) Upon the entry of a final decision by the Office of Judges, a ~~person adversely an~~ affected ~~by the review person~~ may within thirty days after the date of the decision of the ~~review agency~~ Office of Judges make an appeal in the circuit court of Kanawha County. The decision of the Office of Judges shall be reviewed by the circuit court in accordance with the provisions for the judicial review of administrative decisions contained in article five, chapter twenty-nine-a of this code.

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

§16-5B-17. Healthcare-associated infection reporting.

(a) As used in this section, the following words mean:

(1) ‘Centers for Disease Control and Prevention’ or ‘CDC’ means the United States Department of Health and Human Services Centers for Disease Control and Prevention;

(2) ‘National Healthcare Safety Network’ or ‘NHSN’ means the secure Internet-based data collection surveillance system managed by the Division of Healthcare Quality Promotion at the CDC, created by the CDC for accumulating, exchanging and integrating relevant information on infectious adverse events associated with healthcare delivery.

(3) 'Hospital' means hospital as that term is defined in subsection-e, section three, article twenty-nine-b, chapter sixteen.

(4) 'Healthcare-associated infection' means a localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or a toxin of an infectious agent that was not present or incubating at the time of admission to a hospital.

(5) 'Physician' means a person licensed to practice medicine by either the board of Medicine or the board of osteopathy.

(6) 'Nurse' means a person licensed in West Virginia as a registered professional nurse in accordance with article seven, chapter thirty.

(b) ~~The West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources is hereby directed to create an Infection Control Advisory Panel whose duty is to provide guidance and oversight in implementing this section. The advisory panel shall consist of the following members:

(1) Two board-certified or board-eligible physicians, affiliated with a West Virginia hospital or medical school, who are active members of the Society for Health Care Epidemiology of America and who have demonstrated an interest in infection control;

(2) One physician who maintains active privileges to practice in at least one West Virginia hospital;

(3) Three infection control practitioners, two of whom are nurses, each certified by the Certification Board of Infection Control and Epidemiology, and each working in the area of infection control. Rural and urban practice must be represented;

(4) A statistician with an advanced degree in medical statistics;

(5) A microbiologist with an advanced degree in clinical microbiology;

(6) The Director of the Division of Disease Surveillance and Disease Control in the Bureau for Public Health or a designee; and

(7) The director of the hospital program in the office of health facilities, licensure and certification in the Bureau for Public Health.

(c) The advisory panel shall:

(1) Provide guidance to hospitals in their collection of healthcare-associated infections;

(2) Provide evidence-based practices in the control and prevention of healthcare associated infections;

(3) Establish reasonable goals to reduce the number of healthcare-associated infections;

(4) Develop plans for analyzing infection-related data from hospitals;

(5) Develop healthcare-associated advisories for hospital distribution;

(6) Review and recommend to the ~~West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources the manner in which the reporting is made available to the public to assure that the public understands the meaning of the report; and

(7) Other duties as identified by the ~~West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources.

(d) Hospitals shall report information on healthcare-associated infections in the manner prescribed by the CDC National Healthcare Safety Network(NHSN). The reporting standard prescribed by the CDC National Healthcare Safety Network(NHSN) ~~as adopted by the West Virginia Health Care Authority~~ shall be the reporting system of the hospitals in West Virginia.

(e) Hospitals who fail to report information on healthcare associated infections in the manner and time frame required by the

~~West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources shall be fined the sum of \$5,000 for each such failure.

(f) The Infection Control Advisory Panel shall provide the results of the collection and analysis of all hospital data to the ~~West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources for public availability and the Bureau for Public Health for consideration in their hospital oversight and epidemiology and disease surveillance responsibilities in West Virginia.

(g) Data collected and reported pursuant to this act may not be considered to establish standards of care for any purposes of civil litigation in West Virginia.

~~(h) The West Virginia Health Care Authority shall report no later than January 15 of each year to the Legislative Oversight committee on health and human resources accountability, beginning in the year 2011. This yearly report shall include a summary of the results of the required reporting and the work of the advisory panel~~

(i) ~~(h)~~ (h) The ~~West Virginia Health Care Authority~~ Secretary of the Department of Health and Human Resources shall require that all hospitals implement and initiate this reporting requirement ~~no~~ later than July 1, 2009.

ARTICLE 29B. HEALTH CARE AUTHORITY.

~~§16-29B-2. Short title.~~

~~This article may be cited as the ‘West Virginia Health Care Authority’.~~

§16-29B-2. Effective date.

Effective the first day of July, 2017, all powers, duties and functions of the West Virginia Health Care Authority shall be transferred to the West Virginia Department of Health and Human Resources.

§16-29B-3. Definitions.

Definitions of words and terms defined in articles two-d and five-f of this chapter are incorporated in this section unless this section has different definitions.

As used in this article, unless a different meaning clearly appears from the context:

(a) 'Authority' means the Health Care Authority created pursuant to the provisions of this article;

(b) 'Board' means the five-member board of directors of the West Virginia Health Care Authority;

~~(a)~~ (c) 'Charges' means the economic value established for accounting purposes of the goods and services a hospital provides for all classes of purchasers;

~~(b)~~ (d) 'Class of purchaser' means a group of potential hospital patients with common characteristics affecting the way in which their hospital care is financed. Examples of classes of purchasers are Medicare beneficiaries, welfare recipients, subscribers of corporations established and operated pursuant to article twenty-four, chapter thirty-three of this code, members of health maintenance organizations and other groups as defined by the board authority;

~~(c)~~ 'Board' means the three member board of directors of the West Virginia Health Care Authority, an autonomous division within the State Department of Health and Human Resources

(e) 'Executive Director' or 'Director' means the administrative head of the Health Care Authority as set forth in section five-a of this article;

~~(d)~~ (f) 'Health care provider' means a person, partnership, corporation, facility, hospital or institution licensed, certified or authorized by law to provide professional health care service in this state to an individual during this individual's medical, remedial, or behavioral health care, treatment or confinement. For purposes of

this article, 'health care provider' shall not include the private office practice of one or more health care professionals licensed to practice in this state pursuant to the provisions of chapter thirty of this code;

~~(e)~~ (g) 'Hospital' means a facility subject to licensure as such under the provisions of article five-b of this chapter, and any acute care facility operated by the state government which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick persons, and does not include state mental health facilities or state long-term care facilities;

~~(f)~~ (h) 'Person' means an individual, trust, estate, partnership, committee, corporation, association or other organization such as a joint stock company, a state or political subdivision or instrumentality thereof or any legal entity recognized by the state;

~~(g)~~ (i) 'Purchaser' means a consumer of patient care services, a natural person who is directly or indirectly responsible for payment for such patient care services rendered by a health care provider, but does not include third-party payers;

~~(h)~~ (j) 'Rates' means all value given or money payable to health care providers for health care services, including fees, charges and cost reimbursements;

~~(i)~~ (k) 'Records' means accounts, books and other data related to health care costs at health care facilities subject to the provisions of this article which do not include privileged medical information, individual personal data, confidential information, the disclosure of which is prohibited by other provisions of this code and the laws enacted by the federal government, and information, the disclosure of which would be an invasion of privacy;

(l) 'Related organization' means an organization, whether publicly owned, nonprofit, tax-exempt or for profit, related to a health care provider through common membership, governing bodies, trustees, officers, stock ownership, family members,

partners or limited partners including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subsection family members means brothers and sisters, whether by the whole or half blood, spouse, ancestors and lineal descendants;

(m) ‘Secretary’ means the Secretary of the Department of Health and Human Resources; and

(j) (n) ‘Third-party payor’ means any natural person, person, corporation or government entity responsible for payment for patient care services rendered by health care providers.

~~(k) ‘Related organization’ means an organization, whether publicly owned, nonprofit, tax exempt or for profit, related to a health care provider through common membership, governing bodies, trustees, officers, stock ownership, family members, partners or limited partners including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subsection family members shall mean brothers and sisters, whether by the whole or half blood, spouse, ancestors and lineal descendants~~

§16-29B-5. West Virginia Health Care Authority; composition of the board; qualifications; terms; oath; expenses of members; vacancies; appointment of chairman, and meetings of the board.

(a) The ‘West Virginia Health Care Cost Review Authority’ is continued as an autonomous a division of the Department of Health and Human Resources and shall be known as the ‘West Virginia Health Care Authority’, hereinafter referred to as the authority or the board. Any references in this code to the West Virginia Health Care Cost Review Authority means the West Virginia Health Care Authority.

(b) There is created a board of review to serve as the adjudicatory body of the authority and shall conduct all hearings as required in this article, article two-d of this chapter.

(a) (1) The board shall consist of ~~three~~ five members, appointed by the Governor, with the advice and consent of the Senate. The board members are not permitted to hold political office in the government of the state either by election or appointment while serving as a member of the board. The board members are not eligible for civil service coverage as provided in section four, article six, chapter twenty-nine of this code. The board members shall be citizens and residents of this state.

(2) No more than ~~two~~ three of the board members may be members of the same political party. One board member shall have a background in health care finance or economics, one board member shall have previous employment experience in human services, business administration or substantially related fields, one board member shall have previous experience in the administration of a health care facility, one board member shall have previous experience as a provider of health care services, and one board member shall be a consumer of health services with a demonstrated interest in health care issues.

(3) Each member appointed by the Governor shall serve staggered terms of six years. Any member whose term has expired shall serve until his or her successor has been appointed. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment. In cases of vacancy in the office of member, such vacancy shall be filled by the Governor in the same manner as the original appointment.

(b) (4) Each board member shall, before entering upon the duties of his or her office, take and subscribe to the oath provided by section five, article IV of the Constitution of the State of West Virginia, which oath shall be filed in the office of the Secretary of State.

(5) The Governor shall designate one of the board members to serve as chairman at the Governor's will and pleasure. ~~The chairman shall be the chief administrative officer of the board.~~

(6) The Governor may remove any board member only for incompetency, neglect of duty, gross immorality, malfeasance in

office or violation of the provisions of this article. ~~Appointments are for terms of six years, except that an appointment to fill a vacancy shall be for the unexpired term only~~

~~(e)~~ (7) No person while in the employ of, or holding any official relation to, any hospital or health care provider subject to the provisions of this article, or who has any pecuniary interest in any hospital or health care provider, may serve as a member of the board ~~or as an employee of the board~~. Nor may any board member be a candidate for or hold public office or be a member of any political committee while acting as a board member; nor may any board member or employee of the board receive anything of value, either directly or indirectly, from any third-party payor or health care provider. If any of the board members become a candidate for any public office or for membership on any political committee, the Governor shall remove the board member from the board and shall appoint a new board member to fill the vacancy created. No board member or former board member may accept employment with any hospital or health care provider subject to the jurisdiction of the board in violation of the West Virginia governmental ethics act, chapter six-b of this code: *Provided*, That the act ~~shall~~ may not apply to employment accepted after termination of the board.

~~(d)~~ (8) The concurrent judgment of ~~two~~ three of the board members ~~when in session as the board~~ shall be considered the action of the board. A vacancy in the board ~~shall~~ does not affect the right or duty of the remaining board members to function as a board.

(9) Each member of the board shall serve without compensation, but shall receive expense reimbursement for all reasonable and necessary expenses actually incurred in the performance of the duties of the office, in the same amount paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law. No member may be reimbursed for expenses paid by a third party.

§16-29B-5a. Executive Director of the authority; powers and duties.

(a) The Secretary shall appoint an executive director of the authority to supervise and direct the fiscal and administrative matters of the authority. This person shall be qualified by training and experience to direct the operations of the authority. The executive director is ineligible for civil service coverage as provided in section four, article six, chapter twenty-nine of this code and serves at the will and pleasure of the Secretary.

(b) The executive director shall:

(1) Serve on a full-time basis and may not be engaged in any other profession or occupation;

(2) Not hold political office in the government of the state either by election or appointment while serving as executive director;

(3) Shall be a citizen of the United States and shall become a citizen of the state within ninety days of appointment; and

(4) Report to the Secretary.

(c) The executive director has other powers and duties as set forth in this article.

§16-29B-8. Powers generally; budget expenses of the board authority.

~~(a)~~ In addition to the powers granted to the ~~board~~ authority elsewhere in this article, the ~~board~~ authority may:

(1) Adopt, amend and repeal necessary, appropriate and lawful policy guidelines, and in cooperation with the Secretary, propose rules in accordance with article three, chapter twenty-nine-a of this code; Provided, That subsequent amendments and modifications to any rule promulgated pursuant to this article and not exempt from the provisions of article three, chapter twenty nine a of this code may be implemented by emergency rule

(2) Hold public hearings, conduct investigations and require the filing of information relating to matters affecting the costs of

health care services subject to the provisions of this article and may subpoena witnesses, papers, records, documents and all other data in connection therewith. The board may administer oaths or affirmations in any hearing or investigation;

~~(3) Apply for, receive and accept gifts, payments and other funds and advances from the United States, the state or any other governmental body, agency or agencies or from any other private or public corporation or person (with the exception of hospitals subject to the provisions of this article, or associations representing them, doing business in the State of West Virginia, except in accordance with subsection (c) of this section), and enter into agreements with respect thereto, including the undertaking of studies, plans, demonstrations or projects. Any such gifts or payments that may be received or any such agreements that may be entered into shall be used or formulated only so as to pursue legitimate, lawful purposes of the board and shall in no respect inure to the private benefit of a board member, staff member, donor or contracting party;~~

~~(4) Lease, rent, acquire, purchase, own, hold, construct, equip, maintain, operate, sell, encumber and assign rights or dispose of any property, real or personal, consistent with the objectives of the board as set forth in this article: Provided, That such acquisition or purchase of real property or construction of facilities shall be consistent with planning by the state building commissioner and subject to the approval of the Legislature~~

~~(5) Contract and be contracted with and execute all instruments necessary or convenient in carrying out the board's functions and duties; and~~

~~(6)~~ (4) Exercise, subject to limitations or restrictions herein imposed, all other powers which are reasonably necessary or essential to effect the express objectives and purposes of this article.

~~(b) The board shall annually prepare a budget for the next fiscal year for submission to the Governor and the Legislature which~~

~~shall include all sums necessary to support the activities of the board and its staff~~

~~(c) Each hospital subject to the provisions of this article shall be assessed by the board on a pro rata basis using the net patient revenue, as defined under generally accepted accounting principles, of each hospital as reported under the authority of section eighteen of this article as the measure of the hospital's obligation. The amount of such fee shall be determined by the board except that in no case shall the hospital's obligation exceed one tenth of one percent of its net patient revenue. Such fees shall be paid on or before the first day of July in each year and shall be paid into the State Treasury and kept as a special revolving fund designated 'Health Care Cost Review Fund', with the moneys in such fund being expendable after appropriation by the Legislature for purposes consistent with this article. Any balance remaining in said fund at the end of any fiscal year shall not revert to the treasury, but shall remain in said fund and such moneys shall be expendable after appropriation by the Legislature in ensuing fiscal years.~~

~~(d) Each hospital's assessment shall be treated as an allowable expense by the board.~~

~~(e) The board is empowered to withhold rate approvals certificates of need and rural health system loans and grants if any such fees remain unpaid, unless exempted under subsection (g), section four, article two d of this chapter.~~

§16-29B-12. Certificate of need hearings; administrative procedures act applicable; hearings examiner; subpoenas.

(a) The board ~~may~~ shall conduct such hearings as it deems necessary for the performance of its functions and shall hold hearings when required by the provisions of this chapter or upon a written demand ~~therefor~~ by a person aggrieved by any act or failure to act by the board regulation or order of the board. All hearings of the board pursuant to this section shall be announced in a timely manner and shall be open to the public ~~except as may be necessary to conduct business of an executive nature.~~ In making decisions in

the certificate of need process, the board shall be guided by the state health plan approved by the Governor.

(b) All pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern the hearing and administrative procedures in connection with and following the hearing except as specifically stated to the contrary in this article. General counsel for Department of Health and Human Resources or general counsel for the authority shall represent the interest of the authority at all hearings.

(c) Any hearing may be conducted by members of the board or by a hearing examiner appointed by the board for such purpose. ~~Any member~~ The chairperson of the board may issue subpoenas and subpoenas duces tecum which shall be issued and served pursuant to the time, fee and enforcement specifications in section one, article five, chapter twenty-nine-a of this code.

(d) Notwithstanding any other provision of state law, when a hospital alleges that a factual determination made by the board is incorrect, the burden of proof shall be on the hospital to demonstrate that such determination is, in light of the total record, not supported by substantial evidence. The burden of proof remains with the hospital in all cases.

(e) After any hearing, after due deliberation, and in consideration of all the testimony, the evidence and the total record made, the board shall render a decision in writing. The written decision shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code, and the copy of the decision and accompanying findings and conclusions shall be served by certified mail, return receipt requested, upon the party demanding the hearing, and upon its attorney of record, if any.

(f) Any interested individual, group or organization shall be recognized as affected parties upon written request from the individual, group or organization. Affected parties shall have the right to bring relevant evidence before the board and testify thereon. Affected parties shall have equal access to records,

testimony and evidence before the board and shall have equal access to the expertise of the ~~board's~~ authority's staff. The ~~board authority, with the approval of the secretary,~~ shall have authority to ~~develop propose~~ rules and regulations to administer provisions of this section.

(g) ~~The~~ A decision of the board is final unless reversed, vacated or modified upon judicial review thereof, in accordance with the provisions of section thirteen of this article.

§16-29B-26. Exemptions from state antitrust laws.

(a) Actions of the ~~board~~ authority shall be exempt from antitrust action under state and federal antitrust laws. Any actions of hospitals and health care providers under the ~~board's~~ authority's jurisdiction, when made in compliance with orders, directives, rules, approvals or regulations issued or promulgated by the ~~board~~ authority, shall likewise be exempt.

(b) It is the intention of the Legislature that this chapter shall also immunize cooperative agreements approved and subject to supervision by the authority and activities conducted pursuant thereto from challenge or scrutiny under both state and federal antitrust law: *Provided*, That a cooperative agreement that is not approved and subject to supervision by the authority shall not have such immunity.

§16-29B-28. Review of cooperative agreements.

(a) *Definitions.* — As used in this section the following terms have the following meanings:

(1) 'Academic medical center' means an accredited medical school, one or more faculty practice plans affiliated with the medical school or one or more affiliated hospitals which meet the requirements set forth in 42 C. F. R. 411.355(e).

(2) 'Accredited academic hospital' means a hospital or health system that sponsor four or more approved medical education programs.

(2) (3) ‘Cooperative agreement’ means an agreement between a qualified hospital which is a member of an academic medical center and one or more other hospitals or other health care providers. The agreement shall provide for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel, instructional programs, support services and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals or other health care providers.

(3) (4) ‘Commercial health plan’ means a plan offered by any third party payor that negotiates with a party to a cooperative agreement with respect to patient care services rendered by health care providers.

(4) (5) ‘Health care provider’ means the same as that term is defined in section three of this article.

(5) (6) ‘Teaching hospital’ means a hospital or medical center that provides clinical education and training to future and current health professionals whose main building or campus is located in the same county as the main campus of a medical school operated by a state university.

(6) (7) ‘Qualified hospital’ means a an academic medical center or teaching accredited academic hospital, which ~~meets the requirements of 42 C. F. R. 411.355(e) and which~~ has entered into a cooperative agreement with one or more hospitals or other health care providers but is not a critical access hospital for purposes of this section.

(b) *Findings.* —

(1) The Legislature finds that the state’s schools of medicine, affiliated universities and teaching hospitals are critically important in the training of physicians and other healthcare providers who practice health care in this state. They provide access to healthcare and enhance quality healthcare for the citizens of this state.

(2) A medical education is enhanced when medical students, residents and fellows have access to modern facilities, state of the art equipment and a full range of clinical services and that, in many instances, the accessibility to facilities, equipment and clinical services can be achieved more economically and efficiently through a cooperative agreement among a ~~teaching~~ qualified hospital and one or more hospitals or other health care providers.

(c) *Legislative purpose.* — The Legislature encourages cooperative agreements if the likely benefits of such agreements outweigh any disadvantages attributable to a reduction in competition. When a cooperative agreement, and the planning and negotiations of cooperative agreements, might be anticompetitive within the meaning and intent of state and federal antitrust laws the Legislature believes it is in the state's best interest to supplant such laws with regulatory approval and oversight by the Health Care Authority as set out in this article. The authority has the power to review, approve or deny cooperative agreements, ascertain that they are beneficial to citizens of the state and to medical education, to ensure compliance with the provisions of the cooperative agreements relative to the commitments made by the qualified hospital and conditions imposed by the Health Care Authority.

(d) *Cooperative Agreements.* —

(1) A qualified hospital ~~which is a member of an academic medical center~~ may negotiate and enter into a cooperative agreement with other hospitals or health care providers in the state:

(A) In order to enhance or preserve medical education opportunities through collaborative efforts and to ensure and maintain the economic viability of medical education in this state and to achieve the goals hereinafter set forth; and

(B) When the likely benefits outweigh any disadvantages attributable to a reduction in competition that may result from the proposed cooperative agreement.

(2) The goal of any cooperative agreement would be to:

(A) Improve access to care;

- (B) Advance health status;
- (C) Target regional health issues;
- (D) Promote technological advancement;
- (E) Ensure accountability of the cost of care;
- (F) Enhance academic engagement in regional health;
- (G) Preserve and improve medical education opportunities;
- (H) Strengthen the workforce for health-related careers; and
- (I) Improve health entity collaboration and regional integration, where appropriate.

(3) A qualified hospital located in this state may submit an application for approval of a proposed cooperative agreement to the authority. The application shall state in detail the nature of the proposed arrangement including the goals and methods for achieving:

- (A) Population health improvement;
- (B) Improved access to health care services;
- (C) Improved quality;
- (D) Cost efficiencies;
- (E) Ensuring affordability of care;
- (F) Enhancing and preserving medical education programs; and
- (G) Supporting the authority's goals and strategic mission, as applicable.

(4) ~~(A) If the cooperative agreement involves a combination of hospitals through merger or consolidation or acquisition, the qualified hospital must have been awarded a certificate of need for the project by the authority, as set forth in article two d of this~~

~~chapter prior to submitting an application for review of a cooperative agreement.~~

~~(B) (A) In addition to a certificate of need, the authority may also require that an application for review of a cooperative agreement as provided in this section shall be submitted and approved prior to the finalization of the cooperative agreement, if the cooperative agreement involves the merger, consolidation or acquisition of a hospital located within a distance of twenty highway miles of the main campus of the qualified hospital, and the authority shall have determined that combination is likely to produce anti-competitive effects due to a reduction of competition. Any such determination shall be communicated to the parties to the cooperative agreement within seven days from approval of a certificate of need for the project.~~

~~(C) (B) In reviewing an application for cooperative agreement, the authority shall give deference to the policy statements of the Federal Trade Commission.~~

~~(D) (C) If an application for a review of a cooperative agreement is not required by the authority, the parties to the agreement may then complete the transaction following a final order by the authority on the certificate of need as set forth in article two d of this code. The qualified hospital may apply to the authority for approval of the cooperative agreement either before or after the finalization of the cooperative agreement.~~

~~(E) A party who has received a certificate of need prior to the enactment of this provision during the 2016 regular session of the Legislature may apply for approval of a cooperative agreement whether or not the transaction contemplated thereby has been completed.~~

~~(F) The complete record in the certificate of need proceeding shall be part of the record in the proceedings under this section and information submitted by an applicant in the certificate of need proceeding need not be duplicated in proceedings under this section.~~

(e) *Procedure for review of cooperative agreements.* —

(1) Upon receipt of an application, the authority shall determine whether the application is complete. If the authority determines the application is incomplete, it shall notify the applicant in writing of additional items required to complete the application. A copy of the complete application shall be provided by the parties to the Office of the Attorney General simultaneous with the submission to the authority. If an applicant believes the materials submitted contain proprietary information that is required to remain confidential, such information must be clearly identified and the applicant shall submit duplicate applications, one with full information for the authority's use and one redacted application available for release to the public.

(2) The authority shall upon receipt of a completed application, publish notification of the application on its website as well as provide notice of such application placed in the State Register. The public may submit written comments regarding the application within ten days following publication. Following the close of the written comment period, the authority shall review the application as set forth in this section. Within thirty days of the receipt of a complete application the authority may:

(i) Issue a certificate of approval which shall contain any conditions the authority finds necessary for the approval;

(ii) Deny the application; or

(iii) Order a public hearing if the authority finds it necessary to make an informed decision on the application.

(3) The authority shall issue a written decision within seventy-five days from receipt of the completed application. The authority may request additional information in which case they shall have an additional fifteen days following receipt of the supplemental information to approve or deny the proposed cooperative agreement.

(4) Notice of any hearing shall be sent by certified mail to the applicants and all persons, groups or organizations who have

submitted written comments on the proposed cooperative agreement ~~as well as to all persons, groups or organizations designated as affected parties in the certificate of need proceeding.~~ Any individual, group or organization who submitted written comments regarding the application and wishes to present evidence at the public hearing shall request to be recognized as an affected party as set forth in article two-d of this chapter. The hearing shall be held no later than forty-five days after receipt of the application. The authority shall publish notice of the hearing on the authority's website fifteen days prior to the hearing. The authority shall additionally provide timely notice of such hearing in the State Register.

(5) Parties may file a motion for an expedited decision.

(f) *Standards for review of cooperative agreements.* —

(1) In its review of an application for approval of a cooperative agreement submitted pursuant to this section, the authority may consider the proposed cooperative agreement and any supporting documents submitted by the applicant, any written comments submitted by any person and any written or oral comments submitted, or evidence presented, at any public hearing.

(2) The authority shall consult with the Attorney General of this state regarding his or her assessment of whether or not to approve the proposed cooperative agreement.

(3) The authority shall approve a proposed cooperative agreement and issue a certificate of approval if it determines, with the written concurrence of the Attorney General, that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement.

(4) In evaluating the potential benefits of a proposed cooperative agreement, the authority shall consider whether one or more of the following benefits may result from the proposed cooperative agreement:

(A) Enhancement and preservation of existing academic and clinical educational programs;

(B) Enhancement of the quality of hospital and hospital-related care, including mental health services and treatment of substance abuse provided to citizens served by the authority;

(C) Enhancement of population health status consistent with the health goals established by the authority;

(D) Preservation of hospital facilities in geographical proximity to the communities traditionally served by those facilities to ensure access to care;

(E) Gains in the cost-efficiency of services provided by the hospitals involved;

(F) Improvements in the utilization of hospital resources and equipment;

(G) Avoidance of duplication of hospital resources;

(H) Participation in the state Medicaid program; and

(I) Constraints on increases in the total cost of care.

(5) The authority's evaluation of any disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement shall include, but need not be limited to, the following factors:

(A) The extent of any likely adverse impact of the proposed cooperative agreement on the ability of health maintenance organizations, preferred provider organizations, managed health care organizations or other health care payors to negotiate reasonable payment and service arrangements with hospitals, physicians, allied health care professionals or other health care providers;

(B) The extent of any reduction in competition among physicians, allied health professionals, other health care providers or other persons furnishing goods or services to, or in competition

with, hospitals that is likely to result directly or indirectly from the proposed cooperative agreement;

(C) The extent of any likely adverse impact on patients in the quality, availability and price of health care services; and

(D) The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement.

(6) (A) After a complete review of the record, including, but not limited to, the factors set out in subsection (e) of this section, any commitments made by the applicant or applicants and any conditions imposed by the authority, if the authority determines that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement, the authority shall approve the proposed cooperative agreement.

(B) The authority may reasonably condition approval upon the parties' commitments to:

(i) Achieving improvements in population health;

(ii) Access to health care services;

(iii) Quality and cost efficiencies identified by the parties in support of their application for approval of the proposed cooperative agreement; and

(iv) Any additional commitments made by the parties to the cooperative agreement.

Any conditions set by the authority shall be fully enforceable by the authority. No condition imposed by the authority, however, shall limit or interfere with the right of a hospital to adhere to religious or ethical directives established by its governing board.

(7) The authority's decision to approve or deny an application shall constitute a final order or decision pursuant to the West Virginia Administrative Procedure Act (§ 29A-1-1, *et seq.*). The authority may enforce commitments and conditions imposed by the authority in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.

(g) *Enforcement and supervision of cooperative agreements.* — The authority shall enforce and supervise any approved cooperative agreement for compliance.

(1) The authority is authorized to promulgate legislative rules in furtherance of this section. Additionally, the authority shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to accomplish the goals of this section. These rules shall include, at a minimum:

(A) An annual report by the parties to a cooperative agreement. This report is required to include:

(i) Information about the extent of the benefits realized and compliance with other terms and conditions of the approval;

(ii) A description of the activities conducted pursuant to the cooperative agreement, including any actions taken in furtherance of commitments made by the parties or terms imposed by the authority as a condition for approval of the cooperative agreement;

(iii) Information relating to price, cost, quality, access to care and population health improvement;

(iv) Disclosure of any reimbursement contract between a party to a cooperative agreement approved pursuant to this section and a commercial health plan or insurer entered into subsequent to the finalization of the cooperative agreement. This shall include the amount, if any, by which an increase in the average rate of reimbursement exceeds, with respect to inpatient services for such year, the increase in the Consumer Price Index for all Urban Consumers for hospital inpatient services as published by the

Bureau of Labor Statistics for such year and, with respect to outpatient services, the increase in the Consumer Price Index for all Urban Consumers for hospital outpatient services for such year; and

(v) Any additional information required by the authority to ensure compliance with the cooperative agreement.

(B) If an approved application involves the combination of hospitals, disclosure of the performance of each hospital with respect to a representative sample of quality metrics selected annually by the authority from the most recent quality metrics published by the Centers for Medicare and Medicaid Services. The representative sample shall be published by the authority on its website.

(C) A procedure for a corrective action plan where the average performance score of the parties to the cooperative agreement in any calendar year is below the fiftieth percentile for all United States hospitals with respect to the quality metrics as set forth in (B) of this subsection. The corrective action plan is required to:

(i) Be submitted one hundred twenty days from the commencement of the next calendar year; and

(ii) Provide for a rebate to each commercial health plan or insurer with which they have contracted an amount not in excess of one percent of the amount paid to them by such commercial health plan or insurer for hospital services during such two-year period if in any two consecutive-year period the average performance score is below the fiftieth percentile for all United States hospitals. The amount to be rebated shall be reduced by the amount of any reduction in reimbursement which may be imposed by a commercial health plan or insurer under a quality incentive or awards program in which the hospital is a participant.

(D) A procedure where if the excess above the increase in the Consumer Price Index for all Urban Consumers for hospital inpatient services or hospital outpatient services is two percent or greater the authority may order the rebate of the amount which

exceeds the respective indices by two percent or more to all health plans or insurers which paid such excess unless the party provides written justification of such increase satisfactory to the authority taking into account case mix index, outliers and extraordinarily high cost outpatient procedure utilizations.

(E) The ability of the authority to investigate, as needed, to ensure compliance with the cooperative agreement.

(F) The ability of the authority to take appropriate action, including revocation of a certificate of approval, if it determines that:

(i) The parties to the agreement are not complying with the terms of the agreement or the terms and conditions of approval;

(ii) The authority's approval was obtained as a result of an intentional material misrepresentation;

(iii) The parties to the agreement have failed to pay any required fee; or

(iv) The benefits resulting from the approved agreement no longer outweigh the disadvantages attributable to the reduction in competition resulting from the agreement.

(G) If the authority determines the parties to an approved cooperative agreement have engaged in conduct that is contrary to state policy or the public interest, including the failure to take action required by state policy or the public interest, the authority may initiate a proceeding to determine whether to require the parties to refrain from taking such action or requiring the parties to take such action, regardless of whether or not the benefits of the cooperative agreement continue to outweigh its disadvantages. Any determination by the authority shall be final. The authority is specifically authorized to enforce its determination in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.

(H) Fees as set forth in subsection (h).

(2) Until the promulgation of the emergency rules, the authority shall monitor and regulate cooperative agreements to ensure that their conduct is in the public interest and shall have the powers set forth in subdivision (1) of this subsection, including the power of enforcement set forth in paragraph (G), subdivision (1) of this subsection.

(h) *Fees.* — The authority may set fees for the approval of a cooperative agreement. These fees shall be for all reasonable and actual costs incurred by the authority in its review and approval of any cooperative agreement pursuant to this section. These fees shall not exceed \$75,000. Additionally, the authority may assess an annual fee not to exceed \$75,000 for the supervision of any cooperative agreement approved pursuant to this section and to support the implementation and administration of the provisions of this section.

(i) *Miscellaneous provisions.* —

(1) (A) An agreement entered into by a hospital party to a cooperative agreement and any state official or state agency imposing certain restrictions on rate increases shall be enforceable in accordance with its terms and may be considered by the authority in determining whether to approve or deny the application. Nothing in this chapter shall undermine the validity of any such agreement between a hospital party and the Attorney General entered before the effective date of this legislation.

(B) At least ninety days prior to the implementation of any increase in rates for inpatient and outpatient hospital services and at least sixty days prior to the execution of any reimbursement agreement with a third party payor, a hospital party to a cooperative agreement involving the combination of two or more hospitals through merger, consolidation or acquisition which has been approved by the authority shall submit any proposed increase in rates for inpatient and outpatient hospital services and any such reimbursement agreement to the Office of the West Virginia Attorney General together with such information concerning costs, patient volume, acuity, payor mix and other data as the Attorney General may request. Should the Attorney General determine that

the proposed rates may inappropriately exceed competitive rates for comparable services in the hospital's market area which would result in unwarranted consumer harm or impair consumer access to health care, the Attorney General may request the authority to evaluate the proposed rate increase and to provide its recommendations to the Office of the Attorney General. The Attorney General may approve, reject or modify the proposed rate increase and shall communicate his or her decision to the hospital no later than 30 days prior to the proposed implementation date. The hospital may then only implement the increase approved by the Attorney General. Should the Attorney General determine that a reimbursement agreement with a third party payor includes pricing terms at anti-competitive levels, the Attorney General may reject the reimbursement agreement and communicate such rejection to the parties thereto together with the rationale therefor in a timely manner.

(2) The authority shall maintain on file all cooperative agreements the authority has approved, including any conditions imposed by the authority.

(3) Any party to a cooperative agreement that terminates its participation in such cooperative agreement shall file a notice of termination with the authority thirty days after termination.

(4) No hospital which is a party to a cooperative agreement for which approval is required pursuant to this section may knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement until approved by the authority. Additionally, no hospital which is a party to a cooperative agreement may knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement for which approval has been revoked or terminated.

(5) By submitting an application for review of a cooperative agreement pursuant to this section, the hospitals or health care providers shall be deemed to have agreed to submit to the regulation and supervision of the authority as provided in this section.

§16-29B-30. Applicability; transition plan.

(a) Notwithstanding any provision of this code to the contrary, effective July 1, 2017, the Health Care Authority shall transfer to the Department of Health and Human Resources. Any and all remaining functions of the Health Care Authority shall transfer at that time to the Department of Health and Human Resources.

(b) The Health Care Authority shall develop and implement a transition plan to transfer all their remaining functions to the Department of Health and Human Resources. The plan shall be submitted in writing to the Joint Committee on Government and Finance, the Governor and the Secretary of the Department of Health and Human Resources, the Secretary of the Department of Administration and the Division of Personnel. This plan shall be submitted no later than June 1, 2017. The plan shall include proposals for the following:

(1) Transition to appropriate entities or destruction of hard and electronic copies of files;

(2) Transfer of all certificate of need matters pending as of July 1, 2017, to the Department of Health and Human Resources.

(3) In consultation with the Department of Administration, discontinuation of use of the current building including termination of any lease or rental agreements, if necessary;

(4) In consultation with the Department of Administration, disposition of all state owned or leased office furniture and equipment, including any state owned vehicles, if necessary;

(5) Closing out and transferring existing budget allocations;

(6) A transition plan developed in conjunction with the Division of Personnel for remaining employees not transferred to other offices within state government;

(7) A plan to repeal all existing legislative rules made unnecessary by the transfer of the Health Care Authority; and

(8) Any other matters which would effectively terminate all functions not transferred to the Department of Health and Human Resources.

(9) Upon the effective date of the changes to this article made during the course of the 2017 Regular Session of the Legislature, any function of the Health Care Authority not otherwise eliminated or transferred shall become a function of the Department of Health and Human Resources.

ARTICLE 29G. WEST VIRGINIA HEALTH INFORMATION NETWORK.

§16-29G-1a. Transfer of West Virginia Health Information Network.

(a) As used in this article, the following mean:

(1) ‘Agreement’ means a document that may be entered into between the network board and the corporation;

(2) ‘Assets’ means the tangible and intangible personal property of the network on the transfer date, including all assignable grants, all obligated funds on deposit in the network account, agreements and contracts;

(3) ‘Corporation’ means any nonstock, nonprofit corporation to be established under the chapter thirty-one;

(4) ‘Network’ means the West Virginia Health Information Network; and

(5) ‘Network account’ means the West Virginia Health Information Network Account.

(b) By December 31, 2017, the network board of directors shall transfer the existing network, the associated assets and liabilities to a private nonprofit corporation organized under chapter thirty-one e of this code.

(c) The network board of directors may enter into agreements as they determine are appropriate to implement the transfer. The

agreements are exempt from the bidding and public sale requirements, from the approval of contractual agreements by the Department of Administration or the Attorney General and from the requirements of chapter five-a of this code.

(d) The initial corporation board of directors may consist of any current members of the network board of directors. The current appointed network directors shall continue to serve until the transfer is complete. Notwithstanding any other provisions of this code to the contrary, officers and employees of the network may be transferred considered for employment with to the corporation, and any such employment shall be deemed exempt from the requirements and limitations imposed by section five, article two, chapter six-B and any legislative rules promulgated thereunder.

(e) The corporation shall have all powers afforded to a nonprofit corporation by law and is limited to those powers enumerated in this article.

(f) The corporation shall not be a department, unit, agency or instrumentality of the state.

(g) The corporation is not subject to the provisions of article nine-a, chapter six of this code, Open Government Proceeding; the provisions of article two, chapter six-c of this code, the West Virginia Public Employees Grievance Procedure; the provisions of article six, chapter twenty-nine of this code, Civil Service System; or the provisions of chapter twenty-nine-b of this code, Freedom of Information; article twelve, chapter twenty-nine of this code, State Insurance; article ten, chapter five, of this code, West Virginia Public Employees Retirement Act, or the provisions of article sixteen, chapter five, of this code, West Virginia Public Employees Insurance Act.

(h) The Secretary of the Department of Health and Human Resources may designate the corporation as the state's health information exchange, and shall have the authority to make sole source grants or enter into sole source contracts with the corporation pursuant to section ten-c, article three, chapter five-A of this code.

(i) The Secretary of the Department of Health and Human Resources shall have access to the data free of charge subject to the provisions of applicable state and federal law.

§16-29G-4. Creation of the West Virginia Health Information Network account; authorization of Health Care Authority to expend funds to support the network.

(a) All moneys collected shall be deposited in a special revenue account in the state Treasury known as the West Virginia Health Information Network Account. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending June 30, 2007, expenditures are authorized from collections rather than pursuant to appropriations by the Legislature.

(b) Consistent with section eight, article twenty-nine-b of this chapter, the Health Care Authority's provision of administrative, personnel, technical and other forms of support to the network is necessary to support the activities of the Health Care Authority board and constitutes a legitimate, lawful purpose of the Health Care Authority board. Therefore, the Health Care Authority is hereby authorized to expend funds from its Health Care Cost Review Fund, established under section eight, article twenty-nine-b of this chapter, to support the network's administrative, personnel and technical needs and any other network activities the Health Care Authority deems necessary.

(c) Notwithstanding section ten, article three, chapter twelve of this code, on the transfer date, the encumbered amounts on deposit in the West Virginia Health Information Network Account shall be paid over to the corporation, the account shall be closed and subsection (a) of this section shall be of no further effect.'

CHAPTER 21. LABOR.**ARTICLE 5. NURSE OVERTIME AND PATIENT SAFETY ACT.****§21-5F-4. Enforcement; offenses and penalties.**

(a) Pursuant to the powers set forth in article one of this chapter, the Commissioner of Labor is charged with the enforcement of this article. The commissioner shall propose legislative and procedural rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish procedures for enforcement of this article. These rules shall include, but are not limited to, provisions to protect due process requirements, a hearings procedure, an appeals procedure, and a notification procedure, including any signs that must be posted by the facility.

(b) Any complaint must be filed with the commissioner regarding an alleged violation of the provisions of this article must be made within thirty days following the occurrence of the incident giving rise to the alleged violation. The commissioner shall keep each complaint anonymous until the commissioner finds that the complaint has merit. The commissioner shall establish a process for notifying a hospital of a complaint.

(c) The administrative penalty for the first violation of this article is a reprimand.

(d) The administrative penalty for the second offense of this article is a reprimand and a fine not to exceed \$500.

(e) The administrative penalty for the third and subsequent offenses is a fine of not less than \$2,500 and not more than \$5,000 for each violation.

(f) To be eligible to be charged of a second offense or third offense under this section, the subsequent offense must occur within twelve months of the prior offense.

(g) ~~(4)~~ All moneys paid as administrative penalties pursuant to this section shall be deposited into the ~~Health Care Cost Review Fund provided by section eight, article twenty nine b, chapter sixteen of this code~~ General Revenue Fund.

~~(2) In addition to other purposes for which funds may be expended from the Health Care Cost Review Fund, the West Virginia Health Care Authority shall expend moneys from the fund, in amounts up to but not exceeding amounts received pursuant to subdivision (1) of this subsection, for the following activities in this state:~~

~~(A) Establishment of scholarships in medical schools;~~

~~(B) Establishment of scholarships for nurses training;~~

~~(C) Establishment of scholarships in the public health field;~~

~~(D) Grants to finance research in the field of drug addiction and development of cures therefor;~~

~~(E) Grants to public institutions devoted to the care and treatment of narcotic addicts; and~~

~~(F) Grants for public health research, education and care.~~

CHAPTER 33. INSURANCE.

ARTICLE 16D. MARKETING AND RATE PRACTICES FOR SMALL EMPLOYER ACCIDENT AND SICKNESS INSURANCE POLICIES.

§33-4A-1. Definitions.

(a) ‘All-payer claims database’ or ‘APCD’ means the program authorized by this article that collects, retains, uses and discloses information concerning the claims and administrative expenses of health care payers.

~~(b) ‘Chair’ means the chairperson of the West Virginia Health Care Authority.~~

(e) (b) 'Commissioner' means the West Virginia Insurance Commissioner.

~~(d)~~ (c) 'Data' means the data elements from enrollment and eligibility files, specified types of claims, and reference files for data elements not maintained in formats consistent with national coding standards.

(d) 'Executive Director' means the executive director of the West Virginia Health Care Authority.

(e) 'Health care payer' means any entity that pays or administers the payment of health insurance claims or medical claims under workers' compensation insurance to providers in this state, including workers' compensation insurers; accident and sickness insurers; nonprofit hospital service corporations, medical service corporations and dental service organizations; nonprofit health service corporations; prepaid limited health service organizations; health maintenance organizations; and government payers, including but not limited to Medicaid, Medicare and the public employees insurance agency; the term also includes any third-party administrator including any pharmacy benefit manager, that administers a fully-funded or self-funded plan:

A 'health insurance claim' does not include:

(1) Any claim paid under an individual or group policy providing coverage only for accident, or disability income insurance or any combination thereof; coverage issued as a supplement to liability insurance; liability insurance, including general liability insurance and automobile liability; credit-only insurance; coverage for on-site medical clinics; other similar insurance coverage, which may be specified by rule, under which benefits for medical care are secondary or incidental to other insurance benefits; or

(2) Any of the following if provided under a separate policy, certificate, or contract of insurance: Limited scope dental or vision benefits; benefits for long-term care, nursing home care, home health care, community-based care, or any combination

thereof; coverage for only a specified disease or illness; or hospital indemnity or other fixed indemnity insurance.

‘Health insurance claims’ shall only include information from Medicare supplemental policies if the same information is obtained with respect to Medicare.

(f) ‘Personal identifiers’ means information relating to an individual member or insured that identifies, or can be used to identify, locate or contact a particular individual member or insured, including but not limited to the individual’s name, street address, social security number, e-mail address and telephone number.

(g) ‘Secretary’ means the Secretary of the West Virginia Department of Health and Human Services.

(h) ‘Third-party administrator’ has the same meaning ascribed to it in section two, article forty-six of this chapter.

§33-4A-2. Establishment and development of an all-payer claims database.

(a) The secretary, commissioner and ~~chair~~ the executive director, collectively referred to herein as the ‘MOU parties’, shall enter into a memorandum of understanding to develop an all-payer claims database program.

(b) The memorandum of understanding shall, at a minimum:

(1) Provide that the commissioner will have primary responsibility for the collection of the data in order to facilitate the efficient administration of state oversight, the secretary will have primary responsibility for the retention of data supplied to the state under its health care oversight function, and the ~~chair~~ executive director will have primary responsibility for the dissemination of the data;

(2) Delineate the MOU parties’ roles, describe the process to develop legislative rules required by this article, establish

communication processes and a coordination plan, and address vendor relationship management;

(3) Provide for the development of a plan for the financial stability of the APCD, including provision for funding by the MOU parties' agencies; and

(4) Provide for the use of the hospital discharge data collected by the West Virginia Health Care Authority as a tool in the validation of APCD reports.

§33-4A-3. Powers of the commissioner, secretary and ~~chair~~ executive director; exemption from purchasing rules.

(a) The MOU parties may:

(1) Accept gifts, bequests, grants or other funds dedicated to the furtherance of the goals of the APCD;

(2) Select a vendor to handle data collection and processing and such other tasks as deemed appropriate;

(3) Enter into agreements with other states to perform joint administrative operations, share information and assist in the development of multistate efforts to further the goals of this article: *Provided*, That any such agreements must include adequate protections with respect to the confidentiality of the information to be shared and comply with all state and federal laws and regulations;

(4) Enter into memoranda of understanding with other governmental agencies to carry out any of its functions, including contracts with other states to perform joint administrative functions;

(5) Attempt to ensure that the requirements with respect to the reporting of data be standardized so as to minimize the expense to parties subject to similar requirements in other jurisdictions;

(6) Enter into voluntary agreements to obtain data from payers not subject to mandatory reporting under this article; and

(7) Exempt a payer or class of payers from the requirements of this article for cause.

(b) Contracts for professional services for the development and operation of the APCD are not subject to the provisions of article three, chapter five-a of this code relating to the Purchasing Division of the Department of Administration. The award of such contracts shall be subject to a competitive process established by the MOU parties.

(c) The MOU parties shall make an annual report to the Governor, which shall also be filed with the Joint Committee on Government and Finance, summarizing the activities of the APCD in the preceding calendar year.

§33-4A-5. User fees; waiver.

Reasonable user fees may be set in the manner established in legislative rule, for the right to access and use the data available from the APCD. The ~~chair~~ executive director may reduce or waive the fee if he or she determines that the user is unable to pay the scheduled fees and that the user has a viable plan to use the data or information in research of general value to the public health.

§33-4A-6. Enforcement; injunctive relief.

In the event of any violation of this article or any rule adopted thereunder, the commissioner, secretary or ~~chair~~ executive director may seek to enjoin a further violation in the circuit court of Kanawha County. Injunctive relief ordered pursuant to this section may be in addition to any other remedies and enforcement actions available to the commissioner under this chapter.

§33-4A-7. Special revenue account created.

(a) There is hereby created a special revenue account in the State Treasury, designated the West Virginia All-Payer Claims Database Fund, which shall be an interest-bearing account and may be invested in the manner permitted by article six, chapter twelve of this code, with the interest income a proper credit to the fund and which shall not revert to the general revenue, unless otherwise

designated in law. The fund shall be overseen by the commissioner, secretary and ~~chair~~ executive director, shall be administered by the commissioner, and shall be used to pay all proper costs incurred in implementing the provisions of this article.

(b) The following funds shall be paid into this account:

(1) Penalties imposed on health care payers pursuant to this article and rules promulgated hereunder;

(2) Funds received from the federal government;

(3) Appropriations from the Legislature; and

(4) All other payments, gifts, grants, bequests or income from any source.

ARTICLE 16D. MARKETING AND RATE PRACTICES FOR SMALL EMPLOYER ACCIDENT AND SICKNESS INSURANCE POLICIES.

§33-16D-16. Authorization of uninsured small group health benefit plans.

(a) Upon filing with and approval by the commissioner, any carrier licensed pursuant to this chapter which accesses a health care provider network to deliver services may offer a health benefit plan and rates associated with the plan to a small employer subject to the conditions of this section and subject to the provisions of this article. The health benefit plan is subject to the following conditions:

(1) The health benefit plan may be offered by the carrier only to small employers which have not had a health benefit plan covering their employees for at least six consecutive months before the effective date of this section. After the passage of six months from the effective date of this section, the health benefit plan under this section may be offered by carriers only to small employers which have not had a health benefit plan covering their employees for twelve consecutive months;

(2) If a small employer covered by a health benefit plan offered pursuant to this section no longer meets the definition of a small employer as a result of an increase in eligible employees, that employer shall remain covered by the health benefit plan until the next annual renewal date;

(3) The small employer shall pay at least fifty percent of its employees' premium amount for individual employee coverage;

(4) The commissioner shall promulgate emergency rules under the provisions of article three, chapter twenty-nine-a of this code on or before September 1, 2004, to place additional restrictions upon the eligibility requirements for health benefit plans authorized by this section in order to prevent manipulation of eligibility criteria by small employers and otherwise implement the provisions of this section;

(5) Carriers must offer the health benefit plans issued pursuant to this section through one of their existing networks of health care providers;

(A) The ~~West Virginia Health Care Authority~~ Insurance Commission shall, on or before May 1, 2004, and each year thereafter, by regular mail, provide a written notice to all known in-state health care providers that:

(i) Informs the health care provider regarding the provisions of this section; and

(ii) Notifies the health care provider that if the health care provider does not give written refusal to the ~~West Virginia Health Care Authority~~ Insurance Commission within thirty days from receipt of the notice or the health care provider has not previously filed a written notice of refusal to participate, the health care provider must participate with and accept the products and provider reimbursements authorized pursuant to this section;

(B) The carrier's network of health care providers, as well as any health care provider which provides health care goods or services to beneficiaries of any departments or divisions of the state, as identified in article twenty-nine-d, chapter sixteen of this

code, shall accept the health care provider reimbursement rates set pursuant to this section unless the health care provider gives written refusal to the ~~West Virginia Health Care Authority Insurance Commission~~ between May 1 and June 1 that the provider will not participate in this program for the next calendar year. Notwithstanding any provision of this code to the contrary, health care providers may not be mandated to participate in this program except under the opt-out provisions of subdivision (5), subsection (a) of this section and therefore the health care provider shall annually have the ability to file with the ~~West Virginia Health Care Authority Insurance Commission~~ written notice that the health care provider will not participate with products issued pursuant to this section. Once a health care provider has filed a notice of refusal with the ~~West Virginia Health Care Authority Insurance Commission~~, the notice shall remain effective until rescinded by the provider and the provider shall not be required to renew the notice each year;

(C) ~~The West Virginia Health Care Authority Insurance Commission~~ is responsible for receiving the responses, if any, from the health care providers that have elected not to participate and for providing a list to the commissioner of those health care providers that have elected not to participate;

(D) Those health care providers that do not file a notice of refusal shall be considered to have accepted participation in this program and to accept Public Employees Insurance Agency health care provider reimbursement rates for their services as set by this section;

(E) Health care provider reimbursement rates used by the carrier for a health benefit plan offered pursuant to this section shall have no effect on provider rates for other products offered by the carrier and most-favored-nation clauses do not apply to the rates;

(6) With respect to the health benefit plans authorized by this section, the carrier shall reimburse network health care providers at the same health care provider reimbursement rates in effect for the managed care and health maintenance organization plans offered by the West Virginia Public Employees Insurance Agency.

Beginning in the year 2004, and in each year thereafter, the health care provider reimbursement rates set under this section may not be lowered from the level of the rates in effect on July 1 of that year for the managed care and health maintenance plans offered by the Public Employees Insurance Agency. While it is the intent of this paragraph to govern rates for plans offered pursuant to this section for annual periods, this subdivision in no way prevents the Public Employees Insurance Agency from making provider reimbursement rate adjustments to Public Employees Insurance Agency plans during the course of each year. If there is a dispute regarding the determination of appropriate rates pursuant to this section, the Director of the Public Employees Insurance Agency shall, in his or her sole discretion, specify the appropriate rate to be applied;

(A) The health care provider reimbursement rates as authorized by this section shall be accepted by the health care provider as payment in full for services or products provided to a person covered by a product authorized by this section;

(B) Except for the health care provider rates authorized under this section, a carrier's payment methodology, including copayments and deductibles and other conditions of coverage, remains unaffected by this section;

(C) The provisions of this section do not require the Public Employees Insurance Agency to give carriers access to the purchasing networks of the Public Employees Insurance Agency. The Public Employees Insurance Agency may enter into agreements with carriers offering health benefit plans under this section to permit the carrier, at its election, to participate in drug purchasing arrangements pursuant to article sixteen-c, chapter five of this code, including the multistate drug purchasing program. This paragraph provides authorization of the agreements pursuant to section four of said article;

(7) Carriers may not underwrite products authorized by this section more strictly than other small group policies governed by this article;

(8) With respect to health benefit plans authorized by this section, a carrier shall have a minimum anticipated loss ratio of seventy-seven percent to be eligible to make a rate increase request after the first year of providing a health benefit plan under this section;

(9) Products authorized under this section are exempt from the premium taxes assessed under sections fourteen and fourteen-a, article three of this chapter;

(10) A carrier may elect to nonrenew any health benefit plan to an eligible employer if, at any time, the carrier determines, by applying the same network criteria which it applies to other small employer health benefit plans, that it no longer has an adequate network of health care providers accessible for that eligible small employer. If the carrier makes a determination that an adequate network does not exist, the carrier has no obligation to obtain additional health care providers to establish an adequate network;

(11) Upon thirty days' advance notice to the commissioner, a carrier may, at any time, elect to nonrenew all health benefit plans issued pursuant to this section. If a carrier nonrenews all its business issued pursuant to this section for any reason other than the adequacy of the provider network, the carrier may not offer this health benefit plan to any eligible small employer for a period of at least two years after the last eligible small employer is nonrenewed; and

(12) The Insurance Commissioner may not approve any health benefit plan issued pursuant to this section until it has obtained any necessary federal governmental authorizations or waivers. The Insurance Commissioner shall apply for and obtain all necessary federal authorizations or waivers.

(b) Health benefit plans authorized by this section are not intended to violate the prohibition set out in subsection (a), section four of this article.

(c) Carriers offering health benefit plans pursuant to this section shall annually or before December 1 of each year report in

a form acceptable to the commissioner the number of health benefit plans written by the carrier and the number of individuals covered under the health benefit plans.

(d) To the extent that provisions of this section differ from those contained elsewhere in this chapter, the provisions of this section control.”

And,

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

Com. Sub. for H. B. 2459 – “A Bill to repeal §16-2D-5f of the Code of West Virginia, 1931, as amended; to repeal §16-5F-1; §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5, §16-5F-6 and §16-5F-7; to repeal §16-29B-6, §16-29B-7, §16-29B-9, §16-29B-10, §16-29B-11, §16-29B-17, §16-29B-18, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25, §16-25B-27, and §16-29B-29; to repeal §16-29I-1, §16-29I-2, §16-29I-3, §16-29I-4, §16-29I-5, §16-29I-6, §16-29I-7, §16-29I-8, §16-29I-9 and §16-29I-10; to amend and reenact §5F-1-3a of said code; to amend and reenact §6-7-2a of said code; to amend and reenact §9-4C-7 and §9-4C-8 of said code; to amend and reenact §11-27-9 and §11-27-11 of said code; to amend and reenact §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-13, §16-2D-15 and §16-2D-16 of said code; to amend and reenact §16-5B-17 of said code; to amend and reenact §16-29B-2, §16-29B-3, §16-29B-5, §16-29B-8, §16-29B-12, §16-29B-26 and §16-29B-28; to amend said code by adding thereto a new section, designated §16-29B-5a; to amend said code by adding thereto a new section, designated §16-29B-30; to amend said code by adding thereto a new section, designated §16-29G-1a; to amend and reenact §16-29G-4 of said code; to amend and reenact §21-5F-4 of said code; to amend and reenact §33-4A-1, §33-4A-2, §33-4A-3, §33-4A-5, §33-4A-6 and §33-4A-7 of said code; and to amend and reenact §33-16D-16 of said code, all relating to regulation of health care; repealing redundant code section relative to neonatal abstinence facilities; repealing health care facility financial disclosure; repealing uniform system of financial reporting; repealing information gathering and coordination advisory group; updating

the certificate of need process; placing certificate of need under Secretary of Department of Health and Human Resources; defining terms; adding exemptions to certificate of need; clarifying exemptions; modifying computed technology exemption from certificate of need; clarifying skilled nursing facility exemption for counties with no skilled nursing facility; allowing skilled nursing facility bed transfers; requiring skilled nursing facility beds retain identical certification status; clarifying appeals process; removing autonomy of Health Care Authority; placing Health Care Authority under direct supervision of Secretary of the Department of Health and Human Resources; repealing unnecessary code sections made unnecessary with transfer to Department of Health and Human Resources; eliminating powers related to insurance policies and health organizations; modifying health care provider tax relative to rate review; eliminating public disclosure; eliminating granting authority; eliminating unnecessary penalties; eliminating unnecessary severability section; eliminating three full time board members; replacing existing board with a five member board; appointment of board members; setting out qualifications of board members; setting out terms of offices, filling of vacancies and oath for board members; providing for payment of board member expenses; providing for appointment of a chairman; setting out meeting requirements; creating the position of Executive Director; setting out power and duties of the Executive Director; setting compensation for the Executive Director; eliminating certain powers of the Health Care Authority; eliminating hospital and health care facility assessments; updating authority power relative to cooperative agreements; providing for transfer of necessary duties of Health Care Authority to Department of Health and Human Resources; requiring a transition plan; setting forth necessary elements of transition plan; allowing transfer of West Virginia Health Information Network to private entity; granting access to West Virginia Health Information Network to Secretary of Department of Health and Human Resources; providing for transfer of encumbered amounts of West Virginia Health Information Network to private entity upon transfer date; providing for administrative penalties for nurses overtime be paid into the general revenue fund; eliminating discretionary spending of Health Care Authority for amounts from penalties for violation of the

nurse overtime act; substituting executive director of Health Care Authority or Secretary of Department of Health and Human Resources for chair of Health Care Authority in various code sections; transferring authority of Health Care Authority regarding uninsured small group health benefit plans to the Insurance Commission; eliminating archaic revolving loan and grant fund; making conforming amendments; and setting effective date dates.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 271**), and there were—yeas 87, nays 6, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Bates, Fleischauer, Moyer, Pyles, Rowe and Sponaugle.

Absent and Not Voting: Byrd, Deem, Hamrick, Hicks, Rodighiero, Rohrbach and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2459) passed.

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

On this question, the yeas and nays were taken (**Roll No. 272**), and there were—yeas 85, nays 7, absent and not voting 8, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Fleischauer, Love, Pyles, Rowe and Sponaugle.

Absent and Not Voting: Byrd, Deem, Hamrick, Hicks, Rodighiero, Rohrbach, Storch and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2459) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of concurrent resolutions of the House of Delegates as follows:

H. C. R. 83, U.S. Army SPC John R. Tennant Memorial Bridge,

H. C. R. 109, Extending the Committee of Conference relating to consideration of Com. Sub. for H. B. 2099,

And,

H. C. R. 110, Extending the Committee of Conference relating to consideration of Com. Sub. for H. B. 2028.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 386 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-8A-1, §16-8A-2, §16-8A-3, §16-8A-4, §16-8A-5, §16-8A-6, §16-8A-7, §16-8A-8, §16-8A-9, §16-8A-10, §16-8A-11, §16-8A-12, §16-8A-13, §16-8A-14, §16-8A-15, §16-8A-16, and §16-8A-17, all relating to creating the West Virginia Medical Cannabis Act; defining terms; creating the West Virginia Medical Cannabis Commission; setting forth members of the West Virginia Medical Cannabis Commission; setting forth responsibilities for the West Virginia Medical Cannabis Commission; creating a special revenue account known as the West Virginia Medical Cannabis Commission Fund; requiring a portion of any profit to be spent for specific programs; detailing the fund's revenue sources and disbursements; detailing requirements of the commission to implement the provisions of the act; setting requirements for becoming a certifying physician; authorizing the commission to approve physician applications for certain medical conditions;

requiring reporting to the Controlled Substances monitoring database; setting out conditions for which cannabis may be used; requiring certain annual reports to the Governor and Legislature; authorizing the commission to license medical cannabis growers and grower agents that meet certain requirements; setting forth certain parameters for licensed growers and grower agents; requiring a certain percentage of licenses be granted to persons in veterans agriculture programs; providing an exception for a qualifying patient to grow a specified amount without a license; authorizing the commission to license dispensaries and register dispensary agents; setting forth certain requirements for dispensaries and dispensary agents setting an initial limit on number of medical cannabis growers and dispensaries; authorizing commission to license the number of growers and dispensaries sufficient to meet demand as of July 1, 2020; authorizing the commission to license medical cannabis processors and register processor agents; authorizing testing laboratories; stating requirements for the commission's registration of independent laboratories; requiring the State Police and commission to enter a memorandum of understanding for criminal records checks and setting forth basic requirements; providing that certain persons licensed, registered and authorized under the act may not be subject to arrest, prosecution or any civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for the medical use of cannabis; creating a new criminal offense of distributing, possessing, manufacturing or using cannabis that has been diverted from an authorized medicinal use; specifically stating conduct related to cannabis that is not protected by the provisions of the act; authorizing state employees to recover certain counsel fees; empowering the Governor to suspend implementation of the act if the Governor determines certain federal action may occur; authorizing promulgation of emergency rules and the proposal of legislative rules for approval by the Legislature; and establishing effective dates.”

Delegate Folk asked unanimous consent that reference of the bill (Com. Sub. for S. B. 386) to a committee be dispensed with

and the bill be taken up for immediate consideration and read a first time, which consent was not given, objection being heard.

Delegate Folk then moved that reference of the bill to a committee be dispensed with and the bill be taken up for immediate consideration and read a first time.

Delegate Lane was addressing the House when Delegate Cowles arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker reminded the Delegate to direct her remarks to the motion before the House.

Delegate Pushkin was addressing the House when Delegate Cowles arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker reminded the Delegate to direct his remarks to the motion before the House.

Delegate Fleischauer was addressing the House when Delegate Cowles arose to points of order regarding the content of the remarks by the Delegate.

The Speaker reminded the Delegate to direct her remarks to the motion before the House.

Delegate Frich was addressing the House when Delegate Marcum arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker replied that the remarks by the Delegate were relevant to the motion.

Delegate Frich was addressing the House when Delegate Folk arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker reminded the Delegate to direct her remarks to the motion before the House.

Delegate Shott was addressing the House when Delegate Marcum arose to a point of order regarding the content of the remarks by the Delegate.

The Speaker replied that the remarks by the Delegate were relevant to the motion.

On this motion, Delegate Folk demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 273**), and there were—yeas 54, nays 40, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Ambler, Anderson, Arvon, Atkinson, Butler, Capito, Cooper, Cowles, Criss, Ellington, Espinosa, A. Evans, Fast, G. Foster, N. Foster, Frich, Gearheart, Hanshaw, Harshbarger, Hollen, Householder, Howell, Kelly, Kessinger, Martin, C. Miller, Nelson, O’Neal, Overington, C. Romine, R. Romine, Rowan, Shott, Sobonya, Statler, Summers, Sypolt, Walters, Ward and Mr. Speaker, Mr. Armstead.

Absent and Not Voting: Deem, Hamrick, Hicks, Rodighiero, Rohrbach and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed and reference of the bill (Com. Sub. for S. B. 386) to a committee was dispensed with.

The bill was read a first time and ordered to second reading.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2017, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 482 - “A Bill to repeal §17-16A-18a, §17-16A-23 and §17-16A-30 of the Code of West Virginia, 1931, as amended; to amend and reenact §17-16A-1, §17-16A-5, §17-16A-6, §17-16A-10, § 17-16A-11, §17-16A-13, §17-16A-13a, §17-16A-18, §17-16A-21, §17-16A-22 and §17-16A-29 of said code;

to amend said code by adding thereto a new section, designated §17-16A-11a; to amend and reenact §17-16D-3 of said code; to amend said code by adding thereto a new section, designated §17A-2-25; to amend and reenact §17A-3-7 of said code; and to amend said code by adding thereto a new section, designated §17A-10-17, all relating generally to the West Virginia Parkways Authority; defining terms; adding the power of the authority to study, investigate and evaluate, and, if feasible, develop and implement, a single fee program; adding the power of the authority to impose in connection with any single fee program a flat fee in connection with any or all certificates of passenger motor vehicle registration and renewal thereof by the Division of Motor Vehicles; adding the power of the authority to enter into reciprocal toll enforcement agreements; creating and designating a special revenue account within the State Road Fund known as the State Road Construction Account; authorizing the deposit of proceeds of parkway revenue bonds to the State Road Construction Account; creating and designating a special revenue account within the State Treasury known as the West Virginia Parkways Authority Single Fee Program Fund; clarifying notice and public meeting requirements and procedures; clarifying the power of the Parkways Authority to fix rates or tolls for Corridor L toll collection facility; expanding the authority of the Parkways Authority to issue revenue bonds or refunding revenue bonds for parkways projects and for the West Virginia Turnpike; eliminating approval by county commissions and establishment by Governor of local committees prior to approval of any parkway project; authorizing electronic toll collection and enforcement of tolls on roads, highways and bridges; adding the power of the Division of Motor Vehicles to act as collection agent for the authority under any single fee program; expanding the grounds for refusing to register a motor vehicle; and creating a misdemeanor offense"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 606 - “A Bill to amend and reenact §21-5C-1 of the Code of West Virginia, 1931, as amended, relating to minimum wage and maximum hour standards for employees; and adding exceptions to the definition of the term “employee” for any person employed as a seasonal employee of an enterprise principally devoted to amusement rides and amusement attractions, any person employed by a traveling enterprise principally devoted to amusement rides or amusement attractions or a traveling carnival, including food concessions, or any person employed by a minor or major league baseball organization; limiting months of operation and receipts; and providing that the exemptions are for a limited purpose”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 609 - “A Bill to amend and reenact §11-8-6f and §11-8-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-9A-2, §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7, §18-9A-9, §18-9A-10 and §18-9A-11 of said code; and to amend said code by adding thereto a new section, designated §18-9A-25, all relating to public school support; removing limit on increase in total property tax revenues if the current regular levy rates of the county boards of education were to be imposed; requiring each county board of education to establish its regular levy rates each year up to the statutory maximum levy rates; allowing a county board to change its proposed regular levy rates from the original proposed levy rates in its required statement to the Auditor; deleting required periodic legislative review of definition of “net enrollment”; changing term “levies for general current expense purposes” to “maximum levies for general current expense purposes” and modifying the definition to mean ninety percent of the maximum levy rates for county boards of education; determining allowance for fundable professional educators at set ratio, rather than the number employed subject to a limit; providing for determination of allowance for fundable positions in excess of

number employed; deleting expired provisions; basing minimum professional instructional personnel required on percent of fundable professional educators or the number employed, whichever is less; providing for prorating professional instructional personnel among participating counties in joint school or program or service; removing penalty for not meeting applicable professional instructional personnel ratio for 2017-2018 school year; deleting expired provisions; deleting required periodic legislative review of density category ratios; determining allowance for fundable service personnel at set ratio, rather than number employed subject to a limit; providing for determination of allowance for fundable positions in excess of number employed; providing for proration of number and allowance of personnel employed in part by state and county funds; adding professional student support personnel allowance to calculation of Teachers Retirement Fund allowance; basing Teachers Retirement Fund allowance on average retirement contribution rate of each county and defining "average rate"; allowing limited portion of funds for bus purchases to be used for facility and equipment repair maintenance and improvement or replacement or other current expense priorities if requested and approved by state superintendent following verification; changing calculation of allowance for current expense from percent allowances for professional and service personnel to county's state average costs per square footage per student for operations and maintenance; basing the allowance to improve instructional programs and instructional technology on the portion of the increase in local share amount for the next school year that is due to an increase in assessed values only; removing authorization for use of instructional improvement funds for implementation and maintenance of the uniform integrated regional computer information system; removing requirement for fully utilizing applicable provisions of allowances for professional and service personnel before using instructional improvement funds for employment; removing restriction limiting use of new instructional improvement funds for employment except for technology system specialists until certain determination made by state superintendent; authorizing use of instructional technology improvement funds for employment of technology system

specialists and requiring amount used to be included and justified in strategic technology plan; specifying when certain debt service payments are to be made into School Building Capital Improvement Fund; authorizing use of percentages of allocations for improving instructional programs and improving instructional technology for facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes; requiring amounts used to be included and justified in respective strategic plans; and basing the computation of local share on the maximum levies for general current expense purposes”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 636 - “A Bill to amend and reenact §29-3-5d of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Commission to establish and administrate a pilot project program to address problems facing volunteer fire departments; and requiring annual reports”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 637 - “A Bill to amend and reenact §60-7-2 and §60-7-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8-27 of said code, all relating generally to private club operations requirements; defining terms; permitting certain private club licensees that operate tourist destination and resort facilities to obtain one private resort hotel license for the lawful sale and consumption of alcoholic liquors and nonintoxicating beer in designated and approved areas throughout the licensed premises but within the confines of the property; permitting certain private club licensees that operate golf or

country clubs to obtain one private golf club license for the lawful sale and consumption of alcoholic liquors and nonintoxicating beer on the premises of the facility; establishing license requirement; permitting patrons seventeen years of age to enter the licensed premises unaccompanied by a parent or legal guardian at private resort hotels and private golf clubs under limited circumstances, subject to certain conditions, and certain private clubs with designated nonalcohol areas; and establishing license fees”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 656 - “A Bill to amend and reenact §18-2-5h of the Code of West Virginia, 1931, as amended, relating to allowing certain comprehensive statewide student assessment program vendors to only receive consideration for certain information if they obtain affirmative written consent solely for providing the student access to employment, educational scholarships or financial aid, and post-secondary educational opportunities; and providing that if a student forms a direct relationship with a certain vendor, the data sharing and consent requirements of the Student Data Accessibility, Transparency and Accountability Act do not apply to that relationship”; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 664 - “A Bill to amend and reenact §7-18-14 of the Code of West Virginia, 1931, as amended, relating to removing the limitation on the amount collected by the county via the hotel occupancy tax that may be used for medical care and emergency services”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 667 - “A Bill to amend and reenact §11-10-5s of the Code of West Virginia, 1931, as amended, relating to the authority of the Attorney General to disclose certain information provided by the Tax Commissioner unless it is subject to a protective order or agreement restricting the use of the disclosed information to the proceeding, arbitration or litigation”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 687 - “A Bill to amend and reenact §22-3-11, §22-3-13a and §22-3-23 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-6-24 of said code; to amend and reenact §22-11-7b of said code; to amend and reenact §22A-1-2 and §22A-1-5 of said code; to amend and reenact §22A-2-59 of said code; to amend said code by adding thereto a new section, designated §22A-2A-1001; to amend and reenact §22A-6-3, §22A-6-4 and §22A-6-6 of said code; to amend and reenact §22A-7-2, §22A-7-3, §22A-7-5, §22A-7-5a and §22A-7-7 of said code; to amend and reenact §22A-9-1 of said code; to amend and reenact §22A-11-1, §22A-11-2, §22A-11-3 and §22A-11-4 of said code; to amend said code by adding thereto a new section, designated §22A-11-5, all relating generally to coal mining, coal mining safety and environmental protection; providing that moneys be paid from special reclamation water trust fund to assure a reliable source of capital and operating expenses for the treatment of discharges from forfeited sites; modifying notification requirements for preblast surveys for surface mining operations and certain other blasting activities; removing minimum bond requirements related to certain reclamation work; providing for changes to the method of plugging abandoned gas wells where a coal operator intends to mine through the well; removing certain criteria from evaluation for the narrative water quality standard; authorizing the elimination of the Board of

Miner Training, Education and Certification, the Mine Inspectors' Examining Board, and the Mine Safety Technology Task Force, and the transfer of duties from those boards and task force to the Board of Coal Mine Health and Safety; providing that an automated external defibrillator unit be required first-aid equipment located in certain areas of an underground coal mine; directing that the Office of Miners' Health, Safety and Training revise state rules related to diesel equipment operating in underground mines; and requiring rulemaking"; which was referred to the Committee on Energy.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 688 - "A Bill to amend and reenact §22-15-10 of the Code of West Virginia, 1931, as amended, relating to correcting a technical error within the Solid Waste Management Act"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2017, and requested the concurrence of the House of Delegates in the passage, of

S. B. 689 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-8d, relating to payment of small claims by the Division of Highways; setting forth findings and a declaration of public purpose; recognizing the need for an efficient process to pay certain claims against the Division of Highways; retaining the state's sovereign immunity; requiring the division to develop a system to investigate and pay certain small claims; establishing minimum requirements for the system to evaluate and pay the claims; specifying information to be submitted by a claimant; limiting types of claims and amount of claims authorized under the system; requiring Division of Highways review each claim and return incomplete claims for correction; allowing claimant thirty calendar days to make corrections and return claim to

division; requiring division to submit a report of all claims to the Legislative Auditor for approval; providing Legislative Auditor fifteen calendar days to approve or disapprove claim; authorizing Legislative Auditor to request additional information on a claim; providing Legislative Auditor ten calendar days to act on claim after receiving requested information; providing that a claimant whose claim has not been approved is not barred from filing a claim with the West Virginia Claims Commission; authorizing the promulgation of rules; requiring division process claims upon receipt of Legislative Auditor's approval; and requiring State Auditor issue warrant for payment"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 690 - "A Bill to amend and reenact §15-2-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the Superintendent of the West Virginia State Police to impose and collect a fee for agencies and entities using the facilities under his or her direction for training purposes"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 691 - "A Bill to amend and reenact (17-2A-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §17F-1-9 of said code; and to amend and reenact §20-15-2 of said code, all relating to off-highway vehicles; defining 'off-highway vehicle' and 'off-road vehicle'; creating digital road map for certain roads and vehicles, including off-highway vehicles; and making technical corrections"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

S. B. 693 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §44-5B-1, §44-5B-2, §44-5B-3, §44-5B-4, §44-5B-5, §44-5B-6, §44-5B-7, §44-5B-8, §44-5B-9, §44-5B-10, §44-5B-11, §44-5B-12, §44-5B-13, §44-5B-14, §44-5B-15, §44-5B-16, §44-5B-17, §44-5B-18 and §44-5B-19, all relating to the West Virginia Uniform Fiduciary Access to Digital Assets Act; providing a short title; defining certain terms; setting forth to whom the article applies; providing for user direction for disclosure of assets; addressing terms of service agreements; setting forth procedure for disclosing digital assets; providing for disclosure of content of electronic communications and other digital assets of deceased users; providing for disclosure of content of electronic communications of a principal; addressing disclosure of digital assets of a principal; addressing disclosure of digital assets held in trust when the trustee is an original owner or user; addressing disclosure of digital assets held in trust when trustee is not an original owner or user; addressing disclosure of digital assets to conservator of a protected person; setting forth fiduciary’s duties and authority; providing for custodian’s compliance and immunity; providing for uniformity of application and construction of article; addressing relation of article to Electronic Signatures in Global and National Commerce Act; providing for severability of article; and setting date when article takes effect”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of a joint resolution, which was read by its title as follows:

S. J. R. 4 – “Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof, by adding thereto a new section, designated section one-d, relating to authorizing the Legislature to, by general law, allocate a portion of

ad valorem property taxes paid by owners of certain new manufacturing facilities and large capital additions to existing manufacturing facilities located in counties in which county commissions elect to fund infrastructure capital improvements, in whole or in part, using property taxes; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; which was referred to the Committee on Finance then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of a joint resolution, which was read by its title as follows:

Com. Sub. for S. J. R. 6 – “Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof by adding thereto a new section, designated section twelve, relating to authorizing the Legislature to issue and sell state bonds not exceeding the aggregate amount of \$1.6 billion to be used for improvement and construction of state roads; numbering and designating such proposed amendment; authorizing a special election on the ratification or rejection of the amendment to take place in 2017 to be set by the Governor; and providing a summarized statement of the purpose of such proposed amendment”; which was referred to the Committee on Finance then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 13 – “Requesting the Division of Highways to name a portion of County Route 19/12, Blue Jay Drive, near Beaver, WV, beginning at point (37.751566) (-81.147914), at the intersection of Ritter Drive and Skyline Drive, and ending at point (37.737316) (-81.136157), at the intersection of Oak Street and Rabbit Run, the ‘U. S. Army CPL James Russell Carter Memorial Road’.”

Whereas, CPL James Russell Carter was born September 19, 1929, in Raleigh, West Virginia, to Russell and Agatha Carter; and

Whereas, CPL Carter grew up in Raleigh and Blue Jay, West Virginia and attended Shady Spring High School and the Raleigh Mine Institute; and

Whereas, Before enlisting in the United States Army, CPL Carter worked as a delivery driver for Coca-Cola; and

Whereas, On March 3, 1950, CPL Carter enlisted in the United States Army, attending basic training and artillery training in Fort Knox, Kentucky; and

Whereas, Upon completion of training, CPL Carter was sent to Fort Lewis, Washington, where he boarded a ship for Korea; and

Whereas, Upon arriving in Korea in August of 1950, CPL Carter was assigned to the 15th Field Artillery Battalion A Battery, participating in battles along the Naktong perimeter and the push north to the Chinese-Korean border along the Yalu River; and

Whereas, Following China's entry into the Korean theater, CPL Carter fought battles at Kunu-Ri and Hoengsong Valley north of Wonju; and

Whereas, On February 13, 1951, during the Battle of Hoengsong, later called the Hoengsong Valley Massacre, CPL Carter was captured while his unit was attempting to clear a Chinese road block; and

Whereas, CPL Carter subsequently died at the hands of his Chinese captors on the side of a remote Korean road never to be seen again; and

Whereas, A TIME correspondent called the Hoengsong Valley Massacre, “[P]art of the most horribly concentrated display of American dead since the Korean War began”; and

Whereas, Korean War veteran Dick Ecker described the massacre thusly, “It was, of course, the nature of the fatalities in

this action that was the real tragedy—many of them MIA, never found and declared dead or captured and died in captivity”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of County Route 19/12, Blue Jay Drive, near Beaver, WV, beginning at point (37.751566) (-81.147914), at the intersection of Ritter Drive and Skyline Drive, and ending at point (37.737316) (-81.136157), at the intersection of Oak Street and Rabbit Run, the “U. S. Army CPL James Russell Carter Memorial Road”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the road as the “U. S. Army CPL James Russell Carter Memorial Road”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 23 - Requesting the Division of Highways to name bridge number 30-52 2.73 (30A110), (37.82180, -82.39737), between Kermit and East Kermit, locally known as the Upper Burning Creek Bridge, carrying U. S. 52 over Upper Burning Creek and NS Railroad in Mingo County, the ‘Johnny O’Dell Linville Memorial Bridge’.”

Whereas, Johnny O’Dell Linville was born April 29, 1947, to Lenhart and Hazel Lovejoy Linville in their home at Palermo, Lincoln County, West Virginia. The family moved to Kermit, West Virginia, when Johnny was three years of age. He had four brothers and two sisters; and

Whereas, Johnny O'Dell Linville was educated in Kermit. He married Dorothy Spaulding Linville on September 3, 1966. They had one daughter, Rhonda Linville Muncy; and

Whereas, Johnny O'Dell Linville served as the mayor in the Town of Kermit for more than 17 years, and he also served as a councilman for three years; and

Whereas, Johnny O'Dell Linville played a pivotal role in a multitude of projects, including the Kermit Community Park that serves to this day as a popular gathering place for social events and the town's new sewer system. He also planted trees and flowers throughout the town; and

Whereas, Johnny O'Dell Linville's love for the town was shown in his efforts to make Kermit the Cleanest Little Town in West Virginia. One of his slogans was: "If you litter in Kermit, you have had a bad day!" This resulted in the perpetrator receiving a hefty fine; and

Whereas, Johnny O'Dell Linville played a huge part in the creation of the baseball field at East Kermit. He would work the PA system for hours each day and announce the names of the baseball players from the press box. He would be there from opening day to the season finale, from the top to the bottom of the schedule each day, always with a smile on his face, knowing the benefits that the field provided for the community and its children; and

Whereas, Johnny O'Dell Linville died on March 1, 2016, following a two-year struggle with kidney disease. He is survived by his loving wife of 49 years Dorothy Spaulding Linville of Kermit, his daughter Rhonda Linville Muncy, son-in-law Gabe Muncy and grandson John Alex Muncy, who is a student at Marshall University; and

Whereas, Naming this bridge in his hometown is an appropriate recognition of Mayor Johnny O'Dell Linville's contributions to his community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 30-52 2.73 (30A110), (37.82180, -82.39737), between Kermit and East Kermit, locally known as the Upper Burning Creek Bridge, carrying U. S. 52 over Upper Burning Creek and NS Railroad in Mingo County, the “Johnny O’Dell Linville Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “Johnny O’Dell Linville Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 24 – “Requesting the Division of Highways to name bridge number 17-58-0.01 (17A225), (39.25187, -80.31860), locally known as the Stonewood Bridge, carrying WV 58 over Elk Creek in Harrison County, the ‘U. S. Army PFC Joe Messe, Sr., Memorial Bridge’.”

Whereas, Joe Messe, Sr., was born in Stonewood, Harrison County, West Virginia, on May, 7, 1922; and

Whereas, Joe answered the call to serve his country during World War II, joining the 517th Field Artillery Battalion; and

Whereas, During the war, Joe served as a heavy artillery gun crewman, with specializations in rifle marksmanship and T. S. M. G. sharpshooting, employing his skills for the betterment of the American war effort in the Northern Solomon and Luzon Campaigns; and

Whereas, Joe’s battalion performed laudably in both the Solomon Islands and the Philippines, ultimately receiving a

commendation from Brigadier General of the U. S. Army H. R. Barter for their impeccable performance in the line of duty; and

Whereas, Joe's service to his country honors his family, his community and the entire State of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number: 17-58-0.01 (17A225), (39.25187, -80.31860), locally known as the Stonewood Bridge, carrying WV 58 over Elk Creek in Harrison County, the "U. S. Army PFC Joe Messe, Sr., Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army PFC Joe Messe, Sr., Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 26 – "Requesting the Division of Highways to name bridge number 21-10-13.70 (21A028), (39.10653, -80.51671), locally known as Mare Run Arch, carrying county Route 10 over Mare Run in Lewis County, the 'U. S. Marine Corps SSG Beecher J. Rhoades Memorial Bridge'."

Whereas, SSG Beecher J. Rhoades was born in Wheeling on March 15, 1926, a son of the late Beecher J. Rhoades and Grayce Long Rhoades; and

Whereas, SSG Beecher J. Rhoades married the former Betty Elizabeth Burnside on April 10, 1948, and they were married for more than 66 years; and

Whereas, SSG Beecher J. Rhoades was an honored veteran of the United States Marine Corps, having served in World War II and the Korean War. In 2006, he was recognized as the Marine Corps League's Marine of the Year; and

Whereas, SSG Beecher J. Rhoades was an active volunteer who also served as the Marine Corps League, Department of West Virginia 21st Commandant; and

Whereas, SSG Beecher J. Rhoades retired from the Equitable Gas Company with 33 years of service, retiring in 1985. He was an outdoor enthusiast who enjoyed farming, fishing, traveling and flying his Cherokee airplane; and

Whereas, SSG Beecher J. Rhoades was also a member of the Masonic Lodge #10 AF and AM and the Freemansburg United Methodist Church; and

Whereas, SSG Beecher J. Rhoades passed away on May 22, 2014, and naming the bridge in Lewis County for him would be a fitting recognition of his service to his country, state and community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 21-10-13.70 (21A028), (39.10653, -80.51671), locally known as Mare Run Arch, carrying county Route 10 over Mare Run in Lewis County, the "U. S. SSG Beecher J. Rhoades Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Marine Corps SSG Beecher J. Rhoades Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 31 – “Requesting the Division of Highways to name bridge number 42-219/34-0.12 (42A161), locally known as the 11th Street Bridge, carrying CR 219/34 over Tygart Valley River in Randolph County, the ‘U. S. Navy BT2 Mark Edward Hutchison Memorial Bridge’.”

Whereas, Boiler Technician Hutchison was born on March 30, 1963, in Elkins, to Edward S. Hutchison and Helen Ruth “Purkey” Hutchison; and

Whereas, Boiler Technician Hutchison was the youngest of the five Hutchison children. He grew up in the Elkins area where he attended school as well as the Vo-Tech Center until graduation from Elkins High School in 1981. He was involved in many local organizations and activities including the Boy Scouts, the Izaak Walton League and the Woodford United Methodist Church; and

Whereas, Boiler Technician Hutchison enlisted in the U. S. Navy on April 12, 1983, and served honorably as a BT2 Class Boiler Technician, and was deployed to the Middle East during Operation Desert Shield in August, 1990; and

Whereas, Boiler Technician Hutchison was killed in a tragic boiler room accident aboard the USS Iwo Jima on October 30, 1990, and was hailed for his bravery and heroism by shipmates and the author Timothy Cummings who wrote an investigative report for Chief Engineer Magazine for his efforts to save the ship and protect his fellow shipmates when the horrific accident occurred; and

Whereas, Boiler Technician Hutchison’s body was returned to his birthplace for final military rites and burial in the Mountain State Memorial Gardens on November 5, 1990; and

Whereas, Boiler Technician Hutchison's father, Edward S. Hutchison, is a 92-year-old WWII Navy Veteran who served from 1943 to 1945. He served in several theaters of war during this time including his participation as an operator of LCVP landing craft and the landing of troops on the beaches of Normandy on D-Day, June 6, 1944. Mr. Hutchison also served as an Elkins City Councilman for several years during the 1970s; and

Whereas, It is fitting that an appropriate memorial recognizing U. S. Navy Boiler Technician Mark Edward Hutchison and the sacrifice he made be established in the area where he lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 42-219/34-0.12 (42A161), locally known as the 11th Street Bridge, carrying CR 219/34 over Tygart Valley River in Randolph County, the "U. S. Navy BT2 Mark Edward Hutchison Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Navy BT2 Mark Edward Hutchison Memorial Bridge"; and, be it

Further Resolved, That the Clerk is hereby requested to forward a copy of this resolution to the Commissioner of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 32 – "Requesting the Division of Highways to name the portion of State Route 10 from milepost 9.10 (37.744779, -81.890197) to milepost 13.60 (37.767490, -81.921406) in Logan County, the 'U. S. Army SGT Denver E. Short Memorial Road'."

Whereas, Denver E. Short was born May 6, 1921, in Logan County, at Davin on Huff Creek, he attended Man High School and later married Margaret Parsons from West Logan, and they had two daughters, Katy Short Ojeda and Brenda Short Thomas; and

Whereas, Denver E. Short enlisted in the U. S. Army in August, 1941, and was honorably discharged on September 27, 1945, after having participated in historic battles in central Europe and received medals for his service and for wounds received in action; and

Whereas, As a platoon Sergeant in Headquarters Battery of the 155th Airborne Anti-Aircraft Battalion, Sergeant Denver E. Short served in four European wartime campaigns: In Normandy; the Rhineland; the Ardennes; and central Europe; and

Whereas, Sergeant Denver E. Short suffered his first combat wound from small arms fire on D-Day, June 6, 1944, he was subsequently wounded in Belgium in 1944 and again in France in 1945. As a result of his wounds, he was hospitalized on numerous occasions, first in a hospital in England and two different extended stays in hospitals in France, and was awarded three separate Purple Heart Medals for his wounds; and

Whereas, Sergeant Denver E. Short also received the first Oak Leaf Cluster to his first Purple Heart Medal, a second Oak Leaf Cluster to his second Purple Heart Medal and two Distinguished Unit Badges; and

Whereas, Sergeant Denver E. Short passed away on August 26, 2001, and was a proud veteran, great father and husband, a quiet, humble man, a devout Christian and a true American hero; and

Whereas, Naming the portion of State Route 10 from milepost 9.10 (37.744779, -81.890197) to milepost 13.60 (37.767490, -81.921406) in Logan County, the “U. S. Army SGT Denver E. Short Memorial Road”, is an appropriate recognition of his service and sacrifices for his country as a part of The Greatest Generation and service to his state, community and Logan County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the portion of State Route 10 from milepost 9.10 (37.744779, -81.890197) to milepost 13.60 (37.767490, -81.921406) in Logan County, the “U. S. Army SGT Denver E. Short Memorial Road”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road as the “U. S. Army SGT Denver E. Short Memorial Road”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 41 – “Requesting the Division of Highways name bridge number 03-9-3.08 (03A052), (37.94999, -81.85885), locally known as Hewitt Bridge 3642, carrying County Route 9 over the Hewitt Creek in Boone County, the ‘U. S. Army PV2 Mandvial S. “Bunker” Bias Memorial Bridge’.”

Whereas, Private Bias was born July 25, 1893, in Hewett, Boone County. He was the son of Mann Bias and Parthena Bias and a descendant of Obediah Bias, one of the first settlers of Hewett; and

Whereas, Private Bias married Leora Baldwin and they had ten children: Audley, Ruby, Ruth, Eugene, Darlene, Joey, Christena, James Otis, Yvonna Lee and Sherry; and

Whereas, Private Bias loved West Virginia and lived all his life in Boone County where he raised his family while working in the coal mines, timbering and always raising a large garden; and

Whereas, Private Bias was a kind and generous man with family and many friends gathering at their home on Sundays, with sometimes as many as fifty people gathering. After dinner, they would gather outside under shade trees to visit and discuss cars, hunting and politics; and

Whereas, Private Bias served his country during World War I; and

Whereas, Private Bias passed away on October 13, 1973; and

Whereas, Private Bias served his country and his state with honor and distinction; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 03-9-3.08 (03A052), (37.94999, -81.85885), locally known as Hewitt Bridge 3642, carrying County Route 9 over the Hewitt Creek in Boone County, the “U. S. Army PV2 Mandvial S. ‘Bunker’ Bias Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PV2 Mandvial S. ‘Bunker’ Bias Memorial Bridge”; and, be it

Further Revolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 43 – “Requesting the Division of Highways to name bridge number 38-66-11.62 (38A133), locally known as Cass Bridge, carrying WV 66 over the Greenbrier River in Pocahontas County, the ‘Eugene Lee “Gene” Burner Memorial Bridge’.”

Whereas, Eugene Lee “Gene” Burner was born on May 1, 1919, and raised in Durbin, West Virginia, the son of Dr. Allen Eugene Burner and Mabel Wilson Burner; and

Whereas, Gene attended the Durbin Grade School and Green Bank High School before attending West Virginia University and earning a Bachelor of Science and Master of Science in Physics; and

Whereas, Gene worked as a research physicist and instrument engineer at the U. S. Bureau of Mines in Morgantown, West Virginia, for many years until his retirement in 1975. During his time at the Bureau of Mines, Gene helped develop a process for the gasification of coal that has greatly contributed to improving West Virginia’s coal and energy industries; and

Whereas, After raising three children in Morgantown, Gene and his beloved wife, Bonnie Pugh Burner, moved back to Pocahontas County in 1975. While in Pocahontas County, Gene worked to restore the old white farmhouse on Burner Hill near Cass, which was originally constructed in the early 1900s by Gene’s uncle; and

Whereas, Gene also was an active member of his community. Always a talented pianist and tenor soloist, Gene played the piano and organ at three churches in the area, in Cass, Durbin and Arbovale, sometimes all on the same day. Gene also lent his musical talents to weddings and funerals, often playing with his mother and his second wife, Louise Shears Burner; and

Whereas, Gene further demonstrated his commitment to his community by serving on the boards of Methodist churches in the area and the Arbovale Cemetery. His focus on expanding and maintaining the buildings and grounds of local churches and cemeteries continues to enhance the lives of people within the communities of Pocahontas County. Of particular note, Gene supported and actively worked with other citizens and groups to ensure that grave markers for some of Pocahontas County’s pioneers and most notable citizens were accurately marked and well preserved; and

Whereas, Gene's interests and talent also extended to history and genealogy. Before and after Gene's return to Pocahontas County, he performed extensive research on his family history and his ancestors' connection to the town of Cass and other lumber towns in Pocahontas County. Gene was an active contributor to the Pocahontas County Historical Society, providing pictures that he discovered during his research and taking photographs of historical buildings in the region, including former one-room schoolhouses and churches; and

Whereas, Gene also loved making and capturing memories anywhere he went. He was a fixture at civic events, cake walks, school activities, sporting events and class and family reunions, always bringing a camera, a light meter and tripod in tow. Gene loved to socialize with family and friends, but also never failed to memorialize events with candid shots and group photos. His extensive file of negatives is truly a treasure, providing a pictorial narrative of the life, culture and history of the people of Pocahontas County, West Virginia; and

Whereas, On August 6, 2008, Gene passed away, thirty-three years after his return to Pocahontas County. Despite his passing, Gene has left an indelible mark on Pocahontas County and the State of West Virginia, not just through his good works and deeds, but through his love for his community and the way in which he touched the lives of everyone that knew him. For these reasons and more, it is fitting to erect a sign memorializing Gene and his life well-lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 38-66-11.62 (38A133), locally known as Cass Bridge, carrying WV 66 over the Greenbrier River in Pocahontas County, the "Eugene Lee 'Gene' Burner Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs

identifying the bridge as the “Eugene Lee ‘Gene’ Burner Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 44 – “Requesting the Division of Highways to name bridge number 30-65/83-0.05 (30A283), (37.7938, -82.343), locally known as Tug Valley High School Bridge, carrying County Route 65/83 over Pigeon Creek in Mingo County, the ‘Tug Valley Students Memorial Bridge’.”

Whereas, The West Virginia Division of Highways built this bridge in 2016; and

Whereas, The bridge furthers the economic development of Mingo County; and

Whereas, The bridge has enabled the Mingo County Board of Education to develop and improve the Tug Valley High School and its athletic facilities; and

Whereas, These upgrades improve the education and quality of life for all Tug Valley students; and

Whereas, Numerous students of Tug Valley High School perished at an early age while attending the school; and

Whereas, Those students deserve a lasting memorial celebrating their lives; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 30-65/83-0.05 (30A283), (37.7938, -82.343),

locally known as Tug Valley High School Bridge, carrying County Route 65/83 over Pigeon Creek in Mingo County, the “Tug Valley Students Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Tug Valley Students Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 45 – “Requesting the Division of Highways to erect a sign along each side of Interstate 68 between mile markers one and seven, in Monongalia County, proclaiming ‘Home of Anna Lindquist — 1996 NHPA Hall of Fame Inductee’.”

Whereas, Anna Lindquist, at the urging of several women competitors and without any real experience, pitched her first national horseshoe pitching event at the age of thirteen; and

Whereas, Anna Lindquist was a resident of Morgantown, West Virginia, married to the late Arner Lindquist, himself an avid horseshoe pitcher who won many prizes in and around the Morgantown region and qualified for the world championships nine times; and

Whereas, Anna Lindquist, in 1948 and again in 1949, became the Women’s World Champion Horseshoe Pitcher. Little documentation remains of her 1949 achievements; however, 1948 documentation shows Anna won the 1948 championship with a 7-0 record; and

Whereas, Anna Lindquist went on to compete in seven additional Women’s World Tournament events placing second

three additional times and third in three events. Anna failed to make the top three in just two of her championship events, yet still managed to finish with a sixth and eighth place finish; and

Whereas, Anna Lindquist is noted for winning 48 matches in her championship appearances; and

Whereas, Anna Lindquist is credited with establishment of the Horseshoe Pitchers Association of West Virginia charter in 1947 and served as the charter secretary-treasurer from 1948-1963. She was elected the National Horseshoe Pitching Association Vice President in 1963; and

Whereas, Sadly, Anna Lindquist passed away on February 5, 1968, following a lengthy illness; and

Whereas, Anna Lindquist, having won two world championships, averaged at least seventy-five percent in the top five of one or more championship division finals at least four times, and participated in nine championships with a seventy percent score or better, was inducted into the National Horseshoe Pitching Association Hall of Fame in 1996; and

Whereas, It is most fitting that the West Virginia Legislature pay tribute to the accomplishments of Anna Lindquist; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to erect a sign along each side of Interstate 68 between mile markers one and seven, in Monongalia County, proclaiming “Home of Anna Lindquist — 1996 NHSPA Hall of Fame Inductee”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed along each side of Interstate 68 between mile markers one and seven, in Monongalia County, a sign indicating, “Home of Anna Lindquist — 1996 NHSPA Hall of Fame Inductee”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 484 - “A Bill to amend and reenact §11-15-9 of the Code of West Virginia, 1931, as amended, relating generally to taxation; and eliminating exemption from consumers sales and service tax for certain purchases of materials acquired for use in state highway projects”; which was referred to the Committee on Finance.

Miscellaneous Business

Delegate Hornbuckle noted to the Clerk that he was absent when the votes were taken on Roll Nos. 265, 266 and 267, and that had he been present, he would have voted “Yea” thereon.

Delegate Lewis noted to the Clerk that he was absent when the vote was taken on Roll No. 270, and that had he been present, he would have voted “Nay” thereon.

At 6:54 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, March 31, 2017.

Friday, March 31, 2017

FIFTY-SECOND DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Thursday, March 30, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates proceeded to the Seventh Order of Business for the purpose of introduction of a resolution.

Resolutions Introduced

Delegates R. Miller, A. Evans, Hamilton, Hornbuckle, Iaquina, Pushkin, R. Romine, Rowe, Cowles and Hamrick offered the following resolution, which was read by the Clerk as follows:

H. R. 17 – “Expressing support for Taiwan’s signing of a Free Trade Agreement (FTA) with the United States, reaffirming support for Taiwan’s meaningful participation and contribution in international organizations, and expressing a desire for strengthening and expanding sister-state ties between the State of West Virginia and Taiwan.”

Whereas, Taiwan shares the common values of freedom, democracy, human rights and the rule of law with the United States and the State of West Virginia. In 2016, Taiwan held its sixth direct presidential-election and inaugurated Dr. Tsai Ing-wen as its first woman president in a peaceful transition of power, demonstrating the strength and vitality of its democratic system and showcasing Taiwan as a beacon of democracy for Asia and beyond. August 4,

2017, will mark the 37th anniversary of the sister-state relationship between West Virginia and Taiwan. This sister-state relationship with Taiwan has been strengthened through the efforts of the Taipei Economic and Cultural Representative Office (TECRO), resulting in better mutual understanding and enhancing the friendship, trust, and cooperation between West Virginia and Taiwan; and

Whereas, The United States is Taiwan's second-largest trading partner and second-largest destination of Taiwan outward investment; Taiwan is the tenth-largest trading partner of the United States, with bilateral trade reaching \$65.3 billion in 2016, and eighth largest export destination for U.S. agricultural goods, and overall the fourteenth-largest export market. Also, in 2016, West Virginia exported more than \$29.6 million to Taiwan, making it our seventh-largest Asian export market and eighteenth-largest export market in the world, demonstrating that Taiwan is not only a friendly sister-state of West Virginia but also an important trading partner; and

Whereas, By working together with Taiwan, West Virginia welcomes all opportunities for an even closer economic partnership to increase the trade and investment through the signing of a United States-Taiwan Free Trade Agreement, to boost greater West Virginia exports to Taiwan and to enhance the special sister-state bond between West Virginia and Taiwan, resulting in further cultural, educational, and business exchanges between the citizens of both nations; and

Whereas, Taiwan and the United States have combined efforts to address regional and global challenges under the mechanism of United States-Taiwan Global Cooperation and Training Framework (GCTF), and jointly conduct capacity building programs for regional experts in areas of public health, women empowerment, energy efficiency and e-commerce. Taiwan has proven to be a valuable contributor in a broad range of global issues, and it is necessary that Taiwan be permitted meaningful participation in various international organizations including the World Health Organization (WHO), International Civil Aviation Organization (ICAO), United Nation Framework Convention on

Climate Change (UNFCCC), and International Criminal Police Organization (INTERPOL); therefore, be it

Resolved by the House of Delegates:

That the West Virginia House of Delegates reaffirms its commitment to the strengthening and deepening of the sister-state relationship between Taiwan and the State of West Virginia; commends Taiwan's vibrant full-fledged democracy with yet another peaceful transition of government; endorses Taiwan's efforts to secure the signing of Free Trade Agreement with the United States; and continues to support Taiwan's meaningful participation and contribution in international organizations which impact the health, safety and well-being of its people, and supports its aspiration to make more contribution in international societies; and, be it

Further Resolved, That the Clerk forward a certified copy of this resolution to the Governor of West Virginia and to Mr. Stanley Kao, the Representative of the Taipei Economic and Cultural Representative Office in the United States.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 17) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

Committee Reports

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 402, Relating to covenants not to compete between physicians and hospitals,

And,

Com. Sub. for S. B. 428, Relating to partial filling of prescriptions,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 402 and Com. Sub. for S. B. 428) were each referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 486, Relating to health care provider taxes,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 486) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 60, Relating to eligibility and fraud requirements for public assistance,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 60) was referred to the Committee on the Judiciary.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 364, Incorporating changes to Streamlined Sales and Use Tax Agreement,

S. B. 365, Maintaining solvency of Unemployment Compensation Fund,

S. B. 392, Relating to Municipal Police Officers and Firefighters Retirement System,

And,

S. B. 566, Claims against state,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 321, Reporting requirements of employee information to CPRB,

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

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

S. B. 621, Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations,

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

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 30, 2017, he approved **H. B. 2300, Com. Sub. for H. B. 2678** and **H. B. 2766**.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 501 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31-15-5a, relating to creating the Minority Economic Development Advisory Council; providing for composition and duties of the Minority Economic Development Advisory Council; requiring members first appointed be appointed to staggered terms; prohibiting appointed members from serving more than two consecutive terms; providing that an appointed member may continue to serve until his or her successor is appointed; prohibiting members from receiving compensation other than reimbursement for reasonable expenses; and requiring quarterly meetings”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 507 - “A Bill to amend and reenact §30-5-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-

5-12a, all relating to expanding permissible scope of practice for licensed pharmacists; permitting pharmacists to inform customers about lower cost alternatives for their prescriptions, dispense and deliver those alternatives and to inform customers if their copay exceeds the cost for their prescriptions; and declaring public policy”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 526 - “A Bill to amend and reenact §5-16-7 and §5-16-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5-16B-6f; to amend said code by adding thereto a new section, designated §9-5-25; to amend said code by adding thereto a new section, designated §33-15-4o; to amend said code by adding thereto a new section, designated §33-16-3bb; to amend said code by adding thereto a new section, designated §33-24-7q; to amend said code by adding thereto a new section, designated §33-25-8n; and to amend said code by adding thereto a new section, designated §33-25A-8p, all relating to mandatory insurance coverage, up to the age of twenty, for certain medical foods for amino acid-based formulas; providing a list of diagnosed conditions for which insurance coverage should extend; providing that coverage extends to medically necessary foods for home use when prescribed by a physician; defining terms; and providing for exclusions”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 563 - “A Bill to amend and reenact §46A-2-105, §46A-2-122 and §46A-2-128 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §46A-2-140; to amend and reenact §46A-5-10 and §46A-5-102 of said code; to amend said code by adding thereto

a new section, designated §46A-5-108; and to amend and reenact §46A-8-101 of said code, all relating to the Consumer Credit and Protection Act; modifying requirements for contracts allowing for balloon payments; establishing that agreements allowing for balloon payments shall contain certain language in form and substance substantially similar to existing requirements; modifying and clarifying definitions; excluding attorneys from the definition of ‘debt collector’ under certain circumstances; changing the time period where direct contact with a consumer must cease after receipt of notice of representation from seventy-two hours to three business days; establishing means of notice to a debt collector of a consumer’s representation by legal counsel; requiring notice of representation to a debt collector be sent by certified mail, return receipt requested; establishing that contents of a pleading do not provide the basis for a claim of a violation of the Consumer Credit and Protection Act under certain circumstances; establishing exceptions for when a pleading may form the basis of a claim under the Consumer Credit Protection Act; providing for statutes of limitation in foreclosure matters; providing that counterclaims are subject to the appropriate statute of limitations; adopting a right to cure under articles two, three, four and five of this chapter; establishing procedures and remedies for the right to cure; addressing awards of attorney fees in certain circumstances involving the right to cure; and providing for applicability and effective dates of these amendments to the Consumer Credit Protection Act”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 576 - “A Bill to amend and reenact §37-7-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new chapter, designated §37B-1-1, §37B-1-2, §37B-1-3, §37B-1-4, §37B-1-5, §37B-1-6, §37B-1-7, §37B-1-8, §37B-1-9 and §37B-1-10, all relating generally to real property; providing an exception to waste for certain oil and gas

development; providing a short title; providing declarations of public policy and legislative findings; providing definitions; providing that consent for the lawful use of the oil and gas mineral property by three fourths of the royalty interests in oil and gas mineral property is permissible, not waste and not trespass; allowing nonconsenting cotenants to elect a production royalty interest or a working interest share of production; providing for the joint development of multiple contiguous oil and gas leases by horizontal drilling unless development is expressly prohibited by agreement; limiting jointly developed leases to six hundred forty acres with a ten percent tolerance; requiring a \$100,000 payment, as indexed to the consumer price index, to a surface owner whose surface tract is damaged by horizontal drilling; allowing for a net acreage fractional share royalty interest, free of post-production expenses, for multiple contiguous leases jointly developed; providing for timely payment of royalties and requiring specified information to be remitted with such payments; requiring quarterly reporting of production data for horizontal wells drilled pursuant to the provisions herein; providing that cotenants are not liable for damages as a result of the lawful use of oil and gas mineral property; requiring surface use agreements in specified circumstances and preserving common law rights; and providing for severability of provisions”; which was referred to the Committee on the Judiciary.

Special Calendar

Third Reading

Com. Sub. for S. B. 36, Permitting school nurses to possess and administer opioid antagonists; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 274**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

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

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

S. B. 41, Extending time person may be subject to probation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 275**), and there were--yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fluharty and Sponaugle.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 41) passed.

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

S. B. 164, Relating to traffic regulations and special load limits; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 276**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 164) passed.

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

Com. Sub. for S. B. 233, Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 277**), and there were--yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fast.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 233) passed.

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

Com. Sub. for S. B. 247, Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 278**), and there were--yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fluharty.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 247) passed.

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

On this question, the yeas and nays were taken (**Roll No. 279**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 247) takes effect from its passage.

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

Com. Sub. for S. B. 248, Clarifying composition and chairmanship of Commission on Special Investigations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 280**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 248) passed.

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

Com. Sub. for S. B. 338, Relating to medical professional liability; on third reading, coming up in regular order, was read a third time.

Delegate Wilson requested to be excused from voting on the passage of Com. Sub. for S. B. 338 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 281**), and there were--yeas 87, nays 12, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Eldridge, Ferro, Fluharty, Hicks, Isner, Marcum, Miley, Robinson, Rowe, Sponaugle and Thompson.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 338) passed.

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

Com. Sub. for S. B. 347, Relating to modernization of Physician Assistant Practice Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 282**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 347) passed.

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

Com. Sub. for S. B. 347 – “A Bill to repeal §30-3E-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5-19 of said code; to amend and reenact §30-3-5 of said code;

to amend and reenact §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-6, §30-3E-7, §30-3E-9, §30-3E-10, §30-3E-11, §30-3E-12, §30-3E-15, §30-3E-16 and §30-3E-17 of said code; to amend said code by adding thereto a new section, designated §30-3E-12a; and to amend and reenact §33-15-14 of said code, all relating to Physician Assistants; modifying board membership; substituting ‘collaborating physician’ for ‘supervising physician’; defining terms; modifying the prescriptive authority of physician assistants; eliminating certain recertification requirements; eliminating the continuous national certification requirement; prohibiting an insurance plan from limiting the practice of physician assistants; adding requirements to the practice agreement; granting physician assistants signatory authority on certain forms; and making conforming amendments.”

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

Com. Sub. for S. B. 437, Discontinuing WV Greyhound Breeding Development Fund; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 442, Relating generally to crimes against persons; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 283**), and there were--yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: G. Foster, Isner and Marcum.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 442) passed.

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

Com. Sub. for S. B. 455, Relating generally to commitment of persons to custody of Commissioner of Corrections; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 284**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 455) passed.

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

Com. Sub. for S. B. 473, Permitting collection and sale of naturally shed deer antlers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 285**), and there were--yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, E. Evans, Fleischauer, Love and Rowe.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 473) passed.

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

Com. Sub. for S. B. 497, Relating to liability for health care providers who provide services at school athletic events; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 286**), and there were--yeas 91, nays 8, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Fleischauer, Fluharty, Miley, Rowe, Sponaule, Walters and Williams.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 497) passed.

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

Com. Sub. for S. B. 531, Relating to renewal date for apiary certificates of registration; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 287**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 531) passed.

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

Com. Sub. for S. B. 634, Relating generally to certain agreements between DHHR and state's medical schools; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

S. B. 684, Relating generally to WV State Police; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 288**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 684) passed.

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

On this question, the yeas and nays were taken (**Roll No. 289**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kelly and Thompson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 684) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 5, Disqualifying CDL for DUI conviction in certain cases; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 151, Authorizing Department of Administration promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 206, Expanding definition of “kidnapping” to include taking or gaining custody of, confining or concealing person by force; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, section fourteen-a, line six, by reinserting the word “or”.

The bill was ordered to third reading.

Com. Sub. for S. B. 214, Adopting Uniform Electronic Legal Material Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page four, section eight, line three, after the phrase “on a permanent basis”, by adding the words “at no cost”.

The bill was ordered to third reading.

Com. Sub. for S. B. 222, Relating to disqualification for unemployment benefits; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page four, section three, lines eighty to eighty-one, by striking out the words “and identified that he or she was reporting for and prepared to work”.

The bill was ordered to third reading.

Com. Sub. for S. B. 225, Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 256, Relating to prohibiting aiding and abetting of sexual abuse by school personnel; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, section twenty-two, line two, after the word “agency”, by adding a comma and the following “public or private” and a comma.

The bill was ordered to third reading.

Com. Sub. for S. B. 261, Relating to increasing salary or wages of judgment debtor; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 386, Creating WV Medical Cannabis Act; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Shott, and by unanimous consent, the bill was postponed until April 3, 2017.

Com. Sub. for S. B. 445, Amending definition of “abused child”; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 456, Relating to standards for termination of parental rights in child abuse and neglect cases; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 125, Authorizing DHHR promulgate legislative rules,

Com. Sub. for S. B. 172, Eliminating salary for Water Development Authority board members,

S. B. 173, Relating generally to autocycles,

Com. Sub. for S. B. 204, Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses,

Com. Sub. for S. B. 224, Repealing requirement for employer's bond for wages and benefits,

Com. Sub. for S. B. 230, Relating to certain WV officials carrying concealed firearm nationwide,

Com. Sub. for S. B. 239, Limiting use of wages by employers and labor organizations for political activities,

S. B. 349, Repealing outdated code related to Division of Corrections,

S. B. 400, Regarding appointments to WV Infrastructure and Jobs Development Council,

Com. Sub. for S. B. 522, Relating to pharmacy audits,

S. B. 554, Relating to false swearing in legislative proceeding,

And,

Com. Sub. for S. B. 575, Limiting nuisance actions against shooting ranges for noise.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Kelly.

At 12:32 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 3106, Relating to increasing the number of limited video lottery terminals.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2447, Renaming the Court of Claims the State Claims Commission.

Delegate Cowles moved that the House concur in the following Senate amendments:

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

“ARTICLE 2. CLAIMS AGAINST THE STATE.

§14-2-3. Definitions.

For the purpose of this article:

~~‘Court’ means the state Court of Claims established by section four of this article.~~

‘Commission’ means the West Virginia Legislative Claims Commission established by section four of this article.

‘Claim’ means a claim authorized to be heard by the ~~court~~ commission in accordance with this article.

‘Approved claim’ means a claim found by the ~~court~~ commission to be one that should be paid under the provisions of this article.

‘Award’ means the amount recommended by the ~~court~~ commission to be paid in satisfaction of an approved claim.

‘Clerk’ means the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

‘State agency’ means a state department, board, commission, institution, or other administrative agency of state government: *Provided*, That a ‘state agency’ shall not be considered to include county ~~courts~~ commissions, county boards of education, municipalities, or any other political or local subdivision of the state regardless of any state aid that might be provided.

§14-2-4. ~~Creation of Court of Claims~~ Court of Claims to be continued and renamed the West Virginia Legislative Claims Commission; appointment and terms of judges commissioners; vacancies.

The ‘Court of Claims’ is hereby ~~created~~ renamed the West Virginia Legislative Claims Commission. It shall consist of three ~~judges~~ commissioners, to be appointed by the President of the Senate and the Speaker of the House of Delegates, ~~by and with the advice and consent of the Senate~~, one of whom shall be appointed presiding ~~judge~~ commissioner. The judges of the Court of Claims sitting on the effective date of the amendments to this article enacted during the 2017 Regular Session of the Legislature will continue their existing terms as commissioners. Each appointment to the ~~court~~ commission shall be made from a list of three qualified nominees furnished by the Board of Governors of the West Virginia State Bar. The President of the Senate and the Speaker of the House of Delegates may jointly terminate the appointment of any commissioner appointed under this section at any time.

The terms of the ~~judges of this court~~ commissioners shall be

six years. ~~except that the first members of the court commission shall be appointed as follows: One judge for two years, one judge for four years and one judge for six years. As these appointments expire, all appointments shall be for six year terms~~ Not more than two of the judges commissioners shall be of the same political party. An appointment to fill a vacancy shall be for the unexpired term.

§14-2-4a. Interim judges commissioners.

(a) If at any time two or more of the judges commissioners appointed under section four of this article are temporarily unable, due to illness or other incapacity, to perform their responsibilities the President of the Senate and the Speaker of the House of Delegates may appoint one or two interim judges commissioners to serve under the conditions specified in this section.

(b) Appointments made under this section are temporary. An interim judge commissioner serves under this section until the judge commissioner for whom the interim judge commissioner is temporarily replacing can resume his or her duties. In no event may the interim judge commissioner serve for more than three months unless reappointed.

(c) Appointments made under this section shall be made from a list furnished to the President of the Senate and the Speaker of the House of Delegates by the Board of Governors of the West Virginia State Bar. The Board of Governors of the West Virginia State Bar shall annually, on or before January 15, submit a list of twenty qualified nominees. ~~In two thousand four, the list shall be submitted before April 1~~

(d) An interim judge commissioner:

(1) Is entitled to the same compensation and expense reimbursement a judge commissioner is entitled to under the provisions of section eight of this article;

(2) Shall take the oath of office as required in section nine of this article;

(3) Has all the authority given to a ~~judge~~ commissioner under this article; and

(4) Is required to possess the qualifications required of a ~~judge~~ commissioner in section ten of this article.

(e) The President of the Senate and the Speaker of the House of Delegates may jointly terminate the appointment of any interim ~~judge~~ commissioner appointed under this section at any time.

§14-2-5. ~~Court~~ Commission clerk and other personnel.

~~The court~~ The President of the Senate and the Speaker of the House of Delegates may appoint a clerk, chief deputy clerk and deputy clerks. The salaries of the clerk, the chief deputy clerk and the deputy clerks shall be fixed by the Joint Committee on Government and Finance, and shall be paid out of the regular appropriation for the ~~court~~ commission. The clerk shall have custody of and maintain all records and proceedings of the ~~court~~ commission, shall attend meetings and hearings of the ~~court~~ commission, shall administer oaths and affirmations and shall issue all official summonses, subpoenas, orders, statements and awards. The chief deputy clerk or another deputy clerk shall act in the place and stead of the clerk in the clerk's absence.

~~The Joint Committee on Government and Finance~~ President of the Senate and the Speaker of the House of Delegates may employ other persons whose services are necessary to the orderly transaction of the business of the ~~court~~ commission and fix their compensation.

§14-2-7. Meeting place of the ~~court~~ commission.

The regular meeting place of the ~~court~~ commission shall be at the State Capitol, and the Joint Committee on Government and Finance shall provide adequate quarters therefor. ~~When deemed advisable,~~ In order to facilitate the full hearing of claims arising elsewhere in the state, the ~~court~~ commission may convene at any county seat or other location in the state, including a correctional institution: *Provided*, That the ~~court~~ commission will make reasonable efforts to meet in appropriate public or private buildings

in keeping with the dignity and decorum of the State.

§14-2-8. Compensation of judges commissioners; expenses.

Each ~~judge of the court~~ commissioner shall receive \$210 for each day actually served and expenses incurred in the performance of his or her duties paid at the same per diem rate as members of the Legislature: *Provided*, That the ~~chief judge presiding commissioner~~ shall receive an additional \$50 for each day actually served. In addition to the expense per diem, each commissioner may, when using his or her own vehicle, be reimbursed for mileage. ~~at the mileage rate equal to the amount paid by the travel management office of the Department of Administration~~ The number of days served by each judge commissioner shall not exceed one hundred twenty in any fiscal year, except by authority of the ~~Joint Committee on Government and Finance~~ President of the Senate and the Speaker of the House of Delegates: *Provided*, That in computing the number of days served, days utilized solely for the exercise of duties assigned to ~~judges and~~ commissioners by this article and the provisions of article two-a of this chapter shall be disregarded. For the purpose of this section, time served shall include time spent in the hearing of claims, in the consideration of the record, in the preparation of opinions and in necessary travel.

§14-2-9. Oath of office.

Each ~~judge~~ commissioner shall before entering upon the duties of his or her office, take and subscribe to the oath prescribed by section 5, article IV of the Constitution of the State. The oath shall be filed with the clerk.

§14-2-10. Qualifications of judges commissioners.

Each judge commissioner appointed to the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall be an attorney at law, licensed to practice in this state, and shall have been so licensed to practice law for a period of not less than ten years prior to his or her appointment as judge commissioner. A judge commissioner shall not be an officer or an employee of any branch of state government, except in his or her capacity as a member of

the ~~court~~ commission and shall receive no other compensation from the state or any of its political subdivisions. A ~~judge~~ commissioner shall not hear or participate in the consideration of any claim in which he or she is interested personally, either directly or indirectly.

§14-2-11. Attorney General to represent state.

Unless expressly exempted in the code, the Attorney General shall represent the interests of the State in all claims coming before the ~~court~~ commission.

§14-2-12. General powers of the ~~court~~ commission.

The ~~court~~ commission shall, in accordance with this article, consider claims which, but for the Constitutional immunity of the state from suit, or for some statutory restrictions, inhibitions or limitations, could be maintained in the regular courts of the state. No liability shall be imposed upon the state or any state agency by a determination of the ~~Court of Claims~~ commission approving a claim and recommending an award, unless the claim is: (1) Made under an existing appropriation, in accordance with section nineteen of this article; or (2) a claim under a special appropriation, as provided in section twenty of this article. The ~~court~~ commission shall consider claims in accordance with the provisions of this article.

Except as is otherwise provided in this article, a claim shall be instituted by the filing of notice with the clerk. In accordance with rules promulgated by the ~~court~~ commission, each claim shall be considered by the ~~court~~ commission as a whole, or by a ~~judge~~ commissioner sitting individually, and if, after consideration, the ~~court~~ commission finds that a claim is just and proper, it shall so determine and shall file with the clerk a brief statement of its reasons. A claim so filed shall be an approved claim. The ~~court~~ commission shall also determine the amount that should be paid to the claimant, and shall itemize this amount as an award, with the reasons therefor, in its statement filed with the clerk. In determining the amount of a claim, interest shall not be allowed unless the claim is based upon a contract which specifically provides for the payment of interest.

§14-2-13. Jurisdiction of the ~~court~~ commission.

The jurisdiction of the ~~court~~ commission, except for the claims excluded by section fourteen, shall extend to the following matters:

(1) Claims and demands, liquidated and unliquidated, ex contractu and ex delicto, against the state or any of its agencies, which the state as a sovereign commonwealth should in equity and good conscience discharge and pay; and

(2) Claims and demands, liquidated and unliquidated, ex contractu and ex delicto, which may be asserted in the nature of set-off or counterclaim on the part of the state or any state agency.

§14-2-14. Claims excluded.

The jurisdiction of the ~~court~~ commission shall not extend to any claim:

1. For loss, damage, or destruction of property or for injury or death incurred by a member of the militia or National Guard when in the service of the state.

2. For a disability or death benefit under chapter twenty-three of this code.

3. For unemployment compensation under chapter twenty-one-a of this code.

4. For relief or public assistance under chapter nine of this code.

5. With respect to which a proceeding may be maintained against the state, by or on behalf of the claimant in the courts of the state.

§14-2-15. Rules of practice and procedure.

The ~~court~~ commission shall adopt and may from time to time amend rules of procedure, in accordance with the provisions of this article, governing proceedings before the ~~court~~ commission. Rules shall be designed to assure a simple, expeditious and inexpensive

consideration of claims. Rules shall permit a claimant to appear in his or her own behalf or be represented by counsel.

Discovery may be used in a case pending before the ~~court~~ commission in the same manner that discovery is conducted pursuant to the Rules of Civil Procedure for trial courts of record, Rules 26 through 36. The ~~court~~ commission may compel discovery and impose sanctions for a failure to make discovery, in the same manner as a court is authorized to do under the provisions of Rule 37 of the Rules of Civil Procedure for trial courts of record: *Provided*, That the ~~Court of Claims~~ commission shall not find a person in contempt for failure to comply with an order compelling discovery.

The ~~court~~ commission, upon its own motion or upon motion of a party, may strike a pleading, motion or other paper which: (1) Is not well-grounded in fact; (2) is not warranted by existing law, or is not based on a good faith argument for the extension, modification, or reversal of existing law; or (3) is interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in costs. An order striking a pleading, motion, or paper may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

Under its rules, the ~~court~~ commission shall not be bound by the usual common law or statutory rules of evidence. The ~~court~~ commission may accept and weigh, in accordance with its evidential value, any information that will assist the ~~court~~ commission in determining the factual basis of a claim.

§14-2-16. Regular procedure.

The regular procedure for the consideration of claims shall be substantially as follows:

(1) The claimant shall give notice to the clerk that he or she desires to maintain a claim. Notice shall be in writing and shall be in sufficient detail to identify the claimant, the circumstances

giving rise to the claim, and the state agency concerned, if any. The claimant shall not otherwise be held to any formal requirement of notice.

(2) The clerk shall transmit a copy of the notice to the state agency concerned. The state agency may deny the claim, or may request a postponement of proceedings to permit negotiations with the claimant. If the ~~court~~ commission finds that a claim is prima facie within its jurisdiction, it shall order the claim to be placed upon its regular docket for hearing.

(3) During the period of negotiations and pending hearing, the state agency, represented by the Attorney General, shall, if possible, reach an agreement with the claimant regarding the facts upon which the claim is based so as to avoid the necessity for the introduction of evidence at the hearing. If the parties are unable to agree upon the facts an attempt shall be made to stipulate the questions of fact in issue.

(4) The ~~court~~ commission shall so conduct the hearing as to disclose all material facts and issues of liability and may examine or cross-examine witnesses. The ~~court~~ commission may call witnesses or require evidence not produced by the parties; the ~~court~~ commission may call expert witnesses and compensate those experts for their services in an amount not to exceed \$3,500 per expert; the ~~court~~ commission may stipulate the questions to be argued by the parties; and the ~~court~~ commission may continue the hearing until some subsequent time to permit a more complete presentation of the claim.

(5) After the close of the hearing the ~~court~~ commission shall consider the claim and shall conclude its determination, if possible, within sixty days.

§14-2-17. Shortened procedure.

The shortened procedure authorized by this section shall apply only to a claim possessing all of the following characteristics:

1. The claim does not arise under an appropriation for the current fiscal year.

2. The state agency concerned concurs in the claim.
3. The amount claimed does not exceed ~~\$1,000~~ \$3,000.
4. The claim has been approved by the Attorney General as one that, in view of the purposes of this article, should be paid.

The state agency concerned shall prepare the record of the claim consisting of all papers, stipulations and evidential documents required by the rules of the ~~court~~ commission and file the same with the clerk. The ~~court~~ commission shall consider the claim informally upon the record submitted. If the ~~court~~ commission determines that the claim should be entered as an approved claim and an award made, it shall so order and shall file its statement with the clerk. If the ~~court~~ commission finds that the record is inadequate, or that the claim should not be paid, it shall reject the claim. The rejection of a claim under this section shall not bar its resubmission under the regular procedure.

§14-2-19. Claims under existing appropriations.

A claim arising under an appropriation made by the Legislature during the fiscal year to which the appropriation applies, and falling within the jurisdiction of the ~~court~~ commission, may be submitted by:

1. A claimant whose claim has been rejected by the state agency concerned or by the State Auditor.
2. The head of the state agency concerned in order to obtain a determination of the matters in issue.
3. The State Auditor in order to obtain a full hearing and consideration of the merits.

When such submittal is made, the clerk shall give a copy of the submittal to the Joint Committee on Government and Finance. If the Joint Committee on Government and Finance shall so direct, the clerk shall place such claim on its docket. Upon its placement on the docket, the regular procedure, so far as applicable, shall govern the consideration of the claim by the ~~court~~ commission. If

the ~~court~~ commission finds that the claimant should be paid, it shall certify the approved claim and award to the head of the appropriate state agency, the State Auditor and to the Governor. The Governor may thereupon instruct the Auditor to issue his or her warrant in payment of the award and to charge the amount thereof to the proper appropriation. The Auditor shall forthwith notify the state agency that the claim has been paid. Such an expenditure shall not be subject to further review by the Auditor upon any matter determined and certified by the ~~court~~ commission.

§14-2-20. Claims under special appropriations.

Whenever the Legislature makes an appropriation for the payment of claims against the state, then accrued or arising during the ensuing fiscal year, the determination of claims and the payment thereof may be made in accordance with this section. However, this section shall apply only if the Legislature in making its appropriation specifically so provides and only after specific direction to hear the claim is given by the Joint Committee on Government and Finance.

The claim shall be considered and determined by the regular or shortened procedure, as the case may be, and the amount of the award shall be fixed by the ~~court~~ commission. The clerk shall certify each approved claim and award, and requisition relating thereto, to the Auditor. The Auditor thereupon shall issue his or her warrant to the Treasurer in favor of the claimant. The Auditor shall issue his or her warrant without further examination or review of the claim except for the question of a sufficient unexpended balance in the appropriation.

§14-2-21. Periods of limitation made applicable.

The ~~court~~ commission shall not take jurisdiction of any claim, whether accruing before or after the effective date of this article (July 1, 1967), unless notice of such claim be filed with the clerk within such period of limitation as would be applicable under the pertinent provisions of the Code of West Virginia, 1931, as amended, if the claim were against a private person, firm or corporation and the Constitutional immunity of the state from suit

were not involved and such period of limitation may not be waived or extended. The foregoing provision shall not be held to limit or restrict the right of any person, firm or corporation who or which had a claim against the state or any state agency, pending before the Attorney General on the effective date of this article (July 1, 1967), from presenting such claim to the ~~Court of Claims~~ West Virginia Legislative Claims Commission, nor shall it limit or restrict the right to file such a claim which was, on the effective date of this article (July 1, 1967), pending in any court of record as a legal claim and which, after such date was or may be adjudicated in such court to be invalid as a claim against the state because of the Constitutional immunity of the state from suit.

§14-2-22. Compulsory process.

In all hearings and proceedings before the ~~court~~ commission, the evidence and testimony of witnesses and the production of documentary evidence may be required. Subpoenas may be issued by the ~~court~~ commission for appearance at any designated place of hearing. In case of disobedience to a subpoena or other process, the ~~court~~ commission may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses, and the production of books, papers and documents. Upon proper showing, the circuit court shall issue an order requiring witnesses to appear before the ~~Court of Claims~~ West Virginia Legislative Claims Commission; produce books, papers and other evidence; and give testimony touching the matter in question. A person failing to obey the order may be punished by the circuit court as for contempt.

§14-2-23. Inclusion of awards in budget.

The clerk shall certify to the department of finance and administration, on or before November 20, of each year, a list of all awards recommended by the ~~court~~ commission to the Legislature for appropriation. The clerk may certify supplementary lists to the Governor to include subsequent awards made by the ~~court~~ commission. The Governor shall include all awards so certified in his or her proposed budget bill transmitted to the Legislature. Any other provision of this article or of law to the

contrary notwithstanding, the clerk shall not certify any award which has been previously certified.

§14-2-24. Records to be preserved.

The record of each claim considered by the ~~court~~ commission, including all documents, papers, briefs, transcripts of testimony and other materials, shall be preserved by the clerk for a period of ten years from the date of entry of the ~~court's~~ commission's last order and shall be made available to the Legislature or any committee thereof for the reexamination of the claim. When any such documents, papers, briefs, transcripts and other materials have been so preserved by the clerk for such ten-year period, the same shall be transferred to the state records administrator for preservation or disposition in accordance with the provisions of article eight, chapter five-a of this code without cost, either to the ~~court~~ commission or the Legislature.

§14-2-25. Reports of the ~~court~~ commission.

The clerk shall be the official reporter of the ~~court~~ commission. He or she shall collect and edit the approved claims, awards and statements, shall prepare them for submission to the Legislature in the form of an annual report and shall prepare them for publication.

Claims and awards shall be separately classified as follows:

(1) Approved claims and awards not satisfied but referred to the Legislature for final consideration and appropriation.

(2) Approved claims and awards satisfied by payments out of regular appropriations.

(3) Approved claims and awards satisfied by payment out of a special appropriation made by the Legislature to pay claims arising during the fiscal year.

(4) Claims rejected by the ~~court~~ commission with the reasons therefor.

The ~~court~~ commission may include any other information or recommendations pertaining to the performance of its duties.

The ~~court~~ commission shall transmit its annual report to the presiding officer of each house of the Legislature, and a copy shall be made available to any member of the Legislature upon request therefor. The reports of the ~~court~~ commission shall be published biennially by the clerk as a public document. The biennial report shall be filed with the clerk of each house of the Legislature, the Governor and the Attorney General.

§14-2-26. Fraudulent claims.

A person who knowingly and willfully presents or attempts to present a false or fraudulent claim, or a state officer or employee who knowingly and willfully participates or assists in the preparation or presentation of a false or fraudulent claim, shall be guilty of a misdemeanor. A person convicted, in a court of competent jurisdiction, of violation of this section shall be fined not more than \$1,000 or ~~imprisoned~~ confined for not more than one year, or both, in the discretion of such court. If the convicted person is a state officer or employee, he or she shall, in addition, forfeit his or her office or position of employment, as the case may be.

§14-2-27. Conclusiveness of determination.

Any final determination against the claimant on any claim presented as provided in this article shall forever bar any further claim in the ~~court~~ commission arising out of the rejected claim.

§14-2-28. Award as condition precedent to appropriation.

(a) It is the policy of the Legislature to make no appropriation to pay any claims against the state, cognizable by the ~~court~~ commission, unless the claim has first been passed upon by the ~~court~~ commission.

(b) Because a decision of the ~~court~~ commission is a recommendation to the Legislature based upon a finding of moral obligation, and the enactment process of passage of legislation authorizing payments of claims recommended by the ~~court~~

commission is at legislative discretion, no right of appeal exists to findings and award recommendations of the ~~Court of Claims~~ West Virginia Legislative Claims Commission and they are not subject to judicial review.

ARTICLE 2A. COMPENSATION AWARDS TO VICTIMS OF CRIMES.

§14-2A-5. Jurisdiction.

Any judge commissioner of the ~~Court of Claims~~ West Virginia Legislative Claims Commission individually, or the ~~Court of Claims~~ West Virginia Legislative Claims Commission en banc, ~~or any Court of Claims commissioner appointed pursuant to section six of this article,~~ shall have jurisdiction to approve awards of compensation arising from criminally injurious conduct, in accordance with the provisions of this article, if satisfied by a preponderance of the evidence that the requirements for an award of compensation have been met.

§14-2A-6. ~~Appointment and Compensation of commissioners and judges serving under this article.~~

~~(a) The Court of Claims with the approval of the President of the Senate and the Speaker of the House of Delegates, may appoint Court of Claims commissioners to hear claims for awards of compensation and to approve awards of compensation pursuant to the provisions of this article. Each commissioner shall serve at the pleasure of the Court of Claims and under the supervision of the judges of the Court of Claims.~~

~~(b) The Court of Claims shall fix the compensation of the Court of Claims commissioners in an amount not exceeding the compensation for judges of the Court of Claims Compensation of judges and commissioners for services performed under this article, and actual expenses incurred in the performance of duties as judges and commissioners under this article, shall be paid out of the crime victims compensation fund.~~

~~(c) The limitation period of one hundred days in section eight, article two of this chapter pertaining to time served by the judges~~

~~of the Court of Claims shall not apply to the provisions of this article.~~

§14-2A-9. Claim investigators; compensation and expenses; paralegals and support staff.

The ~~Court of Claims~~ West Virginia Legislative Claims Commission, with the approval of the President of the Senate and the Speaker of the House of Delegates, is hereby authorized to hire not more than four claim investigators to be employed within the ~~Office of the clerk of the State~~ West Virginia Legislative Claims Commission, who shall carry out the functions and duties set forth in section twelve of this article. Claim investigators shall serve at the pleasure of the ~~Court of Claims~~ President of the Senate and the Speaker of the House of Delegates and under the administrative supervision of the Clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission. The compensation of claim investigators shall be fixed by the ~~court~~ President of the Senate and the Speaker of the House of Delegates, and such compensation, together with travel, clerical and other expenses of the Clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission relating to a claim investigator carrying out his or her duties under this article, including the cost of obtaining reports required by the investigator in investigating a claim, shall be payable from the crime victims compensation fund as appropriated for such purpose by the Legislature.

The ~~Court of Claims~~ West Virginia Legislative Claims Commission, with the approval of the President of the Senate and the Speaker of the House of Delegates, is hereby authorized to hire as support staff such paralegal or paralegals and secretary or secretaries to be employed within the ~~Office of the Clerk of the Court of Claims~~ West Virginia Legislative Claims Commission, necessary to carry out the functions and duties of this article. Such support staff shall serve at the will and pleasure of the ~~Court of Claims~~ West Virginia Legislative Claims Commission and under the administrative supervision of the Clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

§14-2A-10. Filing of application for compensation award; contents.

(a) A claim for an award of compensation shall be commenced by filing an application for an award of compensation with the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission. The application shall be in a form prescribed by the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission and shall contain the information specified in subdivisions (1) through (6) of this subsection and, to the extent possible, the information in subdivisions (7) through (10) of this subsection:

(1) The name and address of the victim of the criminally injurious conduct, the name and address of the claimant and the relationship of the claimant to the victim;

(2) The nature of the criminally injurious conduct that is the basis for the claim and the date on which the conduct occurred;

(3) The law-enforcement agency or officer to whom the criminally injurious conduct was reported and the date on which it was reported;

(4) Whether the claimant is the spouse, parent, child, brother or sister of the offender, or is similarly related to an accomplice of the offender who committed the criminally injurious conduct;

(5) A release authorizing the ~~Court of Claims, the Court of Claims commissioners~~ West Virginia Legislative Claims Commission and the claim investigator to obtain any report, document or information that relates to the determination of the claim for an award of compensation;

(6) If the victim is deceased, the name and address of each dependent of the victim and the extent to which each is dependent upon the victim for care and support;

(7) The nature and extent of the injuries that the victim sustained from the criminally injurious conduct for which compensation is sought, the name and address of any person who

gave medical treatment to the victim for the injuries, the name and address of any hospital or similar institution where the victim received medical treatment for the injuries, and whether the victim died as a result of the injuries;

(8) The total amount of the economic loss that the victim, a dependent or the claimant sustained or will sustain as a result of the criminally injurious conduct, without regard to the financial limitation set forth in subsection (g), section fourteen of this article;

(9) The amount of benefits or advantages that the victim, a dependent or other claimant has received or is entitled to receive from any collateral source for economic loss that resulted from the criminally injurious conduct, and the name of each collateral source;

(10) Any additional relevant information that the ~~Court of Claims~~ West Virginia Legislative Claims Commission may require. The ~~Court of Claims~~ West Virginia Legislative Claims Commission may require the claimant to submit, with the application, materials to substantiate the facts that are stated in the application.

(b) All applications for an award of compensation shall be filed within two years after the occurrence of the criminally injurious conduct that is the basis of the application. Any application so filed which contains the information specified in subdivisions (1) through (6), subsection (a) of this section may not be excluded from consideration on the basis of incomplete information specified in subdivisions (7) through (10) of said subsection if such information is completed after reasonable assistance in the completion thereof is provided under procedures established by the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

(c) A person who knowingly and willfully presents or attempts to present a false or fraudulent application, or who knowingly and willfully participates, or assists in the preparation or presentation of a false or fraudulent application, shall be guilty of a misdemeanor. A person convicted, in a court of competent jurisdiction, of a violation of this section shall be fined not more

than \$1,000 or imprisoned for not more than one year, or both, in the discretion of such court. If the convicted person is a state officer or employee, he or she shall, in addition, forfeit his or her office or position of employment, as the case may be.

§14-2A-11. Procedure for filing of application.

The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall establish a procedure for the filing, recording and processing of applications for an award of compensation.

§14-2A-12. Investigation and recommendations by claim investigator.

(a) The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall transmit a copy of the application to the claim investigator within seven days after the filing of the application.

(b) The claim investigator, upon receipt of an application for an award of compensation from the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission, shall investigate the claim. After completing the investigation, the claim investigator shall make a written finding of fact and recommendation concerning an award of compensation. He or she shall file with the clerk the finding of fact and recommendation and all information or documents that he or she used in his or her investigation: *Provided*, That the claim investigator shall not file information or documents which have been the subject of a protective order entered under the provisions of subsection (c) of this section.

(c) The claim investigator, while investigating the claim, may require the claimant to supplement the application for an award of compensation with any further information or documentary materials, including any medical report readily available, which may lead to any relevant facts aiding in the determination of whether, and the extent to which, a claimant qualifies for an award of compensation.

The claim investigator, while investigating the claim, may also require law-enforcement officers and prosecuting attorneys employed by the state or any political subdivision thereof, to provide him or her with reports, information, witness statements or other data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable him or her to determine whether, and the extent to which, a claimant qualifies for an award of compensation. The prosecuting attorney and any officer or employee of the prosecuting attorney or of the law-enforcement agency shall be immune from any civil liability that might otherwise be incurred as the result of providing such reports, information, witness statements or other data relating to the criminally injurious conduct to the claim investigator.

The claim investigator, while investigating the claim, may obtain autopsy reports including results from the Office of the State Medical Examiner to be used solely for determining eligibility for compensation awards.

Upon motion of any party, court or agency from whom such reports, information, witness statements or other data is sought, and for good cause shown, the court may make any order which justice requires to protect a witness or other person, including, but not limited to, the following: (1) That the reports, information, witness statements or other data not be made available; (2) that the reports, information, witness statements or other data may be made available only on specified terms and conditions, including a designation of time and place; (3) that the reports, information, witness statements or other data be made available only by a different method than that selected by the claim investigator; (4) that certain matters not be inquired into, or that the scope of the claim investigator's request be limited to certain matters; (5) that the reports, information, witness statements or other data be examined only by certain persons designated by the court; (6) that the reports, information, witness statements or other data, after being sealed, be opened only by order of the court; and (7) that confidential information or the identity of confidential witnesses or informers not be disclosed, or disclosed only in a designated manner.

However, in any case wherein the claim investigator has reason to believe that his or her investigation may interfere with or jeopardize the investigation of a crime by law-enforcement officers, or the prosecution of a case by prosecuting attorneys, he or she shall apply to the ~~Court of Claims~~ West Virginia Legislative Claims Commission, or a ~~judge~~ commissioner thereof, for an order granting leave to discontinue his or her investigation for a reasonable time in order to avoid such interference or jeopardization. When it appears to the satisfaction of the ~~court~~ commission, or ~~judge~~ commissioner, upon application by the claim investigator or in its own discretion, that the investigation of a case by the claim investigator will interfere with or jeopardize the investigation or prosecution of a crime, the ~~court~~ commission, or ~~judge~~ commissioner, shall issue an order granting the claim investigator leave to discontinue his or her investigation for such time as the ~~court~~ commission, or ~~judge~~ commissioner, deems reasonable to avoid such interference or jeopardization.

(d) The finding of fact that is issued by the claim investigator pursuant to subsection (b) of this section shall contain the following:

(1) Whether the criminally injurious conduct that is the basis for the application did occur, the date on which the conduct occurred and the exact nature of the conduct;

(2) If the criminally injurious conduct was reported to a law-enforcement officer or agency, the date on which the conduct was reported and the name of the person who reported the conduct; or the reasons why the conduct was not reported to a law-enforcement officer or agency; or the reasons why the conduct was not reported to a law-enforcement officer or agency within seventy-two hours after the conduct occurred;

(3) The exact nature of the injuries that the victim sustained as a result of the criminally injurious conduct;

(4) If the claim investigator is recommending that an award be made, a specific itemization of the economic loss that was

sustained by the victim, the claimant or a dependent as a result of the criminally injurious conduct;

(5) If the claim investigator is recommending that an award be made, a specific itemization of any benefits or advantages that the victim, the claimant or a dependent has received or is entitled to receive from any collateral source for economic loss that resulted from the conduct;

(6) Whether the claimant is the spouse, parent, child, brother or sister of the offender, or is similarly related to an accomplice of the offender who committed the criminally injurious conduct;

(7) Any information which might be a basis for a reasonable reduction or denial of a claim because of contributory misconduct of the claimant or of a victim through whom he or she claims;

(8) Any additional information that the claim investigator deems to be relevant to the evaluation of the claim.

(e) The recommendation that is issued by the claim investigator pursuant to subsection (b) of this section shall contain the following:

(1) Whether an award of compensation should be made to the claimant and the amount of the award;

(2) If the claim investigator recommends that an award not be made to the claimant, the reason for his or her decision.

(f) The claim investigator shall file his or her finding of fact and recommendation with the clerk within six months after the filing of the application: *Provided*, That where there is active criminal investigation or prosecution of the person or persons alleged to have committed the criminally injurious conduct which is the basis for the claimant's claim, the claim investigator shall file his or her finding of fact and recommendation within six months after the first of any final convictions or other final determinations as to innocence or guilt, or any other final disposition of criminal proceedings. In any case, an additional time period may be

provided by order of any ~~Court of Claims judge or~~ commissioner upon good cause shown.

§14-2A-13. Notice to claimant of claim investigator's recommendation; evaluation of claim by ~~judge or~~ commissioner.

(a) The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission, upon receipt of the claim investigator's finding of fact and recommendation, shall forward a copy of the finding of fact and recommendation to the claimant with a notice informing the claimant that any response, in the form of objections or comments directed to the finding of fact and recommendation, must be filed with the clerk within thirty days of the date of the notice. After the expiration of such thirty-day period, the clerk shall assign the claim to a ~~judge or commissioner. of the court.~~

(b) The ~~judge or~~ commissioner to whom the claim is assigned shall review the finding of fact and recommendation and any response submitted by the claimant and, if deemed appropriate, may request the claim investigator to comment in writing on the claimant's response. The ~~judge or~~ commissioner shall, within forty-five days after assignment by the clerk, evaluate the claim without a hearing and either deny the claim or approve an award of compensation to the claimant.

§14-2A-14. Grounds for denial of claim or reduction of awards; maximum awards.

(a) Except as provided in subsection (b), section ten of this article, the ~~judge or~~ commissioner may not approve an award of compensation to a claimant who did not file his or her application for an award of compensation within two years after the date of the occurrence of the criminally injurious conduct that caused the injury or death for which he or she is seeking an award of compensation.

(b) The ~~judge or~~ commissioner may not approve an award of compensation if the criminally injurious conduct upon which the claim is based was not reported to a law-enforcement officer or

agency or, in the case of sexual offense, the claimant did not undergo a forensic medical examination, within ninety-six hours after the occurrence of the conduct, unless it is determined that good cause existed for the failure to report the conduct or undergo a forensic medical examination within the 96-hour period: *Provided*, That no reporting to a law-enforcement officer or agency or a forensic medical examination is required if the claimant is a juvenile in order for a ~~judge or~~ commissioner to approve an award of compensation.

(c) The ~~judge or~~ commissioner may not approve an award of compensation to a claimant who is the offender or an accomplice of the offender who committed the criminally injurious conduct, nor to any claimant if the award would unjustly benefit the offender or his or her accomplice.

(d) A ~~judge or~~ commissioner, upon a finding that the claimant or victim has not fully cooperated with appropriate law-enforcement agencies or the claim investigator, may deny a claim, reduce an award of compensation or reconsider a claim already approved.

(e) A ~~judge or~~ commissioner may not approve an award of compensation if the injury occurred while the victim was confined in any state, county or regional jail, prison, private prison or correctional facility.

(f) After reaching a decision to approve an award of compensation, but prior to announcing the approval, the ~~judge or~~ commissioner shall require the claimant to submit current information as to collateral sources on forms prescribed by the Clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission. The ~~judge or~~ commissioner shall reduce an award of compensation or deny a claim for an award of compensation that is otherwise payable to a claimant to the extent that the economic loss upon which the claim is based is or will be recouped from other persons, including collateral sources, or if the reduction or denial is determined to be reasonable because of the contributory misconduct of the claimant or of a victim through whom he or she claims. If an award is reduced or a claim is denied because of the

expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source: *Provided*, That if it is thereafter determined that the claimant will not receive all or part of the expected recoupment, the claim shall be reopened and an award shall be approved in an amount equal to the amount of expected recoupment that it is determined the claimant will not receive from the collateral source, subject to the limitation set forth in subsection (g) of this section.

(g) (1) Except in the case of death, or as provided in subdivision (2) of this subsection, compensation payable to a victim and to all other claimants sustaining economic loss because of injury to that victim may not exceed \$35,000 in the aggregate. Compensation payable to all claimants because of the death of the victim may not exceed \$50,000 in the aggregate.

(2) In the event the victim's personal injuries are so severe as to leave the victim with a disability, as defined in Section 223 of the Social Security Act, as amended, as codified in 42 U. S. C. §423, the ~~court~~ commission may award an additional amount, not to exceed \$100,000, for special needs attributable to the injury.

(h) If an award of compensation of \$5,000 or more is made to a minor, a guardian shall be appointed pursuant to the provisions of article ten, chapter forty-four of this code to manage the minor's estate.

§14-2A-15. Hearings.

(a) If either the claim investigator or the claimant disagrees with the approval of an award or the denial of a claim in the summary manner set forth in the preceding sections of this article, the claim investigator or the claimant, or both, shall file with the clerk a request for hearing. Such request shall be filed within twenty-one days after notification by the ~~judge or~~ commissioner of his or her decision.

(b) Upon receipt of a request for hearing, the clerk shall ~~place the claim upon the regular docket of the court~~ set a date and time for hearing, shall advise the Attorney General and the claimant of the receipt of the request and docketing of the claim, and shall request the Attorney General to commence negotiations with the claimant.

(c) During the period of negotiations and pending hearing, the Attorney General, shall, if possible, reach an agreement with the claimant regarding the facts upon which the claim is based so as to avoid the necessity for the introduction of evidence at the hearing. If the parties are unable to agree upon the facts, an attempt shall be made to stipulate the questions of fact in issue.

(d) The hearing held in accordance with this section shall be before a single ~~judge or~~ commissioner to whom the claim has not been previously assigned. Hearings before a ~~judge or~~ commissioner may, in the discretion of such hearing officer, be held at such locations throughout the state as will facilitate the appearance of the claimant and witnesses.

(e) The hearing shall be conducted so as to disclose all material facts and issues. The ~~judge or~~ commissioner may examine or cross-examine witnesses. The ~~judge and~~ commissioner may call witnesses or require evidence not produced by the parties; may stipulate the questions to be argued by the parties; and may continue the hearing until some subsequent time to permit a more complete presentation of the claim.

(f) After the close of the hearing the ~~judge or~~ commissioner shall consider the claim and shall conclude his or her determination, if possible, within thirty days.

(g) The ~~court~~ commission shall adopt and may from time to time amend rules of procedure to govern proceedings before the ~~court~~ commission in accordance with the provisions of this article. The rules shall be designed to assure a simple, expeditious and inexpensive consideration of claims. The rules shall permit a claimant to appear in his or her own behalf or be represented by counsel and provide for interests of the state to be represented by

the Attorney General in any hearing under this section at no additional cost to the fund or the state.

Under its rules, the ~~court~~ commission shall not be bound by the usual common law or statutory rules of evidence. The ~~court~~ commission may accept and weigh, in accordance with its evidential value, any information that will assist the ~~court~~ commission in determining the factual basis of a claim.

§14-2A-16. Evidence.

(a) There is no privilege, except the privilege arising from the attorney-client relationship, as to communications or records that are relevant to the physical, mental or emotional condition of the claimant or victim in a proceeding under this article in which that condition is an element.

(b) If the mental, physical or emotional condition of a victim or claimant is material to a claim for an award of compensation, the ~~court, judge~~ commission or a commissioner may order the victim or claimant to submit to a mental or physical examination by a physician or psychologist, and may order an autopsy of a deceased victim. The order may be made for good cause shown and upon notice to the person to be examined and to the claimant and the claim investigator. The order shall specify the time, place, manner, conditions and scope of the examination or autopsy and the person by whom it is to be made, and shall require the person who performs the examination or autopsy to file with the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission a detailed written report of the examination or autopsy. The report shall set out the findings, including the results of all tests made, diagnosis, prognosis and other conclusions and reports of earlier examinations of the same conditions. On request of the person examined, the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall furnish him or her a copy of the report. If the victim is deceased, the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission, on request, shall furnish the claimant a copy of the report.

(c) The ~~court, or a judge~~ commission, or a commissioner thereof, may order law-enforcement officers employed by the State or any political subdivision thereof to provide it or the claim investigator with copies of any information or data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable it to determine whether, and the extent to which, a claimant qualifies for an award of compensation.

(d) The ~~court, judge~~ commission or a commissioner thereof, may require the claimant to supplement the application for an award of compensation with any reasonably available medical or psychological reports relating to the injury for which the award of compensation is claimed.

(e) The ~~court, judge~~ commission or a commissioner thereof, or the claim investigator, in a claim arising out of a violation of article eight-b, chapter sixty-one of this code, shall not request the victim or the claimant to supply any evidence of specific instances of the victim's activity, or reputation evidence of the victim's sexual activity, unless it involves evidence of the victim's past sexual activity with the offender, and then only to the extent that the ~~court, the judge~~, the commissioner or the claim investigator finds that the evidence is relevant to a fact at issue in the claim.

(f) Notwithstanding any provision of this code to the contrary relating to the confidentiality of juvenile records, the ~~Court of Claims~~ West Virginia Legislative Claims Commission, a ~~judge~~ or a commissioner thereof, or the claim investigator shall have access to the records of juvenile proceedings which bear upon an application for compensation under this article. The ~~Court of Claims~~ West Virginia Legislative Claims Commission, a ~~judge~~ or a commissioner thereof, and the claim investigator, shall, to the extent possible, maintain the confidentiality of juvenile records.

§14-2A-17. Contempt sanction not available.

If a person refuses to comply with an order under this article, or asserts a privilege, except privileges arising from the attorney-client relationship, so as to withhold or suppress evidence relevant to a claim for an award of compensation, the ~~court, judge~~

commission or a commissioner thereof may make any just order, including denial of the claim, but shall not find the person in contempt. If necessary to carry out any of his or her powers and duties, the claim investigator may petition the ~~Court of Claims~~ West Virginia Legislative Claims Commission for an appropriate order, including an order authorizing the investigator to take the depositions of witnesses by oral examination or written interrogatory, but the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall not find a person in contempt for refusal to submit to a mental or physical examination.

§14-2A-18. Effect of no criminal charges being filed or conviction of offender.

The ~~court, or a judge~~ commission or a commissioner thereof, may approve an award of compensation whether or not any person is convicted for committing the conduct that is the basis of the award. The filing of a criminal charge shall be a prerequisite for receipt of compensation unless it is determined that no charges were filed due to the identity of the perpetrator being unknown: *Provided*, That no criminal charges need be filed if: (1) The claimant is an adult at the time the conduct giving rise to the claim occurred and no criminal charges were filed for reasons other than the desire of the claimant and a law-enforcement agency confirms that the available evidence supports a finding that a crime occurred; or (2) the claimant was a juvenile at the time the conduct giving rise to the claim occurred. Proof of conviction of a person whose conduct gave rise to a claim is conclusive evidence that the crime was committed, unless an application for rehearing, an appeal of the conviction or certiorari is pending, or a rehearing or new trial has been ordered.

The ~~court, or a judge~~ commission or a commissioner thereof, shall suspend, upon a request of the claim investigator, the proceedings in any claim for an award of compensation pending disposition of a criminal prosecution that has been commenced or is imminent.

§14-2A-19. Attorney and witness fees.

(a) By separate order, the ~~court, or a judge~~ commission or a commissioner thereof, shall determine and award reasonable attorney's fees, commensurate with services rendered and reimbursement for reasonable and necessary expenses actually incurred shall be paid from the Crime Victims Compensation Fund to the attorney representing a claimant in a proceeding under this article at the same rates as set forth in section thirteen-a, article twenty-one, chapter twenty-nine of this code. Attorney's fees and reimbursement may be denied upon a finding that the claim or appeal is frivolous. Awards of attorney's fees and reimbursement shall be in addition to awards of compensation, and attorney's fees and reimbursement may be awarded whether or not an award of compensation is approved. An attorney shall not contract for or receive any larger sum than the amount allowed under this section. In no event may a prosecuting attorney or assistant prosecuting attorney represent any victim seeking compensation under this article.

(b) Each witness called by the ~~court~~ commission to appear in a hearing on a claim for an award of compensation shall receive compensation and expenses in an amount equal to that received by witnesses in civil cases as provided in section sixteen, article one, chapter fifty-nine of this code to be paid from the Crime Victims Compensation Fund.

§14-2A-19a. Effect on physician, hospital and healthcare providers filing an assignment of benefits; tolling of the statute of limitations.

(a) As part of the order, the ~~court, or a judge~~ commission or a commissioner thereof, shall determine whether fees are due and owing for health care services rendered by a physician, hospital or other health care provider stemming from an injury received as defined under this article, and further, whether or not the physician, hospital or other health care provider has been presented an assignment of benefits, signed by the crime victim, authorizing direct payments of benefits to the health care provider. If such fees are due and owing and the health care provider has presented a valid assignment of benefits, the ~~court, or a judge~~ commission or a commissioner thereof, shall determine the amount or amounts and

shall cause such reasonable fees to be paid out of the amount awarded the crime victim under this article directly to the physician, hospital or other health care provider. The requirements of this section shall be applicable to, and any such unpaid fees shall be determined and payable from, the awards made by the Legislature at regular session, ~~one thousand nine hundred eighty-seven~~ 1987, and subsequently: *Provided*, That when a claim is filed under this section, the ~~court~~ commission shall determine the total damages due the crime victim, and where the total damages exceed the maximum amount which may be awarded under this article, the amount paid the health care provider shall be paid in the same proportion to which the actual award bears to the total damages determined by the ~~court~~ commission. In any case wherein an award is made which includes an amount for funeral, cremation or burial expenses, or a combination thereof, the ~~court~~ commission shall provide for the payment directly to the provider or providers of such services, in an amount deemed proper by the ~~court~~ commission, where such expenses are unpaid at the time of the award.

(b) If the health care provider has filed an assignment of benefits, the provider shall aid the crime victim in the development of his or her claim by providing the ~~court~~ commission with the amount of such fees as well as the amount of any portion of the fees paid the provider by the crime victim directly or paid the provider for the crime victim by a collateral source.

(c) Whether or not a health care provider has filed an assignment of benefits, the ~~court~~ commission shall disclose no information regarding the status of the claim to the provider: *Provided*, That the ~~court~~ commission shall promptly notify the provider of the final disposition of the claim, if the provider is known to the ~~court~~ commission.

(d) Whenever a person files a claim under this article, the statute of limitations for the collection of unpaid fees paid for such health care services shall be tolled during the pendency of the claim before the ~~court~~ commission.

§14-2A-19b. Rates and limitations for health care services.

The ~~court~~ commission may establish by ~~court~~ rule or ~~court~~ order maximum rates and service limitations for reimbursement of health care services rendered by a physician, hospital, or other health care provider. An informational copy of the maximum rates and service limitations shall be filed with the Joint Committee on Government and Finance upon adoption by the ~~court~~ commission. Any change in the maximum rates or service limitations shall be effective sixty days after the adoption of the changes. A provider who accepts payment from the ~~court~~ commission for a service shall accept the ~~court's~~ commission's rates as payment in full and may not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the ~~court~~ commission for that service. A provider may not charge a claimant for any difference between the cost of a service provided to a claimant and the ~~court's~~ commission's payment for that service. To ensure service limitations are uniform and appropriate to the levels of treatment required by the claimant, the ~~court~~ commission may review all claims for these services as necessary to ensure their medical necessity.

§14-2A-20. Budget preparation; procedure for payment of claims.

(a) The Legislative Auditor shall submit to the Department of Administration, on or before November 20, of each year, an anticipated budget for the Crime Victims Compensation Program provided in this article for the next fiscal year, which shall include:

(1) An estimate of the balance and receipts anticipated in the Crime Victims Compensation Fund;

(2) Amounts anticipated to be sufficient for the payment of all administrative expenses necessary for the administration of this article; and

(3) Amounts anticipated to be sufficient for the payment of awards, attorney fees, witness fees and other authorized fees, costs or expenses that may arise under this article during the next fiscal year.

(b) The Governor shall include in his or her proposed budget bill and revenue estimates the amounts submitted by the Legislative Auditor under subsection (a) of this section.

(c) The clerk shall certify each authorized award and the amount of the award and make requisition upon the Crime Victims Compensation Fund to the Auditor. Notwithstanding any provision of chapter twelve of this code to the contrary, the Auditor shall issue a warrant to the Treasurer without further examination or review of the claim if there is a sufficient unexpended balance in the Crime Victims Compensation Fund.

(d) The ~~court~~ commission may provide that payment be made to a claimant or to a third party for economic losses of the claimant and the order may provide an award for the payment for actual economic losses which are prospective as well as those which have already been incurred.

§14-2A-21. Annual report of ~~Court of Claims~~ West Virginia Legislative Claims Commission.

The ~~Court of Claims~~ West Virginia Legislative Claims Commission shall prepare and transmit annually to the Governor and the Legislature a report of the activities of the ~~Court of Claims~~ West Virginia Legislative Claims Commission under this article. The report shall include the number of claims filed, the number of awards made and the amount of each award, and a statistical summary of claims and awards made and denied; the balance in the Crime Victims Compensation Fund with a listing by source and amount of the moneys that have been deposited in the fund; the amount that has been withdrawn from the fund, including separate listings of the administrative costs incurred by the ~~Court of Claims~~ West Virginia Legislative Claims Commission, compensation of ~~judges,~~ commissioners and ~~court~~ commission personnel, the amount awarded as attorneys' fees.

§14-2A-25. Publicity.

(a) The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall prepare an information brochure for the

benefit of the general public, outlining the rights of claimants and procedures to be followed under this article. Copies of such brochure shall be distributed to law-enforcement agencies in the state, and be made available to other interested persons.

(b) Any law-enforcement agency that investigates an offense committed in this state involving personal injury shall make reasonable efforts to provide information to the victim of the offense and his or her dependents concerning the availability of an award of compensation and advise such persons that an application for an award of compensation may be obtained from the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

§14-2A-26. Rules and regulations Rule-making.

(a) The ~~Court of Claims~~ West Virginia Legislative Claims Commission may promulgate rules and regulations to implement the provisions of this article.

(b) The ~~Court of Claims~~ West Virginia Legislative Claims Commission shall promulgate rules and regulations to govern the award of compensation to the spouse of, person living in the same household with, parent, child, brother or sister of the offender or his or her accomplice in order to avoid an unjust benefit to or the unjust enrichment of the offender or his or her accomplice.

§14-2A-28. Retroactive effect of amendments.

Amendments made to the provisions of this article during the regular session of the Legislature in the year ~~one thousand nine hundred eighty four~~ 1984, shall be of retroactive effect to the extent that such amended provisions shall apply to all cases pending before the ~~Court of Claims~~ West Virginia Legislative Claims Commission on the effective date of the act of the Legislature which effects such amendment.”

And,

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

Com. Sub. for H. B. 2447 - “A Bill to repeal §14-2-6 and §14-2-18 of the Code of West Virginia, 1931, as amended; to repeal §14-2A-7 of said code; to amend and reenact §14-2-3, §14-2-4, §14-2-4a, §14-2-5, §14-2-7, §14-2-8, §14-2-9, §14-2-10, §14-2-11, §14-2-12, §14-2-13, §14-2-14, §14-2-15, §14-2-16, §14-2-17, §14-2-19, §14-2-20, §14-2-21, §14-2-22, §14-2-23, §14-2-24, §14-2-25, §14-2-26, §14-2-27 and §14-2-28 of said code; and to amend and reenact §14-2A-5, §14-2A-6, §14-2A-9, §14-2A-10, §14-2A-11, §14-2A-12, §14-2A-13, §14-2A-14, §14-2A-15, §14-2A-16, §14-2A-17, §14-2A-18, §14-2A-19, §14-2A-19a, §14-2A-19b, §14-2A-20, §14-2A-21, §14-2A-25, §14-2A-26 and §14-2A-28 of said code, all relating to certain claims against the state generally; renaming the West Virginia Court of Claims the West Virginia Legislative Claims Commission; renaming judges commissioners; clarifying that commissioners are not judicial officers; modifying definitions; providing explicit power of removal of commissioners to the President of the Senate and the Speaker of the House of Delegates; providing authority to the President of the Senate and the Speaker of the House of Delegates for the hiring of a clerk, chief deputy clerk, deputy clerks, and support staff and setting salaries for said positions; increasing the monetary limit for agency agreed to claims from \$1,000 to \$3,000; and updating and modifying and clarifying procedures and practices of the commission.”

Delegate Cowles subsequently withdrew his motion to concur in the Senate amendments.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2486, Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order.

On motion of Delegate Cowles, the House concurred in the following Senate title amendment:

Com. Sub. for H. B. 2486 – “A Bill to amend and reenact §33-6F-1 of the Code of West Virginia, 1931, as amended, relating to medical records and medical billing records obtained by insurers in connection with insurance claims or civil litigation; providing that such records shall be confidentially maintained by insurers in accordance with state and federal law, including the provisions of Title 114, Series 57 of the Code of State Rules; prohibiting additional restrictions or conditions on medical records and medical billing records obtained by insurers in connection with insurance claims or civil litigation that contradict or are inconsistent with any applicable policy of insurance or the performance of insurance functions permitted or authorized by state and federal law; requiring the State Insurance Commissioner to review the provisions of Title 114, Series 57 of the Code of State Rules and to propose new rules or modify existing rules to the extent deemed necessary; requiring the State Insurance Commissioner to propose any such new rules or modification to existing rules by December 31, 2017; and setting forth areas to be addressed in any new rules or modified existing rules in the provisions of Title 114, Series 57 of the Code of State Rules.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 290**), and there were--yeas 78, nays 17, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Barrett, Canestraro, Caputo, Diserio, E. Evans, Fleischauer, Hornbuckle, Isner, Lynch, Marcum, Miley, Pushkin, Robinson, Rowe, Sponaugle, Thompson and Upson.

Absent and Not Voting: Deem, Kelly, Moye, Pyles and Statler.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2486) passed.

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

Delegate Cowles announced that Com. Sub. for S. B. 576 was incorrectly referred when received earlier today. Upon motion of Delegate Cowles, and by unanimous consent, the House returned to the Message from the Senate regarding Com. Sub. for S. B. 576.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 576 - “A Bill to amend and reenact §37-7-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new chapter, designated §37B-1-1, §37B-1-2, §37B-1-3, §37B-1-4, §37B-1-5, §37B-1-6, §37B-1-7, §37B-1-8, §37B-1-9 and §37B-1-10, all relating generally to real property; providing an exception to waste for certain oil and gas development; providing a short title; providing declarations of public policy and legislative findings; providing definitions; providing that consent for the lawful use of the oil and gas mineral property by three fourths of the royalty interests in oil and gas mineral property is permissible, not waste and not trespass; allowing nonconsenting cotenants to elect a production royalty interest or a working interest share of production; providing for the joint development of multiple contiguous oil and gas leases by horizontal drilling unless development is expressly prohibited by agreement; limiting jointly developed leases to six hundred forty acres with a ten percent tolerance; requiring a \$100,000 payment, as indexed to the consumer price index, to a surface owner whose surface tract is damaged by horizontal drilling; allowing for a net acreage fractional share royalty interest, free of post-production expenses, for multiple contiguous leases jointly developed; providing for timely payment of royalties and requiring specified information to be remitted with such payments; requiring quarterly reporting of production data for horizontal wells drilled pursuant to the provisions herein; providing that cotenants are not liable for damages as a result of the lawful use of oil and gas mineral property; requiring surface use agreements in specified circumstances and preserving common law rights; and providing for severability of provisions.”

The bill was referred to the Committee on Energy.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 186, Adjusting date when children become eligible for certain school programs and school attendance requirements,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 186) to the Committee on Finance was abrogated.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 180, Relating to PSC jurisdiction over certain telephone company and internet services,

S. B. 350, Allowing licensed professional counselors be issued temporary permit,

And,

S. B. 495, Relating to regulation of events by State Athletic Commission,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 412, Relating to WV Jobs Act reporting requirements,

And,

S. B. 564, Relating to Statewide Independent Living Council,

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

Delegate Cooper, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

Com. Sub. for S. B. 280, Moving administration of Civil Air Patrol to Adjutant General,

And reports the same back with the recommendation that it do pass, and with the recommendation that second reference to the Committee on Government Organization be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 280) to the Committee on Government Organization was abrogated.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 563, Relating to Consumer Credit and Protection Act,

Com. Sub. for S. B. 581, Relating generally to administration of trusts,

And,

Com. Sub. for S. B. 398, Creating Emergency Volunteer Health Practitioners Act,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 505, Providing five-year reclamation period following completion of well pads for horizontal wells,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 358, Relating generally to trustee sale of timeshare estates,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting,

And,

Com. Sub. for S. B. 344, Relating to application of payments on consumer credit sale and loans,

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

Delegate Hanshaw, 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 31st day of March, 2017, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 127, Authorizing Department of Revenue to promulgate legislative rules,

And,

Com. Sub. for S. B. 306, Supplemental appropriation of federal funds from Treasury to Workforce West Virginia.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

S. B. 28, Creating new system for certain contiguous counties to establish regional recreation authorities,

Com. Sub. for S. B. 221, Relating to composition of PEIA Finance Board,

And,

Com. Sub. for S. B. 588, Relating to reproduction, distribution and sale of tax maps,

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

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 499, Creating Debt Resolution Services Division in Auditor's office,

And,

Com. Sub. for S. B. 671, Relating to WV Anatomical Board,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 169, Repealing article providing assistance to Korea and Vietnam veterans exposed to certain chemical defoliants,

S. B. 170, Repealing state hemophilia program,

S. B. 171, Repealing Programs of All-Inclusive Care for Elderly,

And,

S. B. 198, Expanding Health Sciences Program to allow certain medical practitioners in underserved areas,

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

Miscellaneous Business

At 5:42 p.m., the House of Delegates adjourned until 9:00 a.m., Saturday, April 1, 2017.

Saturday, April 1, 2017

FIFTY-THIRD DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Friday, March 31, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 31, 2017, he approved **Com. Sub. for H. B. 2318**.

Special Calendar

Unfinished Business

Action on Senate Messages

Com. Sub. for H. B. 2447, Renaming the Court of Claims the state Claims Commission; coming up in regular order, as unfinished business, was reported by the Clerk.

On motion of Delegate Cowles, the House concurred in the following Senate amendments:

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

“ARTICLE 2. CLAIMS AGAINST THE STATE.

§14-2-3. Definitions.

For the purpose of this article:

~~‘Court’ means the state Court of Claims established by section four of this article.~~

‘Commission’ means the West Virginia Legislative Claims Commission established by section four of this article.

‘Claim’ means a claim authorized to be heard by the ~~court~~ commission in accordance with this article.

‘Approved claim’ means a claim found by the ~~court~~ commission to be one that should be paid under the provisions of this article.

‘Award’ means the amount recommended by the ~~court~~ commission to be paid in satisfaction of an approved claim.

‘Clerk’ means the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

‘State agency’ means a state department, board, commission, institution, or other administrative agency of state government: *Provided*, That a ‘state agency’ shall not be considered to include county ~~courts~~ commissions, county boards of education, municipalities, or any other political or local subdivision of the state regardless of any state aid that might be provided.

§14-2-4. ~~Creation of Court of Claims~~ Court of Claims to be continued and renamed the West Virginia Legislative Claims Commission; appointment and terms of judges commissioners; vacancies.

The ‘Court of Claims’ is hereby ~~created~~ renamed the West Virginia Legislative Claims Commission. It shall consist of three ~~judges~~ commissioners, to be appointed by the President of the Senate and the Speaker of the House of Delegates, ~~by and with the advice and consent of the Senate~~, one of whom shall be appointed presiding ~~judge~~ commissioner. The judges of the Court of Claims sitting on the effective date of the amendments to this article enacted during the 2017 Regular Session of the Legislature will

continue their existing terms as commissioners. Each appointment to the ~~court~~ commission shall be made from a list of three qualified nominees furnished by the Board of Governors of the West Virginia State Bar. The President of the Senate and the Speaker of the House of Delegates may jointly terminate the appointment of any commissioner appointed under this section at any time.

The terms of the ~~judges of this court~~ commissioners shall be six years. ~~except that the first members of the court commission shall be appointed as follows: One judge for two years, one judge for four years and one judge for six years. As these appointments expire, all appointments shall be for six year terms~~ Not more than two of the ~~judges~~ commissioners shall be of the same political party. An appointment to fill a vacancy shall be for the unexpired term.

§14-2-4a. Interim ~~judges~~ commissioners.

(a) If at any time two or more of the ~~judges~~ commissioners appointed under section four of this article are temporarily unable, due to illness or other incapacity, to perform their responsibilities the President of the Senate and the Speaker of the House of Delegates may appoint one or two interim ~~judges~~ commissioners to serve under the conditions specified in this section.

(b) Appointments made under this section are temporary. An interim ~~judge~~ commissioner serves under this section until the ~~judge~~ commissioner for whom the interim ~~judge~~ commissioner is temporarily replacing can resume his or her duties. In no event may the interim ~~judge~~ commissioner serve for more than three months unless reappointed.

(c) Appointments made under this section shall be made from a list furnished to the President of the Senate and the Speaker of the House of Delegates by the Board of Governors of the West Virginia State Bar. The Board of Governors of the West Virginia State Bar shall annually, on or before January 15, submit a list of twenty qualified nominees. ~~In two thousand four, the list shall be submitted before April 1~~

(d) An interim ~~judge~~ commissioner:

(1) Is entitled to the same compensation and expense reimbursement a ~~judge~~ commissioner is entitled to under the provisions of section eight of this article;

(2) Shall take the oath of office as required in section nine of this article;

(3) Has all the authority given to a ~~judge~~ commissioner under this article; and

(4) Is required to possess the qualifications required of a ~~judge~~ commissioner in section ten of this article.

(e) The President of the Senate and the Speaker of the House of Delegates may jointly terminate the appointment of any interim ~~judge~~ commissioner appointed under this section at any time.

§14-2-5. ~~Court~~ Court Commission clerk and other personnel.

~~The court~~ The President of the Senate and the Speaker of the House of Delegates may appoint a clerk, chief deputy clerk and deputy clerks. The salaries of the clerk, the chief deputy clerk and the deputy clerks shall be fixed by the Joint Committee on Government and Finance, and shall be paid out of the regular appropriation for the ~~court~~ commission. The clerk shall have custody of and maintain all records and proceedings of the ~~court~~ commission, shall attend meetings and hearings of the ~~court~~ commission, shall administer oaths and affirmations and shall issue all official summonses, subpoenas, orders, statements and awards. The chief deputy clerk or another deputy clerk shall act in the place and stead of the clerk in the clerk's absence.

~~The Joint Committee on Government and Finance~~ President of the Senate and the Speaker of the House of Delegates may employ other persons whose services are necessary to the orderly transaction of the business of the ~~court~~ commission and fix their compensation.

§14-2-7. Meeting place of the ~~court~~ commission.

The regular meeting place of the ~~court~~ commission shall be at the State Capitol, and the Joint Committee on Government and Finance shall provide adequate quarters therefor. ~~When deemed advisable,~~ In order to facilitate the full hearing of claims arising elsewhere in the state, the ~~court~~ commission may convene at any county seat or other location in the state, including a correctional institution: *Provided*, That the ~~court~~ commission will make reasonable efforts to meet in appropriate public or private buildings in keeping with the dignity and decorum of the State.

§14-2-8. Compensation of ~~judges~~ commissioners; expenses.

Each ~~judge of the court~~ commissioner shall receive \$210 for each day actually served and expenses incurred in the performance of his or her duties paid at the same per diem rate as members of the Legislature: *Provided*, That the ~~chief judge presiding commissioner~~ shall receive an additional \$50 for each day actually served. In addition to the expense per diem, each commissioner may, when using his or her own vehicle, be reimbursed for mileage. ~~at the mileage rate equal to the amount paid by the travel management office of the Department of Administration~~ The number of days served by each judge commissioner shall not exceed one hundred twenty in any fiscal year, except by authority of the ~~Joint Committee on Government and Finance~~ President of the Senate and the Speaker of the House of Delegates: *Provided*, That in computing the number of days served, days utilized solely for the exercise of duties assigned to ~~judges and~~ commissioners by this article and the provisions of article two-a of this chapter shall be disregarded. For the purpose of this section, time served shall include time spent in the hearing of claims, in the consideration of the record, in the preparation of opinions and in necessary travel.

§14-2-9. Oath of office.

Each judge commissioner shall before entering upon the duties of his or her office, take and subscribe to the oath prescribed by section 5, article IV of the Constitution of the State. The oath shall be filed with the clerk.

§14-2-10. Qualifications of ~~judges~~ commissioners.

Each ~~judge~~ commissioner appointed to the ~~Court of Claims West Virginia Legislative Claims Commission~~ shall be an attorney at law, licensed to practice in this state, and shall have been so licensed to practice law for a period of not less than ten years prior to his or her appointment as ~~judge~~ commissioner. A ~~judge~~ commissioner shall not be an officer or an employee of any branch of state government, except in his or her capacity as a member of the ~~court~~ commission and shall receive no other compensation from the state or any of its political subdivisions. A ~~judge~~ commissioner shall not hear or participate in the consideration of any claim in which he or she is interested personally, either directly or indirectly.

§14-2-11. Attorney General to represent state.

Unless expressly exempted in the code, the Attorney General shall represent the interests of the State in all claims coming before the ~~court~~ commission.

§14-2-12. General powers of the ~~court~~ commission.

The ~~court~~ commission shall, in accordance with this article, consider claims which, but for the Constitutional immunity of the state from suit, or for some statutory restrictions, inhibitions or limitations, could be maintained in the regular courts of the state. No liability shall be imposed upon the state or any state agency by a determination of the ~~Court of Claims~~ commission approving a claim and recommending an award, unless the claim is: (1) Made under an existing appropriation, in accordance with section nineteen of this article; or (2) a claim under a special appropriation, as provided in section twenty of this article. The ~~court~~ commission shall consider claims in accordance with the provisions of this article.

Except as is otherwise provided in this article, a claim shall be instituted by the filing of notice with the clerk. In accordance with rules promulgated by the ~~court~~ commission, each claim shall be considered by the ~~court~~ commission as a whole, or by a ~~judge~~ commissioner sitting individually, and if, after consideration, the ~~court~~ commission finds that a claim is just and proper, it shall so

determine and shall file with the clerk a brief statement of its reasons. A claim so filed shall be an approved claim. The ~~court~~ commission shall also determine the amount that should be paid to the claimant, and shall itemize this amount as an award, with the reasons therefor, in its statement filed with the clerk. In determining the amount of a claim, interest shall not be allowed unless the claim is based upon a contract which specifically provides for the payment of interest.

§14-2-13. Jurisdiction of the ~~court~~ commission.

The jurisdiction of the ~~court~~ commission, except for the claims excluded by section fourteen, shall extend to the following matters:

(1) Claims and demands, liquidated and unliquidated, ex contractu and ex delicto, against the state or any of its agencies, which the state as a sovereign commonwealth should in equity and good conscience discharge and pay; and

(2) Claims and demands, liquidated and unliquidated, ex contractu and ex delicto, which may be asserted in the nature of set-off or counterclaim on the part of the state or any state agency.

§14-2-14. Claims excluded.

The jurisdiction of the ~~court~~ commission shall not extend to any claim:

1. For loss, damage, or destruction of property or for injury or death incurred by a member of the militia or National Guard when in the service of the state.

2. For a disability or death benefit under chapter twenty-three of this code.

3. For unemployment compensation under chapter twenty-one-a of this code.

4. For relief or public assistance under chapter nine of this code.

5. With respect to which a proceeding may be maintained against the state, by or on behalf of the claimant in the courts of the state.

§14-2-15. Rules of practice and procedure.

The ~~court~~ commission shall adopt and may from time to time amend rules of procedure, in accordance with the provisions of this article, governing proceedings before the ~~court~~ commission. Rules shall be designed to assure a simple, expeditious and inexpensive consideration of claims. Rules shall permit a claimant to appear in his or her own behalf or be represented by counsel.

Discovery may be used in a case pending before the ~~court~~ commission in the same manner that discovery is conducted pursuant to the Rules of Civil Procedure for trial courts of record, Rules 26 through 36. The ~~court~~ commission may compel discovery and impose sanctions for a failure to make discovery, in the same manner as a court is authorized to do under the provisions of Rule 37 of the Rules of Civil Procedure for trial courts of record: *Provided*, That the ~~Court of Claims~~ commission shall not find a person in contempt for failure to comply with an order compelling discovery.

The ~~court~~ commission, upon its own motion or upon motion of a party, may strike a pleading, motion or other paper which: (1) Is not well-grounded in fact; (2) is not warranted by existing law, or is not based on a good faith argument for the extension, modification, or reversal of existing law; or (3) is interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in costs. An order striking a pleading, motion, or paper may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

Under its rules, the ~~court~~ commission shall not be bound by the usual common law or statutory rules of evidence. The ~~court~~ commission may accept and weigh, in accordance with its

evidential value, any information that will assist the ~~court~~ commission in determining the factual basis of a claim.

§14-2-16. Regular procedure.

The regular procedure for the consideration of claims shall be substantially as follows:

(1) The claimant shall give notice to the clerk that he or she desires to maintain a claim. Notice shall be in writing and shall be in sufficient detail to identify the claimant, the circumstances giving rise to the claim, and the state agency concerned, if any. The claimant shall not otherwise be held to any formal requirement of notice.

(2) The clerk shall transmit a copy of the notice to the state agency concerned. The state agency may deny the claim, or may request a postponement of proceedings to permit negotiations with the claimant. If the ~~court~~ commission finds that a claim is prima facie within its jurisdiction, it shall order the claim to be placed upon its regular docket for hearing.

(3) During the period of negotiations and pending hearing, the state agency, represented by the Attorney General, shall, if possible, reach an agreement with the claimant regarding the facts upon which the claim is based so as to avoid the necessity for the introduction of evidence at the hearing. If the parties are unable to agree upon the facts an attempt shall be made to stipulate the questions of fact in issue.

(4) The ~~court~~ commission shall so conduct the hearing as to disclose all material facts and issues of liability and may examine or cross-examine witnesses. The ~~court~~ commission may call witnesses or require evidence not produced by the parties; the ~~court~~ commission may call expert witnesses and compensate those experts for their services in an amount not to exceed \$3,500 per expert; the ~~court~~ commission may stipulate the questions to be argued by the parties; and the ~~court~~ commission may continue the hearing until some subsequent time to permit a more complete presentation of the claim.

(5) After the close of the hearing the ~~court~~ commission shall consider the claim and shall conclude its determination, if possible, within sixty days.

§14-2-17. Shortened procedure.

The shortened procedure authorized by this section shall apply only to a claim possessing all of the following characteristics:

1. The claim does not arise under an appropriation for the current fiscal year.
2. The state agency concerned concurs in the claim.
3. The amount claimed does not exceed ~~\$1,000~~ \$3,000.
4. The claim has been approved by the Attorney General as one that, in view of the purposes of this article, should be paid.

The state agency concerned shall prepare the record of the claim consisting of all papers, stipulations and evidential documents required by the rules of the ~~court~~ commission and file the same with the clerk. The ~~court~~ commission shall consider the claim informally upon the record submitted. If the ~~court~~ commission determines that the claim should be entered as an approved claim and an award made, it shall so order and shall file its statement with the clerk. If the ~~court~~ commission finds that the record is inadequate, or that the claim should not be paid, it shall reject the claim. The rejection of a claim under this section shall not bar its resubmission under the regular procedure.

§14-2-19. Claims under existing appropriations.

A claim arising under an appropriation made by the Legislature during the fiscal year to which the appropriation applies, and falling within the jurisdiction of the ~~court~~ commission, may be submitted by:

1. A claimant whose claim has been rejected by the state agency concerned or by the State Auditor.

2. The head of the state agency concerned in order to obtain a determination of the matters in issue.

3. The State Auditor in order to obtain a full hearing and consideration of the merits.

When such submittal is made, the clerk shall give a copy of the submittal to the Joint Committee on Government and Finance. If the Joint Committee on Government and Finance shall so direct, the clerk shall place such claim on its docket. Upon its placement on the docket, the regular procedure, so far as applicable, shall govern the consideration of the claim by the ~~court~~ commission. If the ~~court~~ commission finds that the claimant should be paid, it shall certify the approved claim and award to the head of the appropriate state agency, the State Auditor and to the Governor. The Governor may thereupon instruct the Auditor to issue his or her warrant in payment of the award and to charge the amount thereof to the proper appropriation. The Auditor shall forthwith notify the state agency that the claim has been paid. Such an expenditure shall not be subject to further review by the Auditor upon any matter determined and certified by the ~~court~~ commission.

§14-2-20. Claims under special appropriations.

Whenever the Legislature makes an appropriation for the payment of claims against the state, then accrued or arising during the ensuing fiscal year, the determination of claims and the payment thereof may be made in accordance with this section. However, this section shall apply only if the Legislature in making its appropriation specifically so provides and only after specific direction to hear the claim is given by the Joint Committee on Government and Finance.

The claim shall be considered and determined by the regular or shortened procedure, as the case may be, and the amount of the award shall be fixed by the ~~court~~ commission. The clerk shall certify each approved claim and award, and requisition relating thereto, to the Auditor. The Auditor thereupon shall issue his or her warrant to the Treasurer in favor of the claimant. The Auditor shall issue his or her warrant without further examination or review of

the claim except for the question of a sufficient unexpended balance in the appropriation.

§14-2-21. Periods of limitation made applicable.

The ~~court~~ commission shall not take jurisdiction of any claim, whether accruing before or after the effective date of this article (July 1, 1967), unless notice of such claim be filed with the clerk within such period of limitation as would be applicable under the pertinent provisions of the Code of West Virginia, 1931, as amended, if the claim were against a private person, firm or corporation and the Constitutional immunity of the state from suit were not involved and such period of limitation may not be waived or extended. The foregoing provision shall not be held to limit or restrict the right of any person, firm or corporation who or which had a claim against the state or any state agency, pending before the Attorney General on the effective date of this article (July 1, 1967), from presenting such claim to the ~~Court of Claims~~ West Virginia Legislative Claims Commission, nor shall it limit or restrict the right to file such a claim which was, on the effective date of this article (July 1, 1967), pending in any court of record as a legal claim and which, after such date was or may be adjudicated in such court to be invalid as a claim against the state because of the Constitutional immunity of the state from suit.

§14-2-22. Compulsory process.

In all hearings and proceedings before the ~~court~~ commission, the evidence and testimony of witnesses and the production of documentary evidence may be required. Subpoenas may be issued by the ~~court~~ commission for appearance at any designated place of hearing. In case of disobedience to a subpoena or other process, the ~~court~~ commission may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses, and the production of books, papers and documents. Upon proper showing, the circuit court shall issue an order requiring witnesses to appear before the ~~Court of Claims~~ West Virginia Legislative Claims Commission; produce books, papers and other evidence; and give testimony touching the matter in question. A person failing to obey the order may be punished by the circuit court as for contempt.

§14-2-23. Inclusion of awards in budget.

The clerk shall certify to the department of finance and administration, on or before November 20, of each year, a list of all awards recommended by the ~~court~~ commission to the Legislature for appropriation. The clerk may certify supplementary lists to the Governor to include subsequent awards made by the ~~court~~ commission. The Governor shall include all awards so certified in his or her proposed budget bill transmitted to the Legislature. Any other provision of this article or of law to the contrary notwithstanding, the clerk shall not certify any award which has been previously certified.

§14-2-24. Records to be preserved.

The record of each claim considered by the ~~court~~ commission, including all documents, papers, briefs, transcripts of testimony and other materials, shall be preserved by the clerk for a period of ten years from the date of entry of the ~~court's~~ commission's last order and shall be made available to the Legislature or any committee thereof for the reexamination of the claim. When any such documents, papers, briefs, transcripts and other materials have been so preserved by the clerk for such ten-year period, the same shall be transferred to the state records administrator for preservation or disposition in accordance with the provisions of article eight, chapter five-a of this code without cost, either to the ~~court~~ commission or the Legislature.

§14-2-25. Reports of the ~~court~~ commission.

The clerk shall be the official reporter of the ~~court~~ commission. He or she shall collect and edit the approved claims, awards and statements, shall prepare them for submission to the Legislature in the form of an annual report and shall prepare them for publication.

Claims and awards shall be separately classified as follows:

(1) Approved claims and awards not satisfied but referred to the Legislature for final consideration and appropriation.

(2) Approved claims and awards satisfied by payments out of regular appropriations.

(3) Approved claims and awards satisfied by payment out of a special appropriation made by the Legislature to pay claims arising during the fiscal year.

(4) Claims rejected by the ~~court~~ commission with the reasons therefor.

The ~~court~~ commission may include any other information or recommendations pertaining to the performance of its duties.

The ~~court~~ commission shall transmit its annual report to the presiding officer of each house of the Legislature, and a copy shall be made available to any member of the Legislature upon request therefor. The reports of the ~~court~~ commission shall be published biennially by the clerk as a public document. The biennial report shall be filed with the clerk of each house of the Legislature, the Governor and the Attorney General.

§14-2-26. Fraudulent claims.

A person who knowingly and willfully presents or attempts to present a false or fraudulent claim, or a state officer or employee who knowingly and willfully participates or assists in the preparation or presentation of a false or fraudulent claim, shall be guilty of a misdemeanor. A person convicted, in a court of competent jurisdiction, of violation of this section shall be fined not more than \$1,000 or ~~imprisoned~~ confined for not more than one year, or both, in the discretion of such court. If the convicted person is a state officer or employee, he or she shall, in addition, forfeit his or her office or position of employment, as the case may be.

§14-2-27. Conclusiveness of determination.

Any final determination against the claimant on any claim presented as provided in this article shall forever bar any further claim in the ~~court~~ commission arising out of the rejected claim.

§14-2-28. Award as condition precedent to appropriation.

(a) It is the policy of the Legislature to make no appropriation to pay any claims against the state, cognizable by the ~~court~~ commission, unless the claim has first been passed upon by the ~~court~~ commission.

(b) Because a decision of the ~~court~~ commission is a recommendation to the Legislature based upon a finding of moral obligation, and the enactment process of passage of legislation authorizing payments of claims recommended by the ~~court~~ commission is at legislative discretion, no right of appeal exists to findings and award recommendations of the Court of Claims West Virginia Legislative Claims Commission and they are not subject to judicial review.

ARTICLE 2A. COMPENSATION AWARDS TO VICTIMS OF CRIMES.**§14-2A-5. Jurisdiction.**

Any judge commissioner of the Court of Claims West Virginia Legislative Claims Commission individually, or the Court of Claims West Virginia Legislative Claims Commission en banc, ~~or any Court of Claims commissioner appointed pursuant to section six of this article,~~ shall have jurisdiction to approve awards of compensation arising from criminally injurious conduct, in accordance with the provisions of this article, if satisfied by a preponderance of the evidence that the requirements for an award of compensation have been met.

§14-2A-6. ~~Appointment and Compensation of commissioners and judges serving under this article.~~

~~(a) The Court of Claims with the approval of the President of the Senate and the Speaker of the House of Delegates, may appoint Court of Claims commissioners to hear claims for awards of compensation and to approve awards of compensation pursuant to the provisions of this article. Each commissioner shall serve at the pleasure of the Court of Claims and under the supervision of the judges of the Court of Claims.~~

~~(b) The Court of Claims shall fix the compensation of the Court of Claims commissioners in an amount not exceeding the compensation for judges of the Court of Claims Compensation of judges and commissioners for services performed under this article, and actual expenses incurred in the performance of duties as judges and commissioners under this article, shall be paid out of the crime victims compensation fund.~~

~~(c) The limitation period of one hundred days in section eight, article two of this chapter pertaining to time served by the judges of the Court of Claims shall not apply to the provisions of this article.~~

§14-2A-9. Claim investigators; compensation and expenses; paralegals and support staff.

~~The Court of Claims West Virginia Legislative Claims Commission, with the approval of the President of the Senate and the Speaker of the House of Delegates, is hereby authorized to hire not more than four claim investigators to be employed within the Office of the clerk of the State West Virginia Legislative Claims Commission, who shall carry out the functions and duties set forth in section twelve of this article. Claim investigators shall serve at the pleasure of the Court of Claims President of the Senate and the Speaker of the House of Delegates and under the administrative supervision of the Clerk of the Court of Claims West Virginia Legislative Claims Commission. The compensation of claim investigators shall be fixed by the ~~court~~ President of the Senate and the Speaker of the House of Delegates, and such compensation, together with travel, clerical and other expenses of the Clerk of the Court of Claims West Virginia Legislative Claims Commission relating to a claim investigator carrying out his or her duties under this article, including the cost of obtaining reports required by the investigator in investigating a claim, shall be payable from the crime victims compensation fund as appropriated for such purpose by the Legislature.~~

~~The Court of Claims West Virginia Legislative Claims Commission, with the approval of the President of the Senate and the Speaker of the House of Delegates, is hereby authorized to hire~~

as support staff such paralegal or paralegals and secretary or secretaries to be employed within the ~~Office of the Clerk of the Court of Claims~~ West Virginia Legislative Claims Commission, necessary to carry out the functions and duties of this article. Such support staff shall serve at the will and pleasure of the ~~Court of Claims~~ West Virginia Legislative Claims Commission and under the administrative supervision of the Clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

§14-2A-10. Filing of application for compensation award; contents.

(a) A claim for an award of compensation shall be commenced by filing an application for an award of compensation with the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission. The application shall be in a form prescribed by the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission and shall contain the information specified in subdivisions (1) through (6) of this subsection and, to the extent possible, the information in subdivisions (7) through (10) of this subsection:

(1) The name and address of the victim of the criminally injurious conduct, the name and address of the claimant and the relationship of the claimant to the victim;

(2) The nature of the criminally injurious conduct that is the basis for the claim and the date on which the conduct occurred;

(3) The law-enforcement agency or officer to whom the criminally injurious conduct was reported and the date on which it was reported;

(4) Whether the claimant is the spouse, parent, child, brother or sister of the offender, or is similarly related to an accomplice of the offender who committed the criminally injurious conduct;

(5) A release authorizing the ~~Court of Claims, the Court of Claims commissioners~~ West Virginia Legislative Claims Commission and the claim investigator to obtain any report,

document or information that relates to the determination of the claim for an award of compensation;

(6) If the victim is deceased, the name and address of each dependent of the victim and the extent to which each is dependent upon the victim for care and support;

(7) The nature and extent of the injuries that the victim sustained from the criminally injurious conduct for which compensation is sought, the name and address of any person who gave medical treatment to the victim for the injuries, the name and address of any hospital or similar institution where the victim received medical treatment for the injuries, and whether the victim died as a result of the injuries;

(8) The total amount of the economic loss that the victim, a dependent or the claimant sustained or will sustain as a result of the criminally injurious conduct, without regard to the financial limitation set forth in subsection (g), section fourteen of this article;

(9) The amount of benefits or advantages that the victim, a dependent or other claimant has received or is entitled to receive from any collateral source for economic loss that resulted from the criminally injurious conduct, and the name of each collateral source;

(10) Any additional relevant information that the ~~Court of Claims~~ West Virginia Legislative Claims Commission may require. The ~~Court of Claims~~ West Virginia Legislative Claims Commission may require the claimant to submit, with the application, materials to substantiate the facts that are stated in the application.

(b) All applications for an award of compensation shall be filed within two years after the occurrence of the criminally injurious conduct that is the basis of the application. Any application so filed which contains the information specified in subdivisions (1) through (6), subsection (a) of this section may not be excluded from consideration on the basis of incomplete information specified in subdivisions (7) through (10) of said subsection if such information

is completed after reasonable assistance in the completion thereof is provided under procedures established by the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

(c) A person who knowingly and willfully presents or attempts to present a false or fraudulent application, or who knowingly and willfully participates, or assists in the preparation or presentation of a false or fraudulent application, shall be guilty of a misdemeanor. A person convicted, in a court of competent jurisdiction, of a violation of this section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, in the discretion of such court. If the convicted person is a state officer or employee, he or she shall, in addition, forfeit his or her office or position of employment, as the case may be.

§14-2A-11. Procedure for filing of application.

The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall establish a procedure for the filing, recording and processing of applications for an award of compensation.

§14-2A-12. Investigation and recommendations by claim investigator.

(a) The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall transmit a copy of the application to the claim investigator within seven days after the filing of the application.

(b) The claim investigator, upon receipt of an application for an award of compensation from the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission, shall investigate the claim. After completing the investigation, the claim investigator shall make a written finding of fact and recommendation concerning an award of compensation. He or she shall file with the clerk the finding of fact and recommendation and all information or documents that he or she used in his or her investigation: *Provided*, That the claim investigator shall not file information or documents which have been the subject of a

protective order entered under the provisions of subsection (c) of this section.

(c) The claim investigator, while investigating the claim, may require the claimant to supplement the application for an award of compensation with any further information or documentary materials, including any medical report readily available, which may lead to any relevant facts aiding in the determination of whether, and the extent to which, a claimant qualifies for an award of compensation.

The claim investigator, while investigating the claim, may also require law-enforcement officers and prosecuting attorneys employed by the state or any political subdivision thereof, to provide him or her with reports, information, witness statements or other data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable him or her to determine whether, and the extent to which, a claimant qualifies for an award of compensation. The prosecuting attorney and any officer or employee of the prosecuting attorney or of the law-enforcement agency shall be immune from any civil liability that might otherwise be incurred as the result of providing such reports, information, witness statements or other data relating to the criminally injurious conduct to the claim investigator.

The claim investigator, while investigating the claim, may obtain autopsy reports including results from the Office of the State Medical Examiner to be used solely for determining eligibility for compensation awards.

Upon motion of any party, court or agency from whom such reports, information, witness statements or other data is sought, and for good cause shown, the court may make any order which justice requires to protect a witness or other person, including, but not limited to, the following: (1) That the reports, information, witness statements or other data not be made available; (2) that the reports, information, witness statements or other data may be made available only on specified terms and conditions, including a designation of time and place; (3) that the reports, information, witness statements or other data be made available only by a

different method than that selected by the claim investigator; (4) that certain matters not be inquired into, or that the scope of the claim investigator's request be limited to certain matters; (5) that the reports, information, witness statements or other data be examined only by certain persons designated by the court; (6) that the reports, information, witness statements or other data, after being sealed, be opened only by order of the court; and (7) that confidential information or the identity of confidential witnesses or informers not be disclosed, or disclosed only in a designated manner.

However, in any case wherein the claim investigator has reason to believe that his or her investigation may interfere with or jeopardize the investigation of a crime by law-enforcement officers, or the prosecution of a case by prosecuting attorneys, he or she shall apply to the ~~Court of Claims~~ West Virginia Legislative Claims Commission, or a ~~judge~~ commissioner thereof, for an order granting leave to discontinue his or her investigation for a reasonable time in order to avoid such interference or jeopardization. When it appears to the satisfaction of the ~~court~~ commission, or ~~judge~~ commissioner, upon application by the claim investigator or in its own discretion, that the investigation of a case by the claim investigator will interfere with or jeopardize the investigation or prosecution of a crime, the ~~court~~ commission, or ~~judge~~ commissioner, shall issue an order granting the claim investigator leave to discontinue his or her investigation for such time as the ~~court~~ commission, or ~~judge~~ commissioner, deems reasonable to avoid such interference or jeopardization.

(d) The finding of fact that is issued by the claim investigator pursuant to subsection (b) of this section shall contain the following:

(1) Whether the criminally injurious conduct that is the basis for the application did occur, the date on which the conduct occurred and the exact nature of the conduct;

(2) If the criminally injurious conduct was reported to a law-enforcement officer or agency, the date on which the conduct was reported and the name of the person who reported the conduct; or

the reasons why the conduct was not reported to a law-enforcement officer or agency; or the reasons why the conduct was not reported to a law-enforcement officer or agency within seventy-two hours after the conduct occurred;

(3) The exact nature of the injuries that the victim sustained as a result of the criminally injurious conduct;

(4) If the claim investigator is recommending that an award be made, a specific itemization of the economic loss that was sustained by the victim, the claimant or a dependent as a result of the criminally injurious conduct;

(5) If the claim investigator is recommending that an award be made, a specific itemization of any benefits or advantages that the victim, the claimant or a dependent has received or is entitled to receive from any collateral source for economic loss that resulted from the conduct;

(6) Whether the claimant is the spouse, parent, child, brother or sister of the offender, or is similarly related to an accomplice of the offender who committed the criminally injurious conduct;

(7) Any information which might be a basis for a reasonable reduction or denial of a claim because of contributory misconduct of the claimant or of a victim through whom he or she claims;

(8) Any additional information that the claim investigator deems to be relevant to the evaluation of the claim.

(e) The recommendation that is issued by the claim investigator pursuant to subsection (b) of this section shall contain the following:

(1) Whether an award of compensation should be made to the claimant and the amount of the award;

(2) If the claim investigator recommends that an award not be made to the claimant, the reason for his or her decision.

(f) The claim investigator shall file his or her finding of fact and recommendation with the clerk within six months after the filing of the application: *Provided*, That where there is active criminal investigation or prosecution of the person or persons alleged to have committed the criminally injurious conduct which is the basis for the claimant's claim, the claim investigator shall file his or her finding of fact and recommendation within six months after the first of any final convictions or other final determinations as to innocence or guilt, or any other final disposition of criminal proceedings. In any case, an additional time period may be provided by order of any ~~Court of Claims judge or~~ commissioner upon good cause shown.

§14-2A-13. Notice to claimant of claim investigator's recommendation; evaluation of claim by ~~judge or~~ commissioner.

(a) The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission, upon receipt of the claim investigator's finding of fact and recommendation, shall forward a copy of the finding of fact and recommendation to the claimant with a notice informing the claimant that any response, in the form of objections or comments directed to the finding of fact and recommendation, must be filed with the clerk within thirty days of the date of the notice. After the expiration of such thirty-day period, the clerk shall assign the claim to a ~~judge or~~ commissioner. ~~of the court.~~

(b) The ~~judge or~~ commissioner to whom the claim is assigned shall review the finding of fact and recommendation and any response submitted by the claimant and, if deemed appropriate, may request the claim investigator to comment in writing on the claimant's response. The ~~judge or~~ commissioner shall, within forty-five days after assignment by the clerk, evaluate the claim without a hearing and either deny the claim or approve an award of compensation to the claimant.

§14-2A-14. Grounds for denial of claim or reduction of awards; maximum awards.

(a) Except as provided in subsection (b), section ten of this article, the ~~judge or~~ commissioner may not approve an award of compensation to a claimant who did not file his or her application for an award of compensation within two years after the date of the occurrence of the criminally injurious conduct that caused the injury or death for which he or she is seeking an award of compensation.

(b) The ~~judge or~~ commissioner may not approve an award of compensation if the criminally injurious conduct upon which the claim is based was not reported to a law-enforcement officer or agency or, in the case of sexual offense, the claimant did not undergo a forensic medical examination, within ninety-six hours after the occurrence of the conduct, unless it is determined that good cause existed for the failure to report the conduct or undergo a forensic medical examination within the 96-hour period: *Provided*, That no reporting to a law-enforcement officer or agency or a forensic medical examination is required if the claimant is a juvenile in order for a ~~judge or~~ commissioner to approve an award of compensation.

(c) The ~~judge or~~ commissioner may not approve an award of compensation to a claimant who is the offender or an accomplice of the offender who committed the criminally injurious conduct, nor to any claimant if the award would unjustly benefit the offender or his or her accomplice.

(d) A ~~judge or~~ commissioner, upon a finding that the claimant or victim has not fully cooperated with appropriate law-enforcement agencies or the claim investigator, may deny a claim, reduce an award of compensation or reconsider a claim already approved.

(e) A ~~judge or~~ commissioner may not approve an award of compensation if the injury occurred while the victim was confined in any state, county or regional jail, prison, private prison or correctional facility.

(f) After reaching a decision to approve an award of compensation, but prior to announcing the approval, the ~~judge or~~

commissioner shall require the claimant to submit current information as to collateral sources on forms prescribed by the Clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission. The ~~judge or~~ commissioner shall reduce an award of compensation or deny a claim for an award of compensation that is otherwise payable to a claimant to the extent that the economic loss upon which the claim is based is or will be recouped from other persons, including collateral sources, or if the reduction or denial is determined to be reasonable because of the contributory misconduct of the claimant or of a victim through whom he or she claims. If an award is reduced or a claim is denied because of the expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source: *Provided*, That if it is thereafter determined that the claimant will not receive all or part of the expected recoupment, the claim shall be reopened and an award shall be approved in an amount equal to the amount of expected recoupment that it is determined the claimant will not receive from the collateral source, subject to the limitation set forth in subsection (g) of this section.

(g) (1) Except in the case of death, or as provided in subdivision (2) of this subsection, compensation payable to a victim and to all other claimants sustaining economic loss because of injury to that victim may not exceed \$35,000 in the aggregate. Compensation payable to all claimants because of the death of the victim may not exceed \$50,000 in the aggregate.

(2) In the event the victim's personal injuries are so severe as to leave the victim with a disability, as defined in Section 223 of the Social Security Act, as amended, as codified in 42 U. S. C. §423, the ~~court~~ commission may award an additional amount, not to exceed \$100,000, for special needs attributable to the injury.

(h) If an award of compensation of \$5,000 or more is made to a minor, a guardian shall be appointed pursuant to the provisions of article ten, chapter forty-four of this code to manage the minor's estate.

§14-2A-15. Hearings.

(a) If either the claim investigator or the claimant disagrees with the approval of an award or the denial of a claim in the summary manner set forth in the preceding sections of this article, the claim investigator or the claimant, or both, shall file with the clerk a request for hearing. Such request shall be filed within twenty-one days after notification by the ~~judge or~~ commissioner of his or her decision.

(b) Upon receipt of a request for hearing, the clerk shall ~~place the claim upon the regular docket of the court~~ set a date and time for hearing, shall advise the Attorney General and the claimant of the receipt of the request and docketing of the claim, and shall request the Attorney General to commence negotiations with the claimant.

(c) During the period of negotiations and pending hearing, the Attorney General, shall, if possible, reach an agreement with the claimant regarding the facts upon which the claim is based so as to avoid the necessity for the introduction of evidence at the hearing. If the parties are unable to agree upon the facts, an attempt shall be made to stipulate the questions of fact in issue.

(d) The hearing held in accordance with this section shall be before a single ~~judge or~~ commissioner to whom the claim has not been previously assigned. Hearings before a ~~judge or~~ commissioner may, in the discretion of such hearing officer, be held at such locations throughout the state as will facilitate the appearance of the claimant and witnesses.

(e) The hearing shall be conducted so as to disclose all material facts and issues. The ~~judge or~~ commissioner may examine or cross-examine witnesses. The ~~judge and~~ commissioner may call witnesses or require evidence not produced by the parties; may stipulate the questions to be argued by the parties; and may continue the hearing until some subsequent time to permit a more complete presentation of the claim.

(f) After the close of the hearing the ~~judge or~~ commissioner shall consider the claim and shall conclude his or her determination, if possible, within thirty days.

(g) The ~~court~~ commission shall adopt and may from time to time amend rules of procedure to govern proceedings before the ~~court~~ commission in accordance with the provisions of this article. The rules shall be designed to assure a simple, expeditious and inexpensive consideration of claims. The rules shall permit a claimant to appear in his or her own behalf or be represented by counsel and provide for interests of the state to be represented by the Attorney General in any hearing under this section at no additional cost to the fund or the state.

Under its rules, the ~~court~~ commission shall not be bound by the usual common law or statutory rules of evidence. The ~~court~~ commission may accept and weigh, in accordance with its evidential value, any information that will assist the ~~court~~ commission in determining the factual basis of a claim.

§14-2A-16. Evidence.

(a) There is no privilege, except the privilege arising from the attorney-client relationship, as to communications or records that are relevant to the physical, mental or emotional condition of the claimant or victim in a proceeding under this article in which that condition is an element.

(b) If the mental, physical or emotional condition of a victim or claimant is material to a claim for an award of compensation, the ~~court, judge~~ commission or a commissioner may order the victim or claimant to submit to a mental or physical examination by a physician or psychologist, and may order an autopsy of a deceased victim. The order may be made for good cause shown and upon notice to the person to be examined and to the claimant and the claim investigator. The order shall specify the time, place, manner, conditions and scope of the examination or autopsy and the person by whom it is to be made, and shall require the person who performs the examination or autopsy to file with the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission

a detailed written report of the examination or autopsy. The report shall set out the findings, including the results of all tests made, diagnosis, prognosis and other conclusions and reports of earlier examinations of the same conditions. On request of the person examined, the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall furnish him or her a copy of the report. If the victim is deceased, the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission, on request, shall furnish the claimant a copy of the report.

(c) The ~~court, or a judge~~ commission, or a commissioner thereof, may order law-enforcement officers employed by the State or any political subdivision thereof to provide it or the claim investigator with copies of any information or data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable it to determine whether, and the extent to which, a claimant qualifies for an award of compensation.

(d) The ~~court, judge~~ commission or a commissioner thereof, may require the claimant to supplement the application for an award of compensation with any reasonably available medical or psychological reports relating to the injury for which the award of compensation is claimed.

(e) The ~~court, judge~~ commission or a commissioner thereof, or the claim investigator, in a claim arising out of a violation of article eight-b, chapter sixty-one of this code, shall not request the victim or the claimant to supply any evidence of specific instances of the victim's activity, or reputation evidence of the victim's sexual activity, unless it involves evidence of the victim's past sexual activity with the offender, and then only to the extent that the ~~court, the judge, the commissioner or the claim investigator~~ finds that the evidence is relevant to a fact at issue in the claim.

(f) Notwithstanding any provision of this code to the contrary relating to the confidentiality of juvenile records, the ~~Court of Claims~~ West Virginia Legislative Claims Commission, a ~~judge~~ or a commissioner thereof, or the claim investigator shall have access to the records of juvenile proceedings which bear upon an application for compensation under this article. The ~~Court of~~

~~Claims~~ West Virginia Legislative Claims Commission, ~~a judge or a commissioner thereof~~, and the claim investigator, shall, to the extent possible, maintain the confidentiality of juvenile records.

§14-2A-17. Contempt sanction not available.

If a person refuses to comply with an order under this article, or asserts a privilege, except privileges arising from the attorney-client relationship, so as to withhold or suppress evidence relevant to a claim for an award of compensation, ~~the court, judge commission or a commissioner thereof~~ may make any just order, including denial of the claim, but shall not find the person in contempt. If necessary to carry out any of his ~~or her~~ powers and duties, the claim investigator may petition the ~~Court of Claims~~ West Virginia Legislative Claims Commission for an appropriate order, including an order authorizing the investigator to take the depositions of witnesses by oral examination or written interrogatory, but the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall not find a person in contempt for refusal to submit to a mental or physical examination.

§14-2A-18. Effect of no criminal charges being filed or conviction of offender.

The ~~court, or a judge commission or a commissioner thereof~~, may approve an award of compensation whether or not any person is convicted for committing the conduct that is the basis of the award. The filing of a criminal charge shall be a prerequisite for receipt of compensation unless it is determined that no charges were filed due to the identity of the perpetrator being unknown: *Provided*, That no criminal charges need be filed if: (1) The claimant is an adult at the time the conduct giving rise to the claim occurred and no criminal charges were filed for reasons other than the desire of the claimant and a law-enforcement agency confirms that the available evidence supports a finding that a crime occurred; or (2) the claimant was a juvenile at the time the conduct giving rise to the claim occurred. Proof of conviction of a person whose conduct gave rise to a claim is conclusive evidence that the crime was committed, unless an application for rehearing, an appeal of

the conviction or certiorari is pending, or a rehearing or new trial has been ordered.

The ~~court, or a judge~~ commission or a commissioner thereof, shall suspend, upon a request of the claim investigator, the proceedings in any claim for an award of compensation pending disposition of a criminal prosecution that has been commenced or is imminent.

§14-2A-19. Attorney and witness fees.

(a) By separate order, the ~~court, or a judge~~ commission or a commissioner thereof, shall determine and award reasonable attorney's fees, commensurate with services rendered and reimbursement for reasonable and necessary expenses actually incurred shall be paid from the Crime Victims Compensation Fund to the attorney representing a claimant in a proceeding under this article at the same rates as set forth in section thirteen-a, article twenty-one, chapter twenty-nine of this code. Attorney's fees and reimbursement may be denied upon a finding that the claim or appeal is frivolous. Awards of attorney's fees and reimbursement shall be in addition to awards of compensation, and attorney's fees and reimbursement may be awarded whether or not an award of compensation is approved. An attorney shall not contract for or receive any larger sum than the amount allowed under this section. In no event may a prosecuting attorney or assistant prosecuting attorney represent any victim seeking compensation under this article.

(b) Each witness called by the ~~court~~ commission to appear in a hearing on a claim for an award of compensation shall receive compensation and expenses in an amount equal to that received by witnesses in civil cases as provided in section sixteen, article one, chapter fifty-nine of this code to be paid from the Crime Victims Compensation Fund.

§14-2A-19a. Effect on physician, hospital and healthcare providers filing an assignment of benefits; tolling of the statute of limitations.

(a) As part of the order, the ~~court, or a judge~~ commission or a commissioner thereof, shall determine whether fees are due and

owing for health care services rendered by a physician, hospital or other health care provider stemming from an injury received as defined under this article, and further, whether or not the physician, hospital or other health care provider has been presented an assignment of benefits, signed by the crime victim, authorizing direct payments of benefits to the health care provider. If such fees are due and owing and the health care provider has presented a valid assignment of benefits, the ~~court, or a judge~~ commission or a commissioner thereof, shall determine the amount or amounts and shall cause such reasonable fees to be paid out of the amount awarded the crime victim under this article directly to the physician, hospital or other health care provider. The requirements of this section shall be applicable to, and any such unpaid fees shall be determined and payable from, the awards made by the Legislature at regular session, ~~one thousand nine hundred eighty-seven~~ 1987, and subsequently: *Provided*, That when a claim is filed under this section, the ~~court~~ commission shall determine the total damages due the crime victim, and where the total damages exceed the maximum amount which may be awarded under this article, the amount paid the health care provider shall be paid in the same proportion to which the actual award bears to the total damages determined by the ~~court~~ commission. In any case wherein an award is made which includes an amount for funeral, cremation or burial expenses, or a combination thereof, the ~~court~~ commission shall provide for the payment directly to the provider or providers of such services, in an amount deemed proper by the ~~court~~ commission, where such expenses are unpaid at the time of the award.

(b) If the health care provider has filed an assignment of benefits, the provider shall aid the crime victim in the development of his or her claim by providing the ~~court~~ commission with the amount of such fees as well as the amount of any portion of the fees paid the provider by the crime victim directly or paid the provider for the crime victim by a collateral source.

(c) Whether or not a health care provider has filed an assignment of benefits, the ~~court~~ commission shall disclose no information regarding the status of the claim to the provider:

Provided, That the ~~court~~ commission shall promptly notify the provider of the final disposition of the claim, if the provider is known to the ~~court~~ commission.

(d) Whenever a person files a claim under this article, the statute of limitations for the collection of unpaid fees paid for such health care services shall be tolled during the pendency of the claim before the ~~court~~ commission.

§14-2A-19b. Rates and limitations for health care services.

The ~~court~~ commission may establish by ~~court~~ rule or ~~court~~ order maximum rates and service limitations for reimbursement of health care services rendered by a physician, hospital, or other health care provider. An informational copy of the maximum rates and service limitations shall be filed with the Joint Committee on Government and Finance upon adoption by the ~~court~~ commission. Any change in the maximum rates or service limitations shall be effective sixty days after the adoption of the changes. A provider who accepts payment from the ~~court~~ commission for a service shall accept the ~~court's~~ commission's rates as payment in full and may not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the ~~court~~ commission for that service. A provider may not charge a claimant for any difference between the cost of a service provided to a claimant and the ~~court's~~ commission's payment for that service. To ensure service limitations are uniform and appropriate to the levels of treatment required by the claimant, the ~~court~~ commission may review all claims for these services as necessary to ensure their medical necessity.

§14-2A-20. Budget preparation; procedure for payment of claims.

(a) The Legislative Auditor shall submit to the Department of Administration, on or before November 20, of each year, an anticipated budget for the Crime Victims Compensation Program provided in this article for the next fiscal year, which shall include:

(1) An estimate of the balance and receipts anticipated in the Crime Victims Compensation Fund;

(2) Amounts anticipated to be sufficient for the payment of all administrative expenses necessary for the administration of this article; and

(3) Amounts anticipated to be sufficient for the payment of awards, attorney fees, witness fees and other authorized fees, costs or expenses that may arise under this article during the next fiscal year.

(b) The Governor shall include in his or her proposed budget bill and revenue estimates the amounts submitted by the Legislative Auditor under subsection (a) of this section.

(c) The clerk shall certify each authorized award and the amount of the award and make requisition upon the Crime Victims Compensation Fund to the Auditor. Notwithstanding any provision of chapter twelve of this code to the contrary, the Auditor shall issue a warrant to the Treasurer without further examination or review of the claim if there is a sufficient unexpended balance in the Crime Victims Compensation Fund.

(d) The ~~court~~ commission may provide that payment be made to a claimant or to a third party for economic losses of the claimant and the order may provide an award for the payment for actual economic losses which are prospective as well as those which have already been incurred.

§14-2A-21. Annual report of ~~Court of Claims~~ West Virginia Legislative Claims Commission.

The ~~Court of Claims~~ West Virginia Legislative Claims Commission shall prepare and transmit annually to the Governor and the Legislature a report of the activities of the ~~Court of Claims~~ West Virginia Legislative Claims Commission under this article. The report shall include the number of claims filed, the number of awards made and the amount of each award, and a statistical summary of claims and awards made and denied; the balance in the Crime Victims Compensation Fund with a listing by source and

amount of the moneys that have been deposited in the fund; the amount that has been withdrawn from the fund, including separate listings of the administrative costs incurred by the ~~Court of Claims~~ West Virginia Legislative Claims Commission, compensation of ~~judges~~, commissioners and ~~court~~ commission personnel, the amount awarded as attorneys' fees.

§14-2A-25. Publicity.

(a) The clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission shall prepare an information brochure for the benefit of the general public, outlining the rights of claimants and procedures to be followed under this article. Copies of such brochure shall be distributed to law-enforcement agencies in the state, and be made available to other interested persons.

(b) Any law-enforcement agency that investigates an offense committed in this state involving personal injury shall make reasonable efforts to provide information to the victim of the offense and his or her dependents concerning the availability of an award of compensation and advise such persons that an application for an award of compensation may be obtained from the clerk of the ~~Court of Claims~~ West Virginia Legislative Claims Commission.

§14-2A-26. Rules and regulations Rule-making.

(a) The ~~Court of Claims~~ West Virginia Legislative Claims Commission may promulgate rules and regulations to implement the provisions of this article.

(b) The ~~Court of Claims~~ West Virginia Legislative Claims Commission shall promulgate rules and regulations to govern the award of compensation to the spouse of, person living in the same household with, parent, child, brother or sister of the offender or his or her accomplice in order to avoid an unjust benefit to or the unjust enrichment of the offender or his or her accomplice.

§14-2A-28. Retroactive effect of amendments.

Amendments made to the provisions of this article during the regular session of the Legislature in the year ~~one thousand nine~~

~~hundred eighty four~~ 1984, shall be of retroactive effect to the extent that such amended provisions shall apply to all cases pending before the ~~Court of Claims~~ West Virginia Legislative Claims Commission on the effective date of the act of the Legislature which effects such amendment.”

And,

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

Com. Sub. for H. B. 2447- “A Bill to repeal §14-2-6 and §14-2-18 of the Code of West Virginia, 1931, as amended; to repeal §14-2A-7 of said code; to amend and reenact §14-2-3, §14-2-4, §14-2-4a, §14-2-5, §14-2-7, §14-2-8, §14-2-9, §14-2-10, §14-2-11, §14-2-12, §14-2-13, §14-2-14, §14-2-15, §14-2-16, §14-2-17, §14-2-19, §14-2-20, §14-2-21, §14-2-22, §14-2-23, §14-2-24, §14-2-25, §14-2-26, §14-2-27 and §14-2-28 of said code; and to amend and reenact §14-2A-5, §14-2A-6, §14-2A-9, §14-2A-10, §14-2A-11, §14-2A-12, §14-2A-13, §14-2A-14, §14-2A-15, §14-2A-16, §14-2A-17, §14-2A-18, §14-2A-19, §14-2A-19a, §14-2A-19b, §14-2A-20, §14-2A-21, §14-2A-25, §14-2A-26 and §14-2A-28 of said code, all relating to certain claims against the state generally; renaming the West Virginia Court of Claims the West Virginia Legislative Claims Commission; renaming judges commissioners; clarifying that commissioners are not judicial officers; modifying definitions; providing explicit power of removal of commissioners to the President of the Senate and the Speaker of the House of Delegates; providing authority to the President of the Senate and the Speaker of the House of Delegates for the hiring of a clerk, chief deputy clerk, deputy clerks, and support staff and setting salaries for said positions; increasing the monetary limit for agency agreed to claims from \$1,000 to \$3,000; and updating and modifying and clarifying procedures and practices of the commission.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 291**), and there were—yeas 63, nays 36, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponagle, Thompson and Williams.

Absent and Not Voting: Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2447) passed.

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

Com. Sub. for H. B. 2447 – “A Bill to repeal §14-2-6 and §14-2-18 of the Code of West Virginia, 1931, as amended; to repeal §14-2A-7 of said code; to amend and reenact §14-2-3, §14-2-4, §14-2-4a, §14-2-5, §14-2-7, §14-2-8, §14-2-9, §14-2-10, §14-2-11, §14-2-12, §14-2-13, §14-2-14, §14-2-15, §14-2-16, §14-2-17, §14-2-19, §14-2-20, §14-2-21, §14-2-22, §14-2-23, §14-2-24, §14-2-25, §14-2-26, §14-2-27 and §14-2-28 of said code; and to amend and reenact §14-2A-5, §14-2A-6, §14-2A-9, §14-2A-10, §14-2A-11, §14-2A-12, §14-2A-13, §14-2A-14, §14-2A-15, §14-2A-16, §14-2A-17, §14-2A-18, §14-2A-19, §14-2A-19a, §14-2A-19b, §14-2A-20, §14-2A-21, §14-2A-25, §14-2A-26 and §14-2A-28 of said code, all relating to certain claims against the state generally; renaming the West Virginia Court of Claims the West Virginia Legislative Claims Commission; renaming judges commissioners; clarifying the length of the existing terms for the current commissioners; clarifying that commissioners are not judicial officers; modifying definitions; providing explicit power of removal of commissioners to the President of the Senate and the Speaker of the House of Delegates; providing authority to the President of the Senate and the Speaker of the House of Delegates

for the hiring of a clerk, chief deputy clerk, deputy clerks, claim investigators, and support staff and setting salaries for said positions; authorizing the President of the Senate and Speaker of the House to permit commissioners serve more than one hundred twenty days in any fiscal year; increasing the monetary limit for agency agreed to claims from \$1,000 to \$3,000; and updating and modifying and clarifying procedures and practices of the commission.”

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

Third Reading

Com. Sub. for S. B. 5, Disqualifying CDL for DUI conviction in certain cases; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 292**), and there were—yeas 93, nays 5, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Frich, Higginbotham, Lane, Sobonya and Summers.

Absent and Not Voting: Capito and Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 5) passed.

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

Com. Sub. for S. B. 151, Authorizing Department of Administration promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 293**), and there were—yeas 99, nays none,

absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 151) passed.

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

Com. Sub. for S. B. 151 - “A Bill to amend and reenact §64-2-1 and §64-2-2 of the Code of West Virginia, 1931, as amended, all relating generally to promulgation of administrative rules by the Department of Administration; legislative mandate or authorization for promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing the Board of Risk and Insurance Management to promulgate a legislative rule relating to the Patient Injury Compensation Fund; authorizing the Board of Risk and Insurance Management to promulgate a legislative rule relating to mine subsidence insurance; and authorizing the Ethics Commission to promulgate a legislative rule relating to the use of office for private gain, including nepotism.”

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

On this question, the yeas and nays were taken (**Roll No. 294**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 151) takes effect from its passage.

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

Com. Sub. for S. B. 206, Expanding definition of “kidnapping” to include taking or gaining custody of, confining or concealing person by force; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 295**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 206) passed.

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

Com. Sub. for S. B. 214, Adopting Uniform Electronic Legal Material Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 296**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 214) passed.

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

Com. Sub. for S. B. 222, Relating to disqualification for unemployment benefits; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 297**), and there were—yeas 57, nays 42, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Storch, Thompson, Ward and Williams.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 222) passed.

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

Com. Sub. for S. B. 225, Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 298**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 225) passed.

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

Com. Sub. for S. B. 225 – “A Bill to amend and reenact §48-27-402 of the Code of West Virginia, 1931, as amended, relating to including custody cases in those types of cases in which a magistrate may only enter certain types of relief if a family court has previously entered a temporary order.”

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

On this question, the yeas and nays were taken (**Roll No. 299**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 225) takes effect from its passage.

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

S. B. 256, Relating to prohibiting aiding and abetting of sexual abuse by school personnel; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 300**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 256) passed.

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

Com. Sub. for S. B. 261, Relating to increasing salary or wages of judgment debtor; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 301**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk, Lynch, Martin, McGeehan and Paynter.

Absent and Not Voting: Kelly.

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

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

Com. Sub. for S. B. 261 – “A Bill to amend and reenact §38-5A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §38-5B-2 of said code, all relating to suggestions of salary and wages of judgment debtors; removing the requirement of including the last four digits of the Social Security number of the judgment debtor in the suggestion execution in private employment; increasing the amount of salary or wages of persons from the state, a state agency or any political subdivision of the state from thirty times the federal minimum hourly wage then in effect to fifty times the federal minimum hourly wage then in effect; requiring judgment creditor to provide personal information about the judgment debtor including, to the extent available, the present address and date of birth of the judgment debtor in the suggestee execution; and making technical changes.”

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

Com. Sub. for S. B. 437, Discontinuing WV Greyhound Breeding Development Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 302**), and there were, including pairs—yeas 56, nays 44, absent and not voting none, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Kelly Nay: Sponaugle

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hartman, Hicks, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, McGeehan, Miley, R. Miller, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Storch, Thompson, Ward, Williams and Zatezalo.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 437) passed.

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

Com. Sub. for S. B. 445, Amending definition of “abused child”; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 303**), and there were—yeas 98, nays none,

absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kelly and Nelson.

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

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

Com. Sub. for S. B. 445 - "A Bill to amend and reenact §49-1-201 of the Code of West Virginia, 1931, as amended, relating to amending the definition of 'abused child' to include a child conceived as a result of sexual assault; and providing that no victim of sexual assault may be determined to be an abusive parent based upon being a victim of sexual assault."

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

Com. Sub. for S. B. 456, Relating to standards for termination of parental rights in child abuse and neglect cases; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 304**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kelly and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 456) passed.

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

On this question, the yeas and nays were taken (**Roll No. 305**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kelly and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 456) takes effect from its passage.

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

Com. Sub. for S. B. 634, Relating generally to certain agreements between DHHR and state's medical schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 306**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kelly and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 634) passed.

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

Com. Sub. for S. B. 634 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-9a, relating to exempting certain contracts between the Department of Health and Human Resources and West Virginia University, Marshall University or West Virginia School of Osteopathic Medicine from state purchasing requirements."

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

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 337, Hiring correctional officers without regard to placement on correctional officer register,

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

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 9, Frenchburg Bridge,

H. C. R. 26, Naming the NASA IV & V Facility at Fairmont for West Virginia mathematician Katherine Coleman Johnson,

H. C. R. 41, Major Martin Robison Delany Memorial Bridge,

Com. Sub. for H. C. R. 50, Lowe Mountain Memorial Highway,

H. C. R. 94, Katherine Johnson Day,

H. C. R. 105, Army SSG Arthur N. McMellon Memorial Bridge,

And,

H. R. 11, Supporting and encouraging the enactment of the federal Hearing Protection Act of 2017,

And reports the same back with the recommendation that they each be adopted.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 3103, Making a supplementary appropriation to the Department of Health and Human Resources,

Com. Sub. for S. B. 300, Supplemental appropriation from unappropriated balance in Treasury to Division of Personnel,

Com. Sub. for S. B. 303, Supplemental appropriation of public moneys from Treasury to DHHR,

And,

Com. Sub. for S. B. 305, Supplemental appropriation of public moneys from Treasury to Fire Commission,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 493, Providing increase in compensation for conservation officers,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2801, Expiring funds to the unappropriated balance in the State Fund from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 2801 – “A Bill expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2017, in the amount of \$2,000,000 from the Legislative, Senate, fund 0165, fiscal year 2012, organization 2100, appropriation 02100; in the amount of \$1,000,000 from the Legislative, Senate, fund 0165, fiscal year 2012, organization 2100, appropriation 06400; in the amount of \$500,000 from the Legislative, House of Delegates, fund 0170, fiscal year 2015, organization 2200, appropriation 00500; in the amount of \$1,500,000 from the Legislative, House of Delegates, fund 0170, fiscal year 2015, organization 2200, appropriation 02100; in the amount of \$500,000 from the Legislative, Joint Expenses, fund 0175, fiscal year 2015, organization 2300, appropriation 10400; in the amount of \$2,000,000 from the Executive, Governor’s Office, fund 0101, fiscal year 2005, organization 0100, appropriation 66500; in the amount of \$800,000 from the Executive, Governor’s Office – Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 08400; in the amount of \$200,000 from the Executive, Governor’s Office – Civil Contingent Fund, fund 0105, fiscal year 2008, organization 0100, appropriation 11400; in the amount of \$400,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2009, organization 0307, appropriation 13100; in the amount of \$400,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2011, organization 0307, appropriation 13100; in the amount of \$200,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2012, organization 0307, appropriation 13100; in the amount of \$500,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2007, organization 0307, appropriation 81900; in the amount of \$500,000 from the Department of Commerce, West Virginia

Development Office, fund 0256, fiscal year 2008, organization 0307, appropriation 81900; in the amount of \$500,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2009, organization 0307, appropriation 81900; in the amount of \$650,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2012, organization 0307, appropriation 94100; in the amount of \$150,000 from the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2011, organization 0402, appropriation 16100; in the amount of \$400,000 from the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2012, organization 0402, appropriation 16100; in the amount of \$400,000 from the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2013, organization 0402, appropriation 16100; in the amount of \$150,000 from the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2014, organization 0402, appropriation 16100; in the amount of \$500,000 from the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2014, organization 0402, appropriation 88600; in the amount of \$40,000 from the Department of Health and Human Resources – Office of the Secretary, fund 0400, fiscal year 2015, organization 0501, appropriation 19100; in the amount of \$60,000 from the Department of Health and Human Resources – Office of the Secretary, fund 0400, fiscal year 2016, organization 0501, appropriation 19100; in the amount of \$2,000,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2011, organization 0506, appropriation 75500; in the amount of \$2,000,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2012, organization 0506, appropriation 75500; in the amount of \$50,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2008, organization 0506, appropriation 82200; in the amount of \$50,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2009, organization 0506,

appropriation 82200; in the amount of \$400,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2007, organization 0506, appropriation 84500; in the amount of \$800,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2008, organization 0506, appropriation 84500; in the amount of \$1,000,000 from the Department of Health and Human Resources, Consolidated Medical Services Fund, fund 0525, fiscal year 2014, organization 0506, appropriation 21900; in the amount of \$200,000 from the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2011, organization 0608, appropriation 09700; in the amount of \$200,000 from the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 09700; in the amount of \$480,000 from the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 66100; in the amount of \$1,000,000 from the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 67700; in the amount of \$500,000 from the Department of Military Affairs and Public Safety, Division of Justice and Community Services, fund 0546, fiscal year 2014, organization 0620, appropriation 56100; in the amount of \$100,000 from the Department of Military Affairs and Public Safety, Division of Juvenile Services, fund 0570, fiscal year 2011, organization 0621, appropriation 75500; in the amount of \$80,000 from the Department of Revenue, State Budget Office, fund 0595, fiscal year 2009, organization 0703, appropriation 09900; in the amount of \$300,000 from the Department of Transportation, Aeronautics Commission, fund 0582, fiscal year 2013, organization 0807, appropriation 13000; in the amount of \$200,000 from the Department of Veterans’ Assistance, fund 0456, fiscal year 2013, organization 0613, appropriation 28600; in the amount of \$100,000 from the Department of Veterans’ Assistance, fund 0456, fiscal year 2014, organization 0613, appropriation 28600; in the amount of \$500,000 from the West Virginia Council for Community and Technical

College Education – Control Account, fund 0596, fiscal year 2012, organization 0420, appropriation 66100; in the amount of \$200,000 from the Higher Education Policy Commission – Administration – Control Account, fund 0589, fiscal year 2012, organization 0441, appropriation 09700; in the amount of \$1,000,000 from the Higher Education Policy Commission – Administration – Control Account, fund 0589, fiscal year 2012, organization 0441, appropriation 66100; in the amount of \$20,000,000 from the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2017, organization 0704; in the amount of \$100,000 from the State Board of Education, fund 3951, fiscal year 2007, organization 0402, appropriation 09900; in the amount of \$300,000 from the State Board of Education, fund 3951, fiscal year 2008, organization 0402, appropriation 09900; in the amount of \$500,000 from the State Board of Education, fund 3951, fiscal year 2012, organization 0402, appropriation 09900; in the amount of \$500,000 from the State Board of Education, fund 3951, fiscal year 2013, organization 0402, appropriation 39600; in the amount of \$500,000 from the State Board of Education, fund 3951, fiscal year 2014, organization 0402, appropriation 39600; in the amount of \$1,000,000 from the State Board of Education, fund 3951, fiscal year 2014, organization 0402, appropriation 93300; in the amount of \$150,000 from the Division of Culture and History – Lottery Education Fund, fund 3534, fiscal year 2003, organization 0432, appropriation 86500; in the amount of \$40,000 from the Division of Culture and History – Lottery Education Fund, fund 3534, fiscal year 2012, organization 0432, appropriation 62400; in the amount of \$150,000 from the Library Commission – Lottery Education Fund, fund 3559, fiscal year 2011, organization 0433, appropriation 62500; in the amount of \$250,000 from the Library Commission – Lottery Education Fund, fund 3559, fiscal year 2012, organization 0433, appropriation 62500; in the amount of \$150,000 from the Bureau of Senior Services- Lottery Senior Citizens Fund, fund 5405, fiscal year 2011, organization 0508, appropriation 46200; in the amount of \$350,000 from the Bureau of Senior Services- Lottery Senior Citizens Fund, fund 5405, fiscal year 2012, organization 0508, appropriation 46200; in the amount of \$550,000 from the Bureau of Senior Services- Lottery Senior Citizens Fund, fund 5405, fiscal

year 2013, organization 0508, appropriation 46200; in the amount of \$50,000 from the West Virginia Development Office, fund 3170, fiscal year 2007, organization 0307, appropriation 92300; in the amount of \$2,500,000 from the West Virginia Development Office, fund 3170, fiscal year 2008, organization 0307, appropriation 25300; in the amount of \$400,000 from the West Virginia Development Office, fund 3170, fiscal year 2013, organization 0307, appropriation 09600; in the amount of \$1,000,000 from the Division of Corrections – Correctional Units, fund 6283, fiscal year 2010, organization 0608, appropriation 75500; in the amount of \$1,000,000 from the Attorney General, Consumer Protection Recovery Fund, fund 1509, fiscal year 2017, organization 1500; in the amount of \$2,000,000 from the Department of Administration, Board of Risk and Insurance Management, Premium Tax Savings Fund, fund 2367, fiscal year 2017, organization 0218; in the amount of \$500,000 from the Office of the Treasurer, Financial Electronic Communication Fund, fund 1345, fiscal year 2017, organization 1300; in the amount of \$110,468 from the Department of Administration, Capitol Complex Parking Garage Fund, fund 2461, fiscal year 2017, organization 0211; in the amount of \$4,000,000 from the Public Services Commission, Public Services Commission Fund, fund 8623, fiscal year 2017, organization 0926; in the amount of \$184,848 from the Department of Environmental Protection, Dam Safety Rehabilitation Fund, fund 3025, fiscal year 2017, organization 0313; in the amount of \$500,000 from the Department of Health and Human Resources, Health Care Authority Fund, fund 5375, fiscal year 2017, organization 0507; and in the amount of \$40,404,684 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701.”

With the recommendation that the committee substitute do pass.

At 12:39 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 1:30 p.m.

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Afternoon Session

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The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 2878, Increasing amount of authorized Federal Grant Anticipation Notes for which Division of Highways may apply.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendments of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 36, Permitting school nurses to possess and administer opioid antagonists.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 233, Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendments of the House of Delegates and the passage, as amended, to take effect from passage, of

Com. Sub. for S. B. 247, Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendments of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 248, Clarifying composition and chairmanship of Commission on Special Investigations.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendments of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 347, Relating to modernization of Physician Assistant Practice Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 455, Relating generally to commitment of persons to custody of Commissioner of Corrections.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 39 – “Requesting the Division of Highways to name McCorkle Road 14/3, beginning at a point where it intersects with Route 119 and ending at a point where it intersects with Route 214, (38.244866, -81.874752 to 38.224079, -81.835998) in Lincoln County, as the ‘U. S. Army PFC Kelva H. Justice Memorial Road’.”

Whereas, Private Justice was born on March 25, 1935, in Ivaton, to Clayton and Lyda Zora (Pauley) Justice; and

Whereas, Private Justice attended Duval High School, Griffithsville; and

Whereas, Private Justice entered the United States Army on August 18, 1943, and received his basic training at Camp Adair, Oregon; and

Whereas, Private Justice sailed from the United States in March, 1944, and was stationed in England, France and Germany during World War II; and

Whereas, The last word received from Private Justice was his letter dated March 26, 1945, written while in Germany; and

Whereas, Private Justices' mother, Lyda Z. Justice, was notified by Major General J. A. Ulio, Adjunct General of the Army, that her son was killed in action on April 14, 1945, in Germany; and

Whereas, A later War Department message dated May 1, 1945 stated Private Justice was killed in an ambush on April 14, 1945; and

Whereas, Private Justice was awarded the Silver Star and two Purple Hearts; and

Whereas, Private Justice was originally buried in the United States Military Cemetery in Holland; and

Whereas, Private Justice's body was disinterred and his funeral was held on January 1, 1949, at the McCorkle Free Will Baptist Church in McCorkle. The funeral was officiated by the Reverend Meddie Graley, with a military service conducted by Boone County Veterans of Foreign Wars and he was buried in the Midkiff Cemetery in Sumerco in Lincoln County; and

Whereas, It is fitting that an enduring memorial be established to commemorate Private First Class Kelva H. Justice, a native son who served his state and his country with great honor and gave the ultimate sacrifice, by naming McCorkle Road 14/3, beginning at a point where it intersects with Route 119 and ending at a point

where it intersects with Route 214, (38.244866, -81.874752 to 38.224079, -81.835998) in Lincoln County, the “U. S. Army PFC Kelva H. Justice Memorial Road”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name McCorkle Road 14/3, beginning at a point where it intersects with Route 119 and ending at a point where it intersects with Route 214, (38.244866, -81.874752 to 38.224079, -81.835998) in Lincoln County, as the “U. S. Army PFC Kelva H. Justice Memorial Road”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the road as the “U. S. Army PFC Kelva H. Justice Memorial Road”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Second Reading

Com. Sub. for S. B. 125, Authorizing DHHR promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything following the enacting section and inserting in lieu thereof the following:

“ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. Health Care Authority.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section eight, article

twenty-nine-b, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2016, relating to the Health Care Authority (Hospital Assistance Grant Program, 65 CSR 31), is authorized.

(b) The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section four, article two-d, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 6, 2017, relating to the Health Care Authority (exemption from certificate of need, 65 CSR 29), is authorized.

(c) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section four, article two-d, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2016, relating to the Health Care Authority (Rural Health Systems Grant Program, 65 CSR 30), is authorized.

(d) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section four, article two-d, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the Health Care Authority (certificate of need, 65 CSR 32), is authorized.

§64-5-2. Department of Health and Human Resources.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section five, article four-f, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 6, 2016, relating to the Department of Health and Human Resources (expedited partner therapy, 64 CSR 103), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section ten, article five-j, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 6, 2016, relating to the Department of Health and Human Resources (clinical laboratory technician and technologist licensure and certification, 64 CSR 57), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article eleven, chapter sixty-a of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on October 11, 2016, relating to the Department of Health and Human Resources (clandestine drug laboratory remediation, 64 CSR 92), is authorized with the following amendments:

On page five, section 6.1.c., by striking out subdivision 6.1.c. in its entirety and inserting in lieu thereof a new subdivision 6.1.c. to read as follows:

6.1.c. In the case of a hotel, motel, or apartment building, all units or areas immediately adjacent to a unit or area within the hotel, motel, or apartment unit that contained a clandestine drug laboratory and that is under the control of the residential property owner must be secured, vacated and tested in accordance with this rule.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section thirteen, article five-y, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Department of Health and Human Resources (medication-assisted treatment—opioid treatment programs, 69 CSR 11), is authorized with the following amendments:

On page sixteen, section 8.4.e., after the word “shall”, by striking out the words “practice 90 percent of the hours in which the opioid treatment program is dispensing or administering medications each week in order to”;

And,

On page seventeen, section 8.5.d., after the word “operation”, by inserting the words “when medication is dispensed or administered”.

(e) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article five-y, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Department of Health and Human Resources (medication-assisted treatment—office-based medication assisted treatment, 69 CSR 12), is authorized with the following amendments:

On page two, after section 2.8. by inserting a new section 2.9. to read as follows:

2.9. Coordination of Care Agreement – An agreement signed by the physician, counsel and patient allowing open communication and the exchange of health information between the indicated providers to ensure the patient is provided comprehensive and holistic treatment for substance use disorder, when medical treatment and counselling services are not being treated within the same program.;

And by renumbering the remaining sections;

On page four, after section 2.24., by inserting a new section 2.25. to read as follows:

2.25. Maintenance Treatment – treatment following induction and stabilization phases of treatment, and means the ~~dispensing of an opioid agonist or~~ prescribing of a partial agonist treatment medication at stable dosage levels for a period ~~not~~ in excess of

twenty-one days in the treatment of an individual for opioid use disorder.;

And by renumbering the remaining sections.

On page fourteen, section 7.5.b., after the words “primary counselor”, by inserting the words “or counseling service”;

On page twenty-one, section 13.3.b.3., after the word “patient”, by inserting the words “related to the treatment being provided”;

On page twenty-five, section 19.5., after the words “program staff” by inserting a period and striking out the remainder of the sentence;

On page forty-seven, section 29.6., after the period, by inserting the words “Refer to section 32.5 of this rule for administrate withdrawal for female patients with a positive pregnancy screen.”;

On page forty-eight, section 30.6., after the period, by inserting the words “Refer to section 32.5 of this rule for administrate withdrawal for female patients with a positive pregnancy screen.”;

And

On page fifty-two, section 32.5.f., by striking out the section and inserting in lieu thereof a new section to read as follows:

32.5.f. If a pregnant patient is discharged, the OBMAT program shall identify the physician to whom the patient is being discharged. If a provider is not available, a referral shall be made to a Comprehensive Behavioral Health Center. This information shall be retained in the clinical record.”

On motion of Delegate Shott, the Judiciary Committee amendment was amended on page two, section beginning on line twenty, by striking out subdivision 6.1.c. in its entirety and inserting in lieu thereof a new subdivision 6.1.c. to read as follows:

“6.1.c. In the case of a hotel, motel, or apartment building, all units or areas immediately adjacent to a unit or area within the hotel, motel, or apartment unit that contained a clandestine drug

laboratory and that is under the control of the residential property owner must be secured, vacated and tested in accordance with this rule.”

And

On page four, section two, line sixty-three, by striking out “3.2” and inserting in lieu thereof “32.5”.

And,

On page four, section two, line sixty-five, by striking out “3.2” and inserting in lieu thereof “32.5”

The Judiciary Committee amendment as amended was then adopted.

The bill was ordered to third reading.

S. B. 172, Eliminating salary for Water Development Authority board members; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page two, section four, beginning on line thirty-two, by striking out the words “may not receive an annual salary or any compensation beyond” and inserting in lieu thereof the following words “shall receive the same compensation for attending official meetings or engaging in official duties not to exceed the amount paid to members of the legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law. Appointed members may receive”.

The bill was ordered to third reading.

Com. Sub. for S. B. 173, Relating generally to autocycles; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, immediately

following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §17B-1-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §17B-2-7b of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §17C-1-69; and that §17C-15-44 of said code be amended and reenacted, all to read as follows:

CHAPTER 17B. MOTOR VEHICLE DRIVER’S LICENSES.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17B-1-1. Definitions.

~~The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this article:~~

~~(a) *Vehicle*. — Every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks;~~

~~(b) *Motor vehicle*. — Every vehicle which is self propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;~~

~~(c) *Motorcycle*. — Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor as defined herein, a moped as defined in section five a, article one, chapter seventeen c of this code, a snowmobile as defined in section one mm, article one, chapter seventeen a of this code and an all terrain vehicle as defined in section one ii, article one, chapter seventeen a of this code;~~

~~(d) *Farm tractor*. — Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry;~~

~~(e) *School bus.*—Every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school;~~

~~(f) *Person.*—Every natural person, firm, copartnership, association or corporation;~~

~~(g) *Operator.*—Every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle;~~

~~(h) *Chauffeur.*—Every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation;~~

~~(i) *Driver.*—Means any person who drives, operates or is in physical control of a motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a driver's license;~~

~~(j) *Driver's License.*—Means any permit or license issued by this state to a person which authorizes the person to drive a motor vehicle of a specific class or classes subject to any restriction or endorsement contained thereon;~~

~~(k) *Owner.*—A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter;~~

~~(l) *Nonresident.*—Every person who is not a resident of this state;~~

~~(m) *Street or highway.*—The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;~~

~~(n) *Commissioner.*—The Commissioner of Motor Vehicles of this state;~~

~~(o) *Division.*—The Division of Motor Vehicles of this state acting directly or through its duly authorized officers or agents;~~

~~(p) *Suspension.*—Suspension means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of such suspension;~~

~~(q) *Revocation.*—Revocation means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the division after the expiration of at least one year after the date of revocation, except as otherwise provided in section two, article five a, chapter seventeen c of this code;~~

~~(r) *Cancellation.*—Cancellation means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to such license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation;~~

~~(s) *9 1 1 system* means an emergency telephone system or enhanced emergency telephone system as defined in section two, article six, chapter twenty four of this code;~~

~~(t) *Wireless communication device* means a handheld device used to access a wireless telephone service or a text messaging device.~~

The following words and phrases when used in this chapter, for the purpose of this chapter, have the meanings respectively ascribed to them in this article:

Autocycle. — Every fully or partially enclosed motorcycle that is equipped with safety belts, rollover bar protection, a rearview mirror, automotive seating, a steering wheel and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time;

Cancellation. — Means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to that license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation;

Chauffeur. — Every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation;

Commissioner. — The Commissioner of Motor Vehicles of this state;

Division. — The Division of Motor Vehicles of this state acting directly or through its duly authorized officers or agents;

Driver. — Means any person who drives, operates or is in physical control of a motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a driver's license;

Driver's License. — Means any permit or license issued by this state to a person which authorizes the person to drive a motor vehicle of a specific class or classes subject to any restriction or endorsement contained thereon;

Farm tractor. — Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

Motorcycle. — Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor as

defined herein, a moped as defined in section five-a, article one, chapter seventeen-c of this code, a snowmobile as defined in subsection (mm), section one, article one, chapter seventeen-a of this code and an all-terrain vehicle as defined in subsection (ii), section one of this article;

Motor vehicle. — Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;

9-1-1 system. — Means an emergency telephone system or enhanced emergency telephone system as defined in section two, article six, chapter twenty-four of this code;

Nonresident. — Every person who is not a resident of this state;

Operator. — Every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle;

Owner. — A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor is the owner for the purpose of this chapter;

Person. — Every natural person, firm, copartnership, association or corporation;

Revocation. — Means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the division after the expiration of at least one year after the date of revocation, except as otherwise provided in section two, article five-a, chapter seventeen-c of this code;

School bus. — Every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school;

Street or highway. — The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

Suspension. — Suspension means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of the suspension;

Vehicle. — Every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks;

Wireless communication device. — Means a handheld device used to access a wireless telephone service or a text messaging device.

ARTICLE 2. ISSUANCE OF LICENSE; EXPIRATION AND RENEWAL.

§17B-2-7b. Separate examination and endorsement for a license valid for operation of motorcycle.

(a) The State Police shall administer a separate motorcycle examination for applicants for a license valid for operation of a motorcycle. On and after July 1, 2000, the Division of Motor Vehicles shall administer the examination provided for in this section. Any applicant for a license valid for operation of a motorcycle shall be required to successfully complete the motorcycle examination, which is in addition to the examination administered pursuant to section seven of this article and, if under the age of eighteen, shall be required to complete the requirements for a level two intermediate driver's license set forth in paragraphs (B), (C) and (D), subdivision (1), subsection (j), section three-a of this article: *Provided*, That the commissioner may exempt an

applicant for a motorcycle driver's license or endorsement from all or part of the motorcycle license examination as provided in section six, article one-d of this chapter. The motorcycle examination shall test the applicant's knowledge of the operation of a motorcycle and of any traffic laws specifically relating to the operation of a motorcycle and shall include an actual demonstration of the ability to exercise ordinary and reasonable control in the operation of a motorcycle. An applicant for a license valid for the operation of only a motorcycle shall be tested as provided in this section and in section seven of this article, but need not demonstrate actual driving ability in any vehicle other than a motorcycle. The examination provided in this section ~~shall~~ may not be made a condition upon the renewal of the license of any person under this section. For an applicant who successfully completes the motorcycle examination, upon payment of the required fee, the division shall issue a motorcycle endorsement on the driver's license of the applicant, or shall issue a special motorcycle-only license if the applicant does not possess a driver's license: *Provided, however,* That any holder of a motorcycle-only license under the age of eighteen ~~shall be~~ is subject to the provisions of paragraphs (A), (B), (E), (F), (G) and (H), subdivision (2), subsection (j), section three-a of this article.

Every person, including those holding a valid driver's license, is required to take the examination specified in this section to obtain a motorcycle license or endorsement, unless exempted under subsection (b) of this section.

(b) Notwithstanding any provision of this code to the contrary, a person with a valid driver's license who is operating an autocytle is exempt from the motorcycle examination, licensing and endorsement requirements set forth in this article.

CHAPTER 17C. TRAFFIC REGULATIONS

AND LAWS OF THE ROAD.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-69. Autocycle.

‘Autocycle’ means a fully or partially enclosed motorcycle that is equipped with safety belts, rollover bar protection, a rearview mirror, automotive seating, a steering wheel and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time;

ARTICLE 15. EQUIPMENT.**§17C-15-44. Safety equipment and requirements for motorcyclists, motorcycles, motor-driven cycles and mopeds; motorcycle safety standards and education committee.**

(a) No person ~~shall~~ may operate or be a passenger on any motorcycle or motor-driven cycle unless the person is wearing securely fastened on his or her head by either a neck or chin strap a protective helmet designed to deflect blows, resist penetration and spread impact forces. Any helmet worn by an operator or passenger shall meet the current performance specifications established by the American National Standards Institute Standard, Z 90.1, the United States Department of Transportation Federal Motor Vehicle Safety Standard No. 218 or Snell Safety Standards for Protective Headgear for Vehicle Users.

(b) No person ~~shall~~ may operate or be a passenger on any motorcycle or motor-driven cycle unless the person is wearing safety, shatter-resistant eyeglasses, excluding contact lenses, or ~~eyegoggles~~ eye goggles or face shield that complies with the performance specifications established by the American National Standards Institute for Head, Eye and Respiratory Protection, Z 2.1. In addition, if any motorcycle, motor-driven cycle or moped is equipped with a windshield or windscreen, the windshield or windscreen shall be constructed of safety, shatter-resistant material that complies with the performance specifications established by Department of Transportation Federal Motor Vehicle Safety Standard No. 205 and American National Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Standard Z 26.1.

(c) No person ~~shall~~ may operate a motorcycle, motor-driven cycle or moped on which the handlebars or grips are more than fifteen inches higher than the uppermost part of the operator's seat when the seat is not depressed in any manner.

(d) A person operating a motorcycle, motor-driven cycle or moped shall ride in a seated position facing forward and only upon a permanent operator's seat attached to the vehicle. No operator ~~shall~~ may carry any other person nor ~~shall~~ may any other person ride on the vehicle unless the vehicle is designed to carry more than one person, in which event a passenger may ride behind the operator upon the permanent operator's seat if it is designed for two persons, or upon another seat firmly attached to the vehicle to the rear of the operator's seat and equipped with footrests designed and located for use by the passenger or in a sidecar firmly attached to the vehicle. No person ~~shall~~ may ride side saddle on a seat. An operator may carry as many passengers as there are seats and footrests to accommodate those passengers. Additional passengers may be carried in a factory-produced sidecar provided that there is one passenger per seat. Passengers riding in a sidecar shall be restrained by safety belts.

(e) Every motorcycle, motor-driven cycle and moped shall be equipped with a rearview mirror affixed to the handlebars or fairings and adjusted so that the operator ~~shall have~~ has a clear view of the road and condition of traffic behind him or her for a distance of at least two hundred feet.

(f) ~~There is hereby created a six member motorcycle safety and education committee consisting of: The superintendent of the State Police or a designee; the Commissioner of Motor Vehicles or a designee; the director of the West Virginia safety council or a designee; a licensed motorcycle operator; an owner of a motorcycle dealership; and a supplier of aftermarket nonfranchised motorcycle supplies. The nongovernmental representatives shall be appointed by the Governor with the advice and consent of the Senate, shall serve without compensation, and the terms shall be for three years, except that as to the members first appointed, one shall be appointed for a term of one year, one shall be appointed for a term~~

~~of two years and one shall be appointed for a term of three years. Members may be reappointed to the committee.~~

~~The committee shall continue to exist pursuant to the provisions of article ten, chapter four of this code until July 1, 1999, to allow for the completion of a preliminary performance review by the joint committee on government operations.~~

~~The committee is hereby authorized to recommend to the superintendent of public safety types and makes of protective helmets, eye protection devices and equipment offered for sale, purchased or used by any person. The committee is authorized to make recommendations to the Commissioner of Motor Vehicles regarding the use of the moneys in the motorcycle safety fund created under section seven, article one d, chapter seventeen b of this code Notwithstanding any provision of this code to the contrary, a person with a valid driver's license who is operating a fully enclosed autocycle, as defined in section sixty-nine, article one of this chapter, is exempt from the provisions of this section.~~

Delegates Kelly and Butler moved to amend the Judiciary Committee amendment on page seven, section forty-four, line five, after the word "person", by inserting "under the age of twenty-one".

And,

On page seven, section forty-four, following line eleven, by inserting a new subsection, designated subsection (b), to read as follows:

"(b) Persons aged twenty-one years and older may operate or be a passenger on a motorcycle or motor-driven cycle without a helmet if the operator has a valid license for the operation of a motorcycle."

And to reletter the remaining subsections accordingly.

On the adoption of the amendment to the Judiciary Committee amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 307**), and there were, including pairs—yeas 29, nays 67, absent and not voting 4, with the paired, yeas and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Kelly Nay: Sponaugle

Yeas: Arvon, Barrett, Butler, Cooper, Dean, Diserio, Eldridge, Fluharty, Folk, N. Foster, Frich, Higginbotham, Hill, Hornbuckle, Householder, Kessinger, Love, Martin, McGeehan, C. Miller, Paynter, Phillips, Pushkin, Sobonya, Sponaugle, Sypolt, Thompson and Ward.

Absent and Not Voting: A. Evans, Marcum, R. Romine and Storch.

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

On motion of Delegate Hanshaw, the amendment was amended on page three, section one, line sixty-three, immediately following the word “rollover”, by striking out the word “bar”.

And,

On page seven, section sixty-nine, line two, immediately following the word “rollover”, by striking out the word “bar”.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 204, Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §5-1-22 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. THE GOVERNOR.

§5-1-22. Vacancies in offices filled by appointment of Governor; Senate action; bond requirements; filling vacancies in other appointive offices.

(a) In case of a vacancy, during the recess of the Senate, in any office, which vacancy the Governor is authorized to fill by and with the advice and consent of the Senate, the Governor shall, by appointment within ninety days, fill such vacancy until the next meeting of the Senate, when the Governor shall submit to the Senate a nomination to fill such vacancy and, upon confirmation of such nomination by the Senate, by a vote of a majority of all the members elected to the Senate, taken by yeas and nays, the person so nominated and confirmed shall hold said office during the remainder of the term for which his or her predecessor in office was appointed, and until his or her successor shall be appointed and qualified. No person whose nomination for office has been rejected by the Senate shall again be nominated for the same office during the session in which his or her nomination was so rejected, unless at the request of the Senate, nor shall ~~he~~ the person be appointed to the same office during the recess of the Senate. No appointee who resigns from any such office prior to confirmation, or whose name has not been submitted for confirmation while the Senate is in session, shall be eligible, during the recess of the Senate, to hold any office the nomination for which must be confirmed by the Senate.

(b) Any person appointed to temporarily fill a vacancy shall possess the qualifications required by law for that vacant position.

(c) If an employee of a state agency is temporarily appointed to fill a vacancy, the employee may fill such vacancy without resigning from the position he or she ordinarily holds: *Provided*, that the employee's compensation shall be the greater of:

(1) The employee's regular salary in his or her usual position;
or

(2) The salary for the office the employee temporarily fills.

(d) If a vacancy is temporarily filled by a person not otherwise employed by any agency of the State of West Virginia, then that person shall be compensated at a rate no greater than that of the salary for the office that person temporarily fills.

(e) The bond, if any, required by law to be given by any officer so temporarily appointed by the Governor, shall be in such penalty as is required by law of the incumbent of such office.

(f) Any vacancy in any other office filled by appointment, or in any office hereafter created to be filled by appointment, shall be filled by the same person, court or body authorized to make appointment to such office for the full term thereof."

The bill was ordered to third reading.

Com. Sub. for S. B. 224, Repealing requirement for employer's bond for wages and benefits; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything after the enacting clause, and inserting in lieu thereof the following:

"That §21-5-14 and §21-5-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-14. Employer's bond for wages and benefits.

(a) Bond required. — With the exception of those who have been doing business in this state actively and actually engaged in construction work, or the severance, production or transportation of minerals for at least ~~five consecutive years~~ one year next preceding the posting of the bond required by this section, every employer, person, firm or corporation engaged in or about to engage in construction work, or the severance, production or transportation (excluding railroads and water transporters) of minerals, shall, prior to engaging in any construction work, or the severance, production or transportation of minerals, furnish a bond on a form prescribed by the commissioner, payable to the State of West Virginia, with the condition that the person, firm or corporation pay the wages and fringe benefits of his or her or its employees when due. The amount of the bond shall be equal to the total of the employer's gross payroll for four weeks at full capacity or production, plus fifteen percent of the said total of employer's gross payroll for four weeks at full capacity or production. The amount of the bond shall increase or decrease as the employer's payroll increases or decreases: *Provided*, That the amount of the bond shall not be decreased, except with the commissioner's approval and determination that there are not outstanding claims against the bond: *Provided, however*, That if the employer, person, firm or corporation meets one of the following, then such employer, person, firm or corporation shall be exempt from the requirements of this subsection:

(1) Has been in business in another State for at least five years and has at least \$1 million in assets; or

(2) Is a subsidiary of a parent company in business for at least five years.

(b) Waiver. — The commissioner shall waive the posting of any bond required by subsection (a) of this section upon his or her determination that an employer is of sufficient financial responsibility to pay wages and fringe benefits. The commissioner shall promulgate rules and regulations according to the provisions of chapter twenty-nine-a of this code which prescribe standards for the granting of such waivers.

(c) Form of bond; filing in office of circuit clerk. — The bond may include, with the approval of the commissioner, surety bonding, collateral bonding (including cash and securities), letters of credit, establishment of an escrow account or a combination of these methods. The commissioner shall accept an irrevocable letter of credit in lieu of any other bonding requirement. If collateral bonding is used, the employer may deposit cash, or collateral securities or certificates as follows: Bonds of the United States or its possessions, or of the federal land bank, or of the homeowner's loan corporation; full faith and credit general obligation bonds of the State of West Virginia or other states, and of any county, district or municipality of the State of West Virginia or other states; or certificates of deposit in a bank in this state, which certificates shall be in favor of the state. The cash deposit or market value of such securities or certificates shall be equal to or greater than the sum of the bond. The commissioner shall, upon receipt of any such deposit of cash, securities or certificates, promptly place the same with the State Treasurer whose duty it shall be to receive and hold the same in the name of the state in trust for the purpose for which such deposit is made. The employer making the deposit shall be entitled from time to time to receive from the State Treasurer, upon the written approval of the commissioner, the whole or any portion of any cash, securities or certificates so deposited, upon depositing with him or her in lieu thereof, cash or other securities or certificates of the classes herein specified having value equal to or greater than the sum of the bond. The commissioner shall cause a copy of the bond to be filed in the office of the clerk of the county commission of the county wherein the person, firm or corporation is doing business to be available for public inspection.

(d) Employee cause of action. — Notwithstanding any other provision in this article, any employee, whose wages and fringe benefits are secured by the bond, as specified in subsection (c) of this section, has a direct cause of action against the bond for wages and fringe benefits that are due and unpaid.

(e) Action of commissioner. — Any employee having wages and fringe benefits unpaid may inform the commissioner of the claim for unpaid wages and fringe benefits and request certification

thereof. If the commissioner, upon notice to the employer and investigation, finds that such wages and fringe benefits or a portion thereof are unpaid, he or she shall make demand of such employer for the payment of such wages and fringe benefits. If payment for such wages and fringe benefits is not forthcoming within the time specified by the commissioner, not to exceed thirty days, the commissioner shall certify such claim or portion thereof, and forward the certification to the bonding company or the State Treasurer, who shall provide payment to the affected employee within fourteen days of receipt of such certification. The bonding company, or any person, firm or corporation posting a bond, thereafter shall have the right to proceed against a defaulting employer for that part of the claim the employee paid. The procedure specified herein shall not be construed to preclude other actions by the commissioner or employee to seek enforcement of the provisions of this article by any civil proceedings for the payment of wages and fringe benefits or by criminal proceedings as may be determined appropriate.

(f) Posting and reporting by employer. — With the exception of those exempt under subsection (a) of this section, any employer who is engaged in construction work or the severance, production or transportation (excluding railroad and water transporters) of minerals shall post the following in a place accessible to his or her or its employees:

(1) A copy of the bond or other evidence of surety specifying the number of employees covered as provided under subsection (a) of this section, or notification that the posting of a bond has been waived by the commissioner; and

(2) A copy of the notice in the form prescribed by the commissioner regarding the duties of employers under this section. During the first two years that any person, firm or corporation is doing business in this state in construction work, or in the severance, production or transportation of minerals, such person, firm or corporation shall on or before February 1, May, August and November of each calendar year file with the department a verified statement of the number of employees, or a copy of the quarterly report filed with the Bureau of Employment Programs showing the

accurate number of employees, unless the commissioner waives the filing of the report upon his or her determination that the person, firm or corporation is of sufficient stability that the reporting is unnecessary.

(g) Termination of bond. — The bond may be terminated, with the approval of the commissioner, after an employer submits a statement, under oath or affirmation lawfully administered, to the commissioner that the following has occurred: The employer has ceased doing business and all wages and fringe benefits have been paid, or the employer has been doing business in this state for at least five consecutive years and has paid all wages and fringe benefits. The approval of the commissioner will be granted only after the commissioner has determined that the wages and fringe benefits of all employees have been paid. The bond may also be terminated upon a determination by the commissioner that an employer is of sufficient financial responsibility to pay wages and fringe benefits.

§21-5-15. Violations; cease and desist orders and appeals therefrom; criminal penalties.

(a) Any person, firm or corporation who knowingly and willfully fails to provide and maintain an adequate bond as required by section fourteen of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$200 nor more than \$5,000, or imprisoned in the county jail not more than one month, or both fined and imprisoned.

~~(b)~~ Any person, firm or corporation who knowingly, willfully and fraudulently disposes of or relocates assets with intent to deprive employees of their wages and fringe benefits is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than ~~\$30,000~~ \$60,000, or imprisoned in the ~~penitentiary~~ state correctional facility not less than one nor more than three years, or both fined and imprisoned.

(c) (1) At any time the commissioner determines that a person, firm or corporation has not provided or maintained an adequate bond, as required by section fourteen of this article, the

commissioner shall issue a cease and desist order which is to be issued and posted requiring that said person, firm or corporation either post an adequate bond or cease further operations in this state within a period specified by the commissioner; which period shall be not less than five nor more than fourteen days. The cease and desist order may be issued by the commissioner at his or her own instance or at his or her direction, with or without application to or the approval of any other officer, agent, department or employee of the state or application to any court for approval thereof. Any person, firm or corporation who continues to engage in construction work or the severance, production or transportation of minerals without an approved bond after such specified period shall be guilty of a felony, and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$30,000, or imprisoned in the penitentiary not less than one nor more than three years, or both fined and imprisoned. Any cease and desist order issued by the commissioner pursuant to this subsection may be directed by the commissioner to the sheriff of the county wherein the business activity of which the order is the subject, or to any officer or employee of the department, commanding such sheriff, officer or employee to serve such order upon the business in question within seventy-two hours and to make proper return thereof.

(2) Any other provision of law to the contrary notwithstanding, any person against whom a cease and desist order has been directed shall be entitled to judicial review thereof by filing a verified petition taking an appeal therefrom within fifteen days from the date of service of such order. Such verified petition shall be filed in the circuit court of the county wherein service of the order was completed, at the option of the petitioner, or, in the circuit court of Kanawha County, West Virginia. If the appeal is not perfected within such fifteen day period, the cease and desist order shall be final and shall not thereafter be subject to judicial review. No appeal shall be deemed to have been perfected except upon the filing with the clerk of the circuit court of the county wherein the appeal is taken, of a bond or other security to be approved by the court, in an amount of not less than the amount of the bond otherwise required to be posted under the provisions of section fourteen of this article. The person so filing a petition of appeal

shall cause a copy of the petition and bond or other posted security to be served upon the commissioner by certified mail, return receipt requested, within seven days after the date upon which the petition for appeal is filed.

(d) Any person who threatens any officer, agent or employee of the department or other person authorized to assist the commissioner in the performance of his or her duties under any provision of section fourteen of this article or of this section or who shall interfere with or attempt to prevent any such officer, agent, employee or other person in the performance of such duties shall be guilty of a felony, and, upon conviction thereof, shall be fined in an amount of not less than \$1,000 nor more than \$3,000 or imprisoned in the penitentiary not less than one nor more than three years, or both such fine and imprisonment.”

On motion of Delegate Shott, the amendment was amended on page four, section fourteen, line seventy-two, by striking out “During the first two years” and inserting in lieu thereof “During the first year”.

And,

On page four, section fourteen, line eighty-four, by striking out “five consecutive years” and inserting in lieu thereof “one year”.

The Judiciary amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 230, Relating to certain WV officials carrying concealed firearm nationwide; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two, section one, line seventeen, after the word “in”, by striking out the words “the county courthouse and other buildings where court proceedings are held and in which the prosecutor or assistant prosecutor is appearing before the court in a criminal

matter” and inserting in lieu thereof “within the office of the Prosecuting Attorney”.

The bill was ordered to third reading.

Com. Sub. for S. B. 239, Limiting use of wages by employers and labor organizations for political activities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §3-8-12, §21-1A-4, §21-5-1 and §21-5-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

§3-8-12. Additional acts forbidden; circulation of written matter; newspaper advertising; solicitation of contributions; intimidation and coercion of employees; promise of employment or other benefits; limitations on contributions; public contractors; penalty.

(a) A person may not publish, issue or circulate, or cause to be published, issued or circulated, any anonymous letter, circular, placard, radio or television advertisement or other publication supporting or aiding the election or defeat of a clearly identified candidate.

(b) An owner, publisher, editor or employee of a newspaper or other periodical may not insert, either in its advertising or reading columns, any matter, paid for or to be paid for, which tends to influence the voting at any election, unless directly designating it as a paid advertisement and stating the name of the person authorizing its publication and the candidate in whose behalf it is published.

(c) A person may not, in any room or building occupied for the discharge of official duties by any officer or employee of the state or a political subdivision of the state, solicit orally or by written

communication delivered within the room or building, or in any other manner, any contribution of money or other thing of value for any party or political purpose, from any postmaster or any other officer or employee of the federal government, or officer or employee of the State, or a political subdivision of the State. An officer, agent, clerk or employee of the federal government, or of this state, or any political subdivision of the state, who may have charge or control of any building, office or room, occupied for any official purpose, may not knowingly permit any person to enter any building, office or room, occupied for any official purpose for the purpose of soliciting or receiving any political assessments from, or delivering or giving written solicitations for, or any notice of, any political assessments to, any officer or employee of the state, or a political subdivision of the state.

(d) Except as provided in section eight of this article, a person entering into any contract with the state or its subdivisions, or any department or agency of the state, either for rendition of personal services or furnishing any material, supplies or equipment or selling any land or building to the state, or its subdivisions, or any department or agency of the state, if payment for the performance of the contract or payment for the material, supplies, equipment, land or building is to be made, in whole or in part, from public funds may not, during the period of negotiation for or performance under the contract or furnishing of materials, supplies, equipment, land or buildings, directly or indirectly, make any contribution to any political party, committee or candidate for public office or to any person for political purposes or use; nor may any person or firm solicit any contributions for any purpose during any period.

(e) A person may not, directly or indirectly, promise any employment, position, work, compensation or other benefit provided for, or made possible, in whole or in part, by act of the Legislature, to any person as consideration, favor or reward for any political activity for the support of or opposition to any candidate, or any political party in any election.

(f) Except as provided in section eight of this article, a person may not, directly or indirectly, make any contribution in excess of the value of \$1,000 in connection with any campaign for

nomination or election to or on behalf of any statewide office, in connection with any other campaign for nomination or election to or on behalf of any other elective office in the state or any of its subdivisions, or in connection with or on behalf of any person engaged in furthering, advancing, supporting or aiding the nomination or election of any candidate for any of the offices.

(g) A political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) may not solicit or accept contributions until it has notified the Secretary of State of its existence and of the purposes for which it was formed. During the two-year election cycle, a political organization (as defined in Section 527 (e) (1) of the Internal Revenue Code of 1986) may not accept contributions totaling more than \$1,000 from any one person prior to the primary election and contributions totaling more than \$1,000 from any one person after the primary and before the general election.

(h) It is unlawful for any person to create, establish or organize more than one political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) with the intent to avoid or evade the contribution limitations contained in subsection (g) of this section.

(i) Notwithstanding the provisions of subsection (f) of this section to the contrary, a person may not, directly or indirectly, make contributions to a state party executive committee or state party legislative caucus committee which, in the aggregate, exceed the value of \$1,000 in any calendar year.

(j) The limitations on contributions contained in this section do not apply to transfers between and among a state party executive committee or a state party's legislative caucus political committee from national committees of the same political party: *Provided*, That transfers permitted by this subsection may not exceed \$50,000 in the aggregate in any calendar year to any state party executive committee or state party legislative caucus political committee: *Provided, however*, That the moneys transferred may only be used for voter registration and get-out-the-vote activities of the state committees.

(k) A person may not solicit any contribution, other than contributions to a campaign for or against a county or local government ballot issue, from any nonelective salaried employee of the state government or of any of its subdivisions: *Provided*, That in no event may any person acting in a supervisory role solicit a person who is a subordinate employee for any contribution.

~~(l)~~ (l) A person may not coerce or intimidate any ~~nonelective salaried~~ employee into making a contribution. A person may not coerce or intimidate any ~~nonsalaried~~ employee ~~of the state government or any of its subdivisions~~ into engaging in any form of political activity. The provisions of this subsection may not be construed to prevent any employee from making a contribution or from engaging in political activity voluntarily without coercion; or intimidation. ~~or solicitation.~~

~~(m)~~ (m) A person may not solicit a contribution from any other person without informing the other person at the time of the solicitation of the amount of any commission, remuneration or other compensation that the solicitor or any other person will receive or expect to receive as a direct result of the contribution being successfully collected. Nothing in this subsection may be construed to apply to solicitations of contributions made by any person serving as an unpaid volunteer.

~~(n)~~ (n) A person may not place any letter, circular, flyer, advertisement, election paraphernalia, solicitation material or other printed or published item tending to influence voting at any election in a roadside receptacle unless it is: (1) Approved for placement into a roadside receptacle by the business or entity owning the receptacle; and (2) contains a written acknowledgment of the approval. This subdivision does not apply to any printed material contained in a newspaper or periodical published or distributed by the owner of the receptacle. The term 'roadside receptacle' means any container placed by a newspaper or periodical business or entity to facilitate home or personal delivery of a designated newspaper or periodical to its customers.

(o) An employer or any other person or entity responsible for the disbursement of funds in payment of wages or salary may not

withhold or divert any portion of an employee's wages or salary for use as contributions to any candidate or political committee or for any other political purposes as defined in section one-a of this article except by a written assignment in accordance with section three, article five of chapter twenty-one of this code. This subsection applies to any written or oral contract or agreement entered into, modified, renewed or extended on or after July 1, 2017: *Provided*, That the provisions of this subsection shall not otherwise apply to or abrogate a written or oral contract or agreement or any provisions thereof in effect on or before June 30, 2017. *Provided, however*, That a violation of this subsection is not subject to the civil and criminal penalties contained in this section, but any such violation shall be governed by the provisions of article five of chapter twenty-one of this code.

~~(n)~~ (p) Any person violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or confined in jail for not more than one year, or, both fined and confined.

~~(o) The provisions of subsection (k) of this section, permitting contributions to a campaign for or against a county or local government ballot issue shall become operable on and after January 1, 2005.~~

~~(p)~~ (q) The limitations on contributions established by subsection (g) of this section do not apply to contributions made for the purpose of supporting or opposing a ballot issue, including a constitutional amendment.

§21-1A-4. Unfair labor practices.

(a) It shall be an unfair labor practice for an employer:

(1) To interfere with, restrain or coerce employees in the exercise of the rights guaranteed in section three of this article;

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: *Provided*, That an employer shall not be

prohibited from permitting employees to confer with him or her during working hours without loss of time or pay;

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment, to encourage or discourage membership in any labor organization;

(4) To discharge or otherwise discriminate against an employee because he or she has filed charges or given testimony under this article; and

(5) To refuse to bargain collectively with the representatives of his or her employees, subject to the provisions of subsection (a), section five of this article.

(b) It shall be an unfair labor practice for a labor organization or its agents:

(1) To restrain or coerce: (A) Employees in the exercise of the rights guaranteed in section three of this article: *Provided*, That this subdivision shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his or her representatives for the purposes of collective bargaining or the adjustment of grievances;

(2) To cause or attempt to cause an employer to discriminate against an employee in violation of subdivision (3), subsection (a) of this section or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his or her failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(3) To refuse to bargain collectively with an employer, provided it is the representative of his or her employees subject to the provisions of subsection (a), section five of this article;

(4) (i) To engage in, or induce or encourage any individual employed by any person to engage in, a strike or a refusal in the course of employment to use, manufacture, process, transport or

otherwise handle or work on any goods, articles, materials or commodities or to perform any services; or (ii) to threaten, coerce or restrain any person, where in either case an object thereof is:

(A) Forcing or requiring any employer or self-employed person to join any labor or employer organization or to enter into any agreement which is prohibited by subsection (e) of this section;

(B) Forcing or requiring any person to cease using, selling, handling, transporting or otherwise dealing in the products of any other producer, processor or manufacturer, or to cease doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his or her employees unless such labor organization has been certified as the representative of such employees under the provisions of section five of this article: *Provided*, That nothing contained in this paragraph may be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing;

(C) Forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his or her employees if another labor organization has been certified as the representative of such employees under the provisions of section five of this article;

(D) Forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft or class rather than to employees in another labor organization or in another trade, craft or class, unless such employer is failing to conform to an order of certification of the board determining the bargaining representative for employees performing such work: *Provided*, That nothing contained in this subsection shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his or her own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required by law to recognize;

(5) To require of employees covered by an agreement authorized under subdivision (3), subsection (a) of this section, the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the board finds excessive or discriminatory under all the circumstances. In making such a finding, the board shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry, and the wages currently paid to the employees affected;

(6) To cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed; and

(7) To picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object thereof is forcing or requiring an employer to recognize or bargain with a labor organization as the representative of his or her employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the representative of such employees:

(A) Where the employer has lawfully recognized in accordance with this article any other labor organization and a question concerning representation may not appropriately be raised under subsection (c), section five of this article;

(B) Where within the preceding twelve months a valid election under subsection (c), section five of this article has been conducted; or

(C) Where such picketing has been conducted without a petition under subsection (c), section five of this article being filed within a reasonable period of time not to exceed fifteen days from the commencement of such picketing: *Provided*, That when such a petition has been filed the board shall forthwith, without regard to the provisions of said subsection or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the board finds to be appropriate and shall

certify the results thereof. Nothing in this subdivision shall be construed to permit any act which would otherwise be an unfair labor practice under this subsection.

(c) The expressing of any views, argument or opinion, or the dissemination thereof, whether in written, printed, graphic or visual form, shall not constitute or be evidence of an unfair labor practice, or be prohibited under this article, if such expression contains no threat of reprisal or force or promise of benefit.

(d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making a concession: *Provided*, That where there is in effect a collective bargaining contract covering employees, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification:

(1) Gives a written notice to the other party of the proposed termination or modification sixty days prior to the expiration date thereof, or in the event such contract contains no expiration date, sixty days prior to the time it is proposed to make such termination or modification;

(2) Offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications;

(3) Notifies the Commissioner of Labor of the existence of a dispute;

(4) Continues in full force and effect, without resorting to strike or lockout, all the terms and conditions of the existing contract for a period of sixty days after such notice is given or until the

expiration date of such contract, whichever occurs later. The duties imposed upon employers, employees and labor organizations by this subdivision and subdivisions (2) and (3) of this subsection shall become inapplicable upon an intervening certification of the board, under which the labor organization or individual, which is a party to the contract, has been superseded as or ceased to be the representative of the employees subject to the provisions of subsection (a), section five of this article, and the duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any employee who engages in a strike within the sixty-day period specified in this subsection shall lose his or her status as an employee of the employer engaged in the particular labor dispute, for the purposes of this section and sections three and five of this article, but such loss of status for such employee shall terminate if and when he or she is reemployed by such employer.

(e) It shall be an unfair labor practice for any labor organization and any employer to enter into any contract or agreement, express or implied, whereby such employer ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person and any such contract or agreement entered into heretofore or hereafter shall be to such extent unenforceable and void.

(f) It shall be an unfair labor practice for any labor organization to use agency shop fees paid by an individual who is not a member of the organization to make any contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual. Any such authorization is valid for no more than twelve months from the date it is made by the individual. For purposes of this section, 'agency shop fees' shall mean any dues, fees, assessments or other similar charges, however denominated, of any kind or amount to the labor organization: *Provided*, That the provisions of this

subsection shall not otherwise apply to or abrogate a written or oral contract or agreement or any provisions thereof in effect on or before June 30, 2017.

§21-5-1. Definitions.

As used in this article:

(a) The term ‘firm’ includes any partnership, association, joint-stock company, trust, division of a corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee or successor of any of the same, or officer thereof, employing any person.

(b) The term ‘employee’ or ‘employees’ includes any person suffered or permitted to work by a person, firm or corporation.

(c) The term ‘wages’ means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission or other basis of calculation. As used in sections four, five, eight-a, ten and twelve of this article, the term ‘wages’ shall also include then accrued fringe benefits capable of calculation and payable directly to an employee: *Provided*, That nothing herein contained shall require fringe benefits to be calculated contrary to any agreement between an employer and his or her employees which does not contradict the provisions of this article.

(d) The term ‘commissioner’ means Commissioner of Labor or his or her designated representative.

(e) The term ‘railroad company’ includes any firm or corporation engaged primarily in the business of transportation by rail.

(f) The term ‘special agreement’ means an arrangement filed with and approved by the commissioner whereby a person, firm or corporation is permitted upon a compelling showing of good cause to establish regular paydays less frequently than once in every two weeks: *Provided*, That in no event shall the employee be paid in

full less frequently than once each calendar month on a regularly established schedule.

(g) The term ‘deductions’ includes only those amounts required by law or Court order to be withheld, and those amounts required by the terms of an employer-sponsored or employer-provided plan or program providing fringe benefits in which the employee is a participant. ~~authorized for union or club dues, pension plans, payroll savings plans, credit unions, charities and hospitalization and medical insurance.~~

(h) The term ‘officer’ shall include officers or agents in the management of a corporation or firm who knowingly permit the corporation or firm to violate the provisions of this article.

(i) The term ‘wages due’ shall include at least all wages earned up to and including the twelfth day immediately preceding the regular payday.

(j) The term ‘construction’ means the furnishing of work in the fulfillment of a contract for the construction, alteration, decoration, painting or improvement of a new or existing building, structure, roadway or pipeline, or any part thereof, or for the alteration, improvement or development of real property: *Provided*, That construction performed for the owner or lessee of a single family dwelling or a family farming enterprise is excluded.

(k) The term ‘minerals’ means clay, coal, flagstone, gravel, limestone, manganese, sand, sandstone, shale, iron ore and any other metallurgical ore.

(l) The term ‘fringe benefits’ means any benefit provided an employee or group of employees by an employer, or which is required by law, and includes, but is not limited to, benefits provided pursuant to any welfare plan or pension plan, subject to the Employee Retirement Income Security Act of 1974 in which the employee is a participant, including, but not limited to, benefits for medical, surgical or hospital care, sickness, accident, disability or death, unemployment, vacation, holidays, apprenticeship or training, day care, education, prepaid legal services, severance and

~~retirement or post retirement, regular vacation, graduated vacation, floating vacation, holidays, sick leave, personal leave, production incentive bonuses, sickness and accident benefits and benefits relating to medical and pension coverage.~~

(m) The term 'employer' means any person, firm or corporation employing any employee.

(n) The term 'doing business in this state' means having employees actively engaged in the intended principal activity of the person, firm or corporation in West Virginia.

§21-5-3. Payment of wages by employers other than railroads; assignments of wages.

(a) Every person, firm or corporation doing business in this state, except railroad companies as provided in section one of this article, shall settle with its employees at least twice every month and with no more than nineteen days between settlements, unless otherwise provided by special agreement, and pay them the wages due, less authorized deductions and authorized wage assignments, for their work or services.

(b) Payment required in subsection (a) of this section shall be made:

(1) In lawful money of the United States;

(2) By cash order as described and required in section four of this article;

(3) By deposit or electronic transfer of immediately available funds into an employee's payroll card account in a federally insured depository institution. The term 'payroll card account' means an account in a federally insured depository institution that is directly or indirectly established through an employer and to which electronic fund transfers of the employee's wages, salary, commissions or other compensation are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution or another person. 'Payroll card' means a card, code or combination thereof

or other means of access to an employee's payroll card account, by which the employee may initiate electronic fund transfers or use a payroll card to make purchases or payments. Payment of employee compensation by means of a payroll card must be agreed upon in writing by both the person, firm or corporation paying the compensation and the person being compensated; or

(4) By any method of depositing immediately available funds in an employee's demand or time account in a bank, credit union or savings and loan institution that may be agreed upon in writing between the employee and such person, firm or corporation, which agreement shall specifically identify the employee, the financial institution, the type of account and the account number: *Provided*, That nothing herein contained shall be construed in a manner to require any person, firm or corporation to pay employees by depositing funds in a financial institution.

(c) If, at any time of payment, any employee shall be absent from his or her regular place of labor and shall not receive his or her wages through a duly authorized representative, he or she shall be entitled to payment at any time thereafter upon demand upon the proper paymaster at the place where his or her wages are usually paid and where the next pay is due.

(d) Nothing herein contained shall affect the right of an employee to assign part of his or her claim against his or her employer except as in subsection (e) of this section.

(e) No assignment of or order for future wages shall be valid for a period exceeding one year from the date of the assignment or order. An assignment or order shall ~~be acknowledged by the party making the same before a notary public or other officer authorized to take acknowledgments, and any order or assignment shall be in writing and~~ specify thereon the total amount due and collectible by virtue of the same and three fourths of the periodical earnings or wages of the assignor shall at all times be exempt from such assignment or order and no assignment or order shall be valid which does not so state upon its face: *Provided*, That no such order or assignment shall be valid unless the written acceptance of the employer of the assignor to the making thereof is endorsed thereon:

~~*Provided, however, That nothing herein contained shall be construed as affecting the right of employer and employees to agree between themselves as to deductions to be made from the payroll of employees. The changes to this section which were adopted by the West Virginia Legislature in 2017 in SB239 apply to any written or oral contract or agreement entered into, modified, renewed or extended on or after July 1, 2017: Provided, That the provisions of this subsection shall not otherwise apply to or abrogate a written or oral contract or agreement or any provisions thereof in effect on or before June 30, 2017.*~~”

The bill was ordered to third reading.

S. B. 349, Repealing outdated code related to Division of Corrections; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 400, Regarding appointments to WV Infrastructure and Jobs Development Council; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 522, Relating to pharmacy audits; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Banking and Insurance, was reported by the Clerk and adopted, amending the bill on page nine, section seven, line twenty-five, by striking out all of subdivision (1) and inserting in lieu thereof the following:

“(1) A licensed insurer or other entity licensed by the Commissioner pursuant to this chapter shall comply with the standards and procedures of this article but shall not be required to separately register as either a pharmacy benefits manager or auditing entity.”

The bill was ordered to third reading.

S. B. 554, Relating to false swearing in legislative proceeding; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, section six-a, line seven, by striking out subsection (c) in its entirety.

The bill was ordered to third reading.

Com. Sub. for S. B. 575, Limiting nuisance actions against shooting ranges for noise; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §61-6-23 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-23. Shooting range; limitations on nuisance actions; noise ordinances.

(a) As used in this section:

(1) ‘Person’ means an individual, proprietorship, partnership, corporation, club or other legal entity; and

(2) ‘Shooting range’ or ‘~~range~~’ means an area, whether indoor or outdoor, designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar shooting.

(b) Except as provided in this section, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person’s property if the shooting range was established as of the date of the person acquiring the property. If there is a substantial change in use of the shooting range or there is a period of shooting inactivity at a shooting range for a period exceeding one year after the person acquires the property, then the person may maintain a

nuisance action if the action is brought within two years from the beginning of the substantial change in use of the shooting range, or the resumption of shooting activity: *Provided, That if a municipal or county ordinance regulating noise exists, subsection (e) of this section controls.*

(c) A person who owned property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that shooting range only if the action is brought within two years after the establishment of the shooting range or two years after a substantial change in use of the shooting range or from the time shooting activity is resumed: *Provided, That if a municipal or county ordinance regulating noise exists, subsection (e) of this section controls.*

(d) Actions authorized by the provisions of this section are not applicable to any indoor shooting ranges, the owner or operator of which holds all necessary and required licenses and the shooting range is being in compliance with all applicable state, county and municipal laws, rules or ordinances regulating the design and operation of such facilities.

(e) (1) No municipal or county ordinance regulating noise may subject a shooting range to noise control standards more stringent than those standards in effect at the time construction or operation of the shooting range began, whichever occurred earlier in time. The operation or use of a shooting range may not be enjoined based on noise, nor may any person be subject to an action for nuisance or criminal prosecution in any matter relating to noise resulting from the operation of a shooting range, if the shooting range is operating in compliance with all ordinances relating to noise in effect at the time the construction or operation of the shooting range began, whichever occurred earlier in time.

(2) No shooting range operating or approved for operation within this state which has been condemned through an eminent domain proceeding, and which relocates to another site within the same political subdivision within two years of the final condemnation order, may be subject to any noise control standard more stringent than that in effect at the time construction or

operation of the shooting range which was condemned began, whichever occurred earlier in time.

(f) It is the intent of the Legislature in enacting the amendments to this section during the 2017 regular session of the Legislature that the amendments be applied retroactively.”

The bill was ordered to third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting,

S. B. 28, Creating new system for certain contiguous counties to establish regional recreation authorities,

S. B. 169, Repealing article providing assistance to Korea and Vietnam veterans exposed to certain chemical defoliants,

S. B. 170, Repealing state hemophilia program,

S. B. 171, Repealing Programs of All-Inclusive Care for Elderly,

Com. Sub. for S. B. 180, Relating to PSC jurisdiction over certain telephone company and internet services,

Com. Sub. for S. B. 186, Adjusting date when children become eligible for certain school programs and school attendance requirements,

S. B. 198, Expanding Health Sciences Program to allow certain medical practitioners in underserved areas,

Com. Sub. for S. B. 221, Relating to composition of PEIA Finance Board,

Com. Sub. for S. B. 280, Moving administration of Civil Air Patrol to Adjutant General,

S. B. 321, Reporting requirements of employee information to CPRB,

S. B. 344, Relating to application of payments on consumer credit sale and loans,

Com. Sub. for S. B. 350, Allowing licensed professional counselors be issued temporary permit,

Com. Sub. for S. B. 358, Relating generally to trustee sale of timeshare estates,

S. B. 364, Incorporating changes to Streamlined Sales and Use Tax Agreement,

S. B. 365, Maintaining solvency of Unemployment Compensation Fund,

S. B. 392, Relating to Municipal Police Officers and Firefighters Retirement System,

Com. Sub. for S. B. 398, Creating Emergency Volunteer Health Practitioners Act,

Com. Sub. for S. B. 412, Relating to WV Jobs Act reporting requirements,

S. B. 495, Relating to regulation of events by State Athletic Commission,

Com. Sub. for S. B. 499, Creating Debt Resolution Services Division in Auditor's office,

Com. Sub. for S. B. 505, Providing five-year reclamation period following completion of well pads for horizontal wells,

Com. Sub. for S. B. 563, Relating to Consumer Credit and Protection Act,

S. B. 564, Relating to Statewide Independent Living Council,

S. B. 566, Claims against state,

Com. Sub. for S. B. 581, Relating generally to administration of trusts,

Com. Sub. for S. B. 588, Relating to reproduction, distribution and sale of tax maps,

S. B. 621, Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations,

And,

Com. Sub. for S. B. 671, Relating to WV Anatomical Board.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Kelly.

Miscellaneous Business

Delegate Barrett asked and obtained unanimous consent that the remarks of Delegate Caputo and Delegate Brewer regarding Com. Sub. for S. B. 222 be printed in the Appendix to the Journal.

Delegate Brewer asked and obtained unanimous consent that all remarks of Members regarding Com. Sub. for S. B. 437 be printed in the Appendix to the Journal.

Delegate Capito announced that he was absent on today when the vote was taken on Roll No. 292, and that had he been present, he would have voted "Yea" thereon.

Delegate Nelson noted to the Clerk that he was absent on today when the vote was taken on Roll No. 303, and that had he been present, he would have voted "Yea" thereon.

Delegate Rodighiero noted to the Clerk that he was absent on March 30, 2017, when the vote was taken on Roll No. 273, and that had he been present, he would have voted "Yea" thereon.

At 2:47 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, April 3, 2017.

Monday, April 3, 2017

FIFTY-FIFTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Saturday, April 1, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates proceeded to consideration of H. C. R. 26 and H. C. R. 94 on Unfinished Business.

Special Calendar

Unfinished Business

H. C. R. 26, Naming the NASA IV & V Facility at Fairmont for West Virginia mathematician Katherine Coleman Johnson was read by the Clerk.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 308**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw, Householder, Longstreth, Queen and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. C. R. 26) adopted.

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

H. C. R. 94, Katherine Johnson Day; was read by the Clerk.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 309**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw, Householder and Longstreth.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. C. R. 94) adopted.

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

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates proceeded to consideration of Com. Sub. for H. B. 2801 on First Reading Special Calendar.

Com. Sub. for H. B. 2801, Expiring funds to the unappropriated balance in the State Fund from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, was read a first time and ordered to second reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 310**), and there were—yeas 96, nays 2, absent and not voting 2, with the yeas and absent and not voting being as follows:

Nays: Baldwin and Folk.

Absent and Not Voting: Hanshaw and Upson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a second time and ordered to engrossment and third reading.

Having been engrossed, the bill was read a third time, and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 311**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Folk, Gearheart and McGeehan.

Absent and Not Voting: Criss, Hanshaw and Upson.

So, a majority of the members elected to the House having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2801) passed.

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

On this question, the yeas and nays were taken (**Roll No. 312**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Criss, Hanshaw and Upson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2801) takes effect from its passage.

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

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates proceeded to consideration of H. B. 3103 on first reading, Special Calendar.

H. B. 3103, Making a supplementary appropriation to the Department of Health and Human Resources, was read a first time and ordered to second reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 313**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Criss, Hanshaw and Upson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a second time and ordered to engrossment and third reading.

Having been engrossed, the bill was read a third time, and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 314**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw and Upson.

So, a majority of the members elected to the House having voted in the affirmative, the Speaker declared the bill (H. B. 3103) passed.

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

On this question, the yeas and nays were taken (**Roll No. 315**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw and Upson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3103) takes effect from its passage.

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

Committee Reports

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 636, Authorizing State Fire Commission establish a program to address problems facing VFDs,

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

On motions for leave, resolutions were introduced (Originating in the Committee on Government Organization and reported with the recommendation that they each be adopted), which were read by their titles, as follows:

By Delegates Howell, Arvon, Atkinson, Caputo, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine and Sypolt:

H. C. R. 111 - “Requesting the Joint Committee on Government and Finance study the organization, structure, staffing levels, and functions of the Office of Technology and the

Information Services and Communications Division within the Department of Administration.”

Whereas, Technology advancement and the use of advanced technologies throughout state government requires periodic analysis and assessment to ensure the most efficient and effective technologies are developed, available, supported and maintained by various agencies to facilitate the business of the state; and

Whereas, The Office of Technology, and the Information Services and Communications Division, have evolved and merged over time, with the goal of reducing technology costs, standardizing technology equipment and procedures for the executive branch, to centralize information technology support staff, and generally improve the technology and technological services available to the executive branch; and

Whereas, The Legislature is committed to maximizing efficiencies, eliminating redundancy among government offices and providing the highest quality of services to the public; and

Whereas, Technology represents a critical infrastructure component of state government and the periodic evaluation and assessment of the various technology services available to the executive branch is necessary to determine the best policies and practices; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the organization, structure, staffing levels, and functions of the Office of Technology and the Information Services and Communications Division within the Department of Administration; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the Office of Technology, the Information Services and Communications Division, the Department of Administration, the West Virginia Enterprise Resource Planning Board, the WV OASIS Project, Change Control Board and Steering Committee, shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

Further Resolved, That the expenses necessary to conduct this study and to prepare and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Howell, Arvon, Atkinson, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine and Sypolt:

H. C. R. 112 - “Requesting the Joint Committee on Government and Finance study the possible negative impact imposed on individuals created by unnecessary barriers to employment created by occupational licensing requirements.”

Whereas, Securing gainful employment is a critical component of a fulfilling life; and

Whereas, West Virginians deserve to have reasonably limited barriers to entrepreneurial success; and

Whereas, In 2016, West Virginia was indicated to have the 17th most burdensome occupational licensing structure in the nation; and

Whereas, Limiting barriers to market entry will create jobs and help diversify our economy; and

Whereas, It is in the state’s interest to expand employment opportunities for all West Virginians; and

Whereas, Many occupational licensing requirements are outdated, unnecessary or overly burdensome on individuals; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the possible negative impact imposed on individuals created by unnecessary barriers to employment created by occupational licensing requirements; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, 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 and to prepare and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Howell, Arvon, Atkinson, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Iaquina, Lewis, Lynch, Marcum, Martin, Paynter, Pyles, C. Romine and Sypolt:

H. C. R. 113 - "Requesting the Joint Committee on Government and Finance study the Alcohol Beverage Control Administration, its overlap of duties and responsibilities with the West Virginia Lottery, the powers and duties of the Alcohol Beverage Control Administration and West Virginia Lottery, the cost-savings of abolishing the Alcohol Beverage Control Administration and transferring all duties to the West Virginia Lottery, and the policies governing the manufacture, sale, distribution, transportation, storage and consumption of alcoholic liquors."

Whereas, The Legislature is committed to promoting economic development, market competition and the personal freedom consistent with health, safety, welfare, peace and good morals of the people of this state; and

Whereas, The Legislature recognizes that it is public policy of this state to regulate and control the manufacture, sale, distribution, transportation, storage and consumption of alcoholic liquors, therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the Alcohol Beverage Control Administration, its overlap of duties and responsibilities with the West Virginia Lottery, the powers and duties of the Alcohol Beverage Control Administration and West Virginia Lottery and policies governing the manufacture, sale, distribution, transportation, storage and consumption of alcoholic liquors; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the Alcohol Beverage Control Administration and the West Virginia Lottery shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

Further Resolved, That the expenses necessary to conduct this study and to prepare and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Howell, Arvon, Atkinson, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine and Sypolt:

H. C. R. 114 - "Requesting the Joint Committee on Government and Finance study the structure, organization, staffing levels, and operations of the West Virginia Division of Labor, to

evaluate the programmatic activity of the division and determine if efficiencies, redundancies or economies of scale can be found by streamlining operations therein.”

Whereas, The Division of Labor is charged with regulatory oversight and enforcement over a variety of areas, including bedding and upholstery furniture, contractor licensing, crane operator certification, manufactured housing, safety over elevator, amusement rides, boiler, OSHA consultation, zip line and canopy tours, supervision of plumbing work, wage and hour and weights and measures; and

Whereas, The Division of Labor has not been evaluated by the Legislative Auditor since 2002, and since that time the division has been assigned additional programs and responsibilities; and

Whereas, The Legislature is committed to reviewing regulatory operations among the various agencies of state to determine the most efficient, cost effective and practical manner to protect the public, while being the least burdensome to industry; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the structure, organization, staffing levels, and operations of the West Virginia Division of Labor, to evaluate the programmatic activity of the division and determine if efficiencies, redundancies or economies of scale can be found by streamlining operations therein; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the Division of Labor, and the regulatory boards and offices thereunder, shall cooperate with the Legislature and provide information, access to personnel and

access to all records necessary to effectuate the provisions of this study; and, be it

Further Resolved, That the expenses necessary to conduct this study and to prepare and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Howell, Arvon, Atkinson, Caputo, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Iaquina, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine and Sybolt:

H. C. R. 115 - "Requesting the Joint Committee on Government and Finance study the Board of Examiners for Registered Professional Nurses and the Board of Examiners for Licensed Practical Nurses, the benefits of merging the boards to facilitate participation in national compacts, the cost-savings of combining the two boards, the overlap of the occupations licensed by the boards, and the overlap of representation on the boards by qualifications of board members."

Whereas, The Legislature is committed to promoting efficiencies and economies of scale among the regulator offices regarding the regulations necessary for the citizens to obtain the occupational licenses in this state; and

Whereas, The Legislature recognizes the importance of licensure, oversight, and representation of the occupations in the nursing field, therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the Board of Examiners for Registered Professional Nurses and the Board of Examiners for Licensed Practical Nurses, the benefits of merging the boards to facilitate participation in national compacts, the cost-savings of combining the two boards, the overlap of the occupations licensed by the boards, and the overlap of representation on the boards by qualifications of board members; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the Board of Examiners for Registered Professional Nurses and the Board of Examiners for Licensed Practical Nurses shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

Further Resolved, That the expenses necessary to conduct this study and to prepare and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Howell, Arvon, Atkinson, Caputo, Criss, Diserio, Eldridge, Ferro, Hamrick, Hill, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine and Sypolt:

H. C. R. 116 - “Requesting the Joint Committee on Government and Finance study the Real Estate Division within the Department of Administration, including the powers and duties of the office, exemptions from the office and corresponding rules and regulations, and the status of a comprehensive inventory of state owned real property.”

Whereas, The Legislative Auditor has found that the cost of maintaining state buildings continues to increase and maintenance needs are being deferred where funds are limited; and

Whereas, Historic deferred maintenance of state buildings and uncertainty about public property holdings makes the development of a comprehensive inventory of state owned real property a practical necessity for budgeting purposes; and

Whereas, The Real Estate Division within the Department of Administration is charged with maintaining a statewide database of all state real estate contracts, maintaining a statewide real property

management system, and to provide assistance to all state departments, agencies or institutions in acquiring, leasing and disposing of real property; and

Whereas, The Legislature is committed to the proper management of the state's assets, by periodically reviewing the various state agencies charged with developing state real estate inventories, including those agencies exempt from the Real Estate Division article, and by reviewing strategic real estate maintenance plans, to ensure there is no duplication of efforts, that all real estate is accounted for, and that proper management plans are established to safeguard and protect the states investments; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the Real Estate Division within the Department of Administration, including the powers and duties of the office, exemptions from the office and corresponding rules and regulations, and the status of a comprehensive inventory of state owned real property; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the Real Estate Division, the Department of Administration, the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, the Public Land Corporation, the Division of Natural Resources, the Division of Highways, and the Department of Transportation shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

Further Resolved, That the expenses necessary to conduct this study and to prepare and draft necessary legislation be paid from

legislative appropriations to the Joint Committee on Government and Finance.

And,

By Delegates Howell, Arvon, Atkinson, Brewer, Caputo, Criss, Diserio, Eldridge, Ferro, Hamrick, Iaquina, Lewis, Lynch, Marcum, Martin, Maynard, Paynter, Pyles, Queen, C. Romine, Sypolt and Williams:

H. C. R. 117 - "Requesting the Joint Committee on Government and Finance study state vehicle utilization policies, the contradicting and overlapping policies of the Fleet Management Office and Travel Management Office, and the responsibilities of each agency in providing management services and the implementation of proper travel rules and regulations for executive branch agencies that use state vehicles."

Whereas, The Legislature is committed to promoting government responsibility, transparency, and proper management oversight of state vehicle use; and

Whereas, The Legislature recognizes the need to periodically evaluate various policies to ensure tax payer resources are adequately available, properly maintained and properly utilized; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study state vehicle utilization policies, the contradicting and overlapping policies of the Fleet Management Office and Travel Management Office, and the responsibilities of each agency in providing management services and the implementation of proper travel rules and regulations for executive branch agencies that use state vehicles; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the Fleet Management Office, Travel Management Office, and West Virginia Purchasing Division shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

Further Resolved, That the expenses necessary to conduct this study and to prepare and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

The Speaker referred the resolutions (H. C. R. 111, H. C. R. 112, H. C. R. 113, H. C. R. 114, H. C. R. 115, H. C. R. 116 and H. C. R. 117) to the Committee on Rules.

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

Com. Sub. for H. C. R. 78, Almond Brothers and Family Veterans Bridge,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended.

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 96, U. S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge,

And,

H. C. R. 103, U S Army PFC Tracy Victor Rohrbaugh Memorial Bridge,

And reports the same back with the recommendation that they each be adopted

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 441, Establishing Municipal Home Rule Pilot Program,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 441) to the Committee on Finance was abrogated.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 134, Authorizing Bureau of Commerce to promulgate legislative rules,

Com. Sub. for S. B. 255, Relating generally to filling vacancies in elected office,

Com. Sub. for S. B. 240, Creating crime of nonconsensual distribution of sexual images,

S. B. 578, Relating generally to copies of health care records furnished to patients,

And,

Com. Sub. for S. B. 402, Relating to covenants not to compete between physicians and hospitals,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 602, Creating uniform system of recording and indexing fictitious names used by sole proprietors,

Com. Sub. for S. B. 631, Prosecuting violations of municipal building code,

S. B. 490, Clarifying standard of liability for officers of corporation,

Com. Sub. for S. B. 606, Relating to minimum wage and maximum hours for employees,

And,

S. B. 690, Authorizing WV State Police impose and collect fees for agencies and entities using their facilities,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 521, Relating generally to Public Defender Services,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 521) was referred to the Committee on Finance.

Resolutions Introduced

Delegate Hanshaw offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 118 – “Requesting the Division of Highways name bridge number 07-33-5.34 (07A057) (38.79415, -81.14055), locally known as the Arnoldsburg Bridge, carrying US 33 over the West Fork of Little Kanawha River in Calhoun County, the ‘Craddock Brothers Bridge’.”

Whereas, Leo Craddock, Gale Craddock, Harold Craddock, Doyle Craddock, Ronald Craddock, Larry Craddock, and Homer Craddock were all raised in Calhoun County, West Virginia, the sons of Glover and Ellen Slider Craddock; and

Whereas, Leo, Gale, Harold, Doyle, Ronald, and Larry Craddock all served honorably in the United States military; and

Whereas, Leo Craddock attained the rank of Staff Sergeant while serving in the U.S. Army Air Corps in Air Training Command in communications and radio mechanic instruction from 1948 to 1952. He received the Army Good Conduct Medal and National Service Medal; and

Whereas, Gale Craddock was a petty officer in the U.S. Navy from 1948 to 1952 and served aboard U.S. Aircraft Carrier Antietam in Task Force 77 in the Sea of Japan as an A/E technician. He received a Korean Service Medal with three stars, U.N. Service Ribbon, Navy Occupation Service Medal with Asia Clasp, and Good Conduct Medal; and

Whereas, Harold Craddock served in the U.S. Army from 1953 to 1955 and served 18 months in Korea in railway and other forms of transportation systems. He received the Good Conduct Medal and other medals; and

Whereas, Doyle Craddock served in the U.S. Marine Corps, Third Battalion Reinforced Sixth Marines, from 1954 to 1956. He served in seven different countries and/or islands throughout the Mediterranean, including Crete, Porto Scudo, Sardinia, Oran, Genoa and Naples, Italy, Barcelona, Spain, Salonika, Greece, Izmir and Lapezia, Turkey, and Marseilles and Taronto, France. He received the Good Conduct Medal and National Defense Services Medal; and

Whereas, Ronald Craddock served in the U.S. Air Force from 1958 to 1962 in Air Force Security, completing missions in Africa, France, England, and Azores; and

Whereas, Larry Craddock served in the U.S. Army from 1965 to 1968 and was assigned to Cam Rahn Bay. He served two tours of duty in Vietnam, the first from June 1966 to June 1967 and then returned to Pleiku, Vietnam, in 1968 for his final assignment; and

Whereas, Leo, Gale, Harold, Doyle, Ronald, and Larry Craddock did a great service to their country in time of conflict and war, and will always be remembered for their service; and

Whereas, It is fitting and proper to honor the Craddock brothers for their dedication, commitment and sacrifice to their state and country, by naming bridge number 07-33-5.34 (07A057) (38.79415, -81.14055), locally known as the Arnoldsburg Bridge, carrying US 33 over the West Fork of Little Kanawha River in Calhoun County, the “Craddock Brothers Bridge”; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 07-33-5.34 (07A057) (38.79415, -81.14055), locally known as the Arnoldsburg Bridge, carrying US 33 over the West Fork of Little Kanawha River in Calhoun County, the “Craddock Brothers Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Craddock Brothers Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Marcum, Hornbuckle, Lovejoy, C. Romine, Rohrbach, C. Miller, Thompson, Hicks, Rodighiero and R. Miller offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules.

H. C. R. 119 – “Requesting the Division of Highways to name the portion of County Route 3/2, also named Moses Fork Road, from its intersection at Old County Road (37.872177, -82.174614) to its intersection at East Fork of Twelvepole Road (37.872016, -82.151667) in Mingo County, the ‘Donald Tackett Jr. Memorial Road’.”

Whereas, Donald Tackett Jr. was born in Dingess, West Virginia, in Mingo County, on March 2, 1947, to Lilly and Donald Tackett Sr.; and

Whereas, Donald Tackett Jr. attended school at Buskirk Grade School and Lenore High School, where he graduated in 1966. While in high school, he played basketball for the Lenore Rangers and worked as a lifeguard at Laurel Lake swimming pool during his summer break; and

Whereas, Donald Tackett Jr. attended Marshall University, where he majored in physical education and special education and was a student trainer and assistant football trainer for the Marshall University athletic department. He was also a member of the National Athletic Trainers Association; and

Whereas, On November 14, 1970, at the age of 23, Donald Tackett Jr.’s life was tragically cut short when the airplane bringing the Marshall University staff and football players home after a game in Greenville, North Carolina clipped trees and crashed into the hillside at Tri-State Airport in Kenova, West Virginia. There were no survivors of the plane crash; and

Whereas, Donald Tackett Jr.’s family knows that he lost his life doing what he loved, but is still loved and missed; and

Whereas, Naming the portion of County Route 3/2, also named Moses Fork Road, from the intersection at Old County Road (37.872177, -82.174614) to its intersection at East Fork of Twelvepole Road (37.872016, -82.151667) in Mingo County, the “Donald Tackett Jr. Memorial Road” is an appropriate recognition of a life cut short by tragedy; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the portion of County Route 3/2, also named Moses Fork Road, from the intersection at Old County Road (37.872177, -82.174614) to its intersection at East Fork of Twelvepole Road (37.872016, -82.151667) in Mingo County, the “Donald Tackett Jr. Memorial Road”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the section of road “Donald Tackett Jr. Memorial Road”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation.

Delegates Marcum, Thompson, Hicks and Rodighiero offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules.

H. C. R. 120 – “Requesting that the Division of Highways to name Den Branch Road, in Mingo County, near Williamson, beginning at a point, latitude 37.789884, longitude -82.348582 at the intersection of U.S. Route 52 and ending at a point, latitude 37.792063, longitude -82.340803, at Tug Valley High School, the ‘Eugene Jack Brewer Memorial Road’.”

Whereas, Eugene Jack Brewer was born on March 8, 1932, in Pilgrim, Kentucky to Solady and James Brewer, one of thirteen children; and

Whereas, Jack left school early to find work in order to support his family, hauling coal and laying gas lines in Martin County, Kentucky, working in a factory in Michigan, and ultimately moving to Naugatuck, West Virginia to help his father who was ill with cancer; and

Whereas, In 1956, Jack married the love of his life, Anise, who remained by his side in Naugatuck, West Virginia until the day he passed; and

Whereas, In Naugatuck, Jack worked numerous jobs to care for his family, pulling steel rails out of mines, and working for lumber, furniture and coal companies until a heart attack forced him to retire in 1984; and

Whereas, Jack's forced retirement left him without a sense of purpose in his life until in 1987, Jack found his calling with the creation of Tug Valley High School; and

Whereas, Jack helped the contractors construct the high school, becoming the go-to person when contractors had questions about the property and the location of gas lines; and

Whereas, Once Tug Valley High School was constructed, Jack became the "night watchman" and "grounds keeper" for the football field, cleaning the parking lot after games and monitoring the area for suspicious activity; and

Whereas, Thereafter, Jack became the Tug Valley Panthers biggest fan, becoming a staple at Panthers football games, oftentimes bringing friends and family with him, including his great grandson whom he would wheel to games in a wagon; and

Whereas, Tug Valley High School, in recognition of Jack's many contributions to the school, named him a "Partner in Education" in 1988; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name Den Branch Road, in Mingo County, near Williamson, beginning at a point, latitude 37.789884, longitude -82.348582 at the intersection of U.S. Route 52 and ending at a point, latitude 37.792063, longitude -82.340803, at Tug Valley High School, the "Eugene Jack Brewer Memorial Road"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the road as the "Eugene Jack Brewer Memorial Road"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation and the Commissioner of Highways.

Special Calendar

Unfinished Business

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

H. C. R. 9, Frenchburg Bridge,

H. R. 11, Supporting and encouraging the enactment of the federal Hearing Protection Act of 2017,

H. C. R. 41, Major Martin Robison Delany Memorial Bridge,

Com. Sub. for H. C. R. 50, Lowe Mountain Memorial Highway,

And,

H. C. R. 105, Army SSG Arthur N. McMellon Memorial Bridge.

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

Third Reading

Com. Sub. for S. B. 125, Authorizing DHHR promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 316**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Fast and Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 125) passed.

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

Com. Sub. for S. B. 125 – “A Bill to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, all relating generally to promulgation of administrative rules by the Department of Health and Human Resources; legislative mandate or authorization for promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing the Health Care Authority to promulgate a legislative rule relating to the Hospital Assistance Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to exemption from certificate of need; authorizing the Health Care Authority to promulgate a legislative rule relating to Rural Health Systems Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to certificate of need; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to expedited partner therapy; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clinical laboratory technician and technologist licensure and certification; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clandestine drug laboratory remediation; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—opioid treatment programs; and authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—office-based, medication-assisted treatment.”

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

On this question, the yeas and nays were taken (**Roll No. 317**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Fast and Hanshaw.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 125) takes effect from its passage.

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

S. B. 172, Eliminating salary for Water Development Authority board members; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 318**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Eldridge, Iaquina and Phillips.

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 172) passed.

Delegate Cowles moved that the bill take effect July 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 319**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Iaquina.

Absent and Not Voting: Hanshaw.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 172) takes effect July 1, 2017.

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

Com. Sub. for S. B. 173, Relating generally to autocycles; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 320**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: A. Evans, Love, Marcum, Phillips and Upson.

Absent and Not Voting: Hanshaw.

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

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

Com. Sub. for S. B. 173 - “A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section, designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; creating an autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with a valid driver’s license to operate an autocycle; creating an autocycle exemption from helmet and certain other motorcycle or motor-driven cycle safety requirements; defining terms; deleting obsolete language regarding the motorcycle safety and education committee; and making technical corrections.”

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

Com. Sub. for S. B. 204, Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 321**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 204) passed.

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

Com. Sub. for S. B. 224, Repealing requirement for employer's bond for wages and benefits; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 322**), and there were—yeas 85, nays 14, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Byrd, Diserio, Eldridge, Isner, Lynch, R. Miller, Pushkin, Robinson, Rodighiero, Rowe, Sponaule, Thompson and Williams.

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 224) passed.

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

Com. Sub. for S. B. 224 – “A Bill to amend and reenact §21-5-14 and §21-5-15 of the Code of West Virginia, 1931, as amended, relating to the requirement of a bond for wages and benefits for certain designated employers, persons, firms, or corporations; lowering period of time for the requirement that certain designated employers, persons, firms, or corporations shall furnish a bond for wages and benefits to at least one year and providing exemptions; lowering period of time in which a person, firm or corporation is required to file a statement or copy with the Bureau of Employment Programs; lowering period of time employer must have been doing business in order to terminate bond; and increasing the maximum criminal fine for any person, firm, or corporation who knowingly, willfully, and fraudulently disposes of or relocates assets with the intent to deprive employees of their wages and fringe benefits.”

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

Com. Sub. for S. B. 230, Relating to certain WV officials carrying concealed firearm nationwide; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 323**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 230) passed.

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

Com. Sub. for S. B. 239, Limiting use of wages by employers and labor organizations for political activities; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

S. B. 349, Repealing outdated code related to Division of Corrections; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 324**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 349) passed.

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

S. B. 400, Regarding appointments to WV Infrastructure and Jobs Development Council; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 325**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 400) passed.

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

Com. Sub. for S. B. 522, Relating to pharmacy audits; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 326**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 522) passed.

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

S. B. 554, Relating to false swearing in legislative proceeding; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 327**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 554) passed.

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

Com. Sub. for S. B. 575, Limiting nuisance actions against shooting ranges for noise; on third reading, coming up in regular order, was read a third time.

Delegate Wilson requested to be excused from voting on the passage of Com. Sub. for S. B. 575 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 328**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 575) passed.

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

Second Reading

Com. Sub. for S. B. 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

S. B. 28, Creating new system for certain contiguous counties to establish regional recreation authorities; on second reading, coming up in regular order, was read a second time.

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

amending the bill on page six, section three, beginning on line five, after the words “willing landowners”, by striking out the semicolon and the Proviso, through the remainder of subsection (a), and inserting in lieu thereof a period.

The bill was ordered to third reading.

S. B. 169, Repealing article providing assistance to Korea and Vietnam veterans exposed to certain chemical defoliants; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 170, Repealing state hemophilia program; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 171, Repealing Programs of All-Inclusive Care for Elderly; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 180, Relating to PSC jurisdiction over certain telephone company and internet services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 186, Adjusting date when children become eligible for certain school programs and school attendance requirements; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page five, section forty-four, lines forty-two through forty-three, by striking out the words “Beginning no later than the school year 2012-2013 and continuing thereafter, county” and inserting in lieu thereof “County”.

On page five, section forty-four, lines forty-five through forty-six, by striking out the words “Beginning no later than the school year 2016-2017 and continuing thereafter, these” and inserting in lieu thereof “These”.

And,

On page eleven, section one-a, lines thirteen through fourteen, by striking out the words “Beginning with the 2011-2012 high school freshman cohort class of students, and notwithstanding” and inserting in lieu thereof “Notwithstanding”.

The bill was ordered to third reading.

S. B. 198, Expanding Health Sciences Program to allow certain medical practitioners in underserved areas; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 221, Relating to composition of PEIA Finance Board; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, section four, line two, by striking out the word “eight” and inserting in lieu thereof the word “nine”.

On page one, section four, line twelve, by striking out the word “eight” and inserting in lieu thereof the word “nine”.

On page two, incorrectly listed as the second page one, section four, line thirty-eight by adding a new paragraph “(E)” to read as follows:

“(E) One member shall represent the interests of organized labor. The member must generally have knowledge pertaining to employee benefit programs. The Governor shall appoint the member representing the interests of organized labor from a list of three names submitted by the state’s largest organization representing labor affiliates.”

And,

On page two, incorrectly listed as the second page one, section four, line thirty-eight by re-lettering the remaining paragraph accordingly as paragraph “(F)”.

The bill was ordered to third reading.

Com. Sub. for S. B. 280, Moving administration of Civil Air Patrol to Adjutant General; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 321, Reporting requirements of employee information to CPRB; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, section twelve, line one, by striking out the remainder of the bill in its entirety and inserting in lieu thereof the following:

“Pursuant to its responsibility as a regulatory body, the Consolidated Public Retirement Board shall collect all information regarding individuals employed with a participating public employer of a retirement system administered pursuant to this article necessary to ensure compliance with retirement plan provisions. All participating public employers of a public retirement system administered pursuant to this article shall promptly report all individuals employed with the participating public employer to the Board and include information regarding the individual including, but not limited to, the individual’s name, social security number, gross salary or compensation, rate of pay, hours or days worked or paid, type of pay (salary, hourly or per diem), employment contract period, job title, permanent or temporary employment, full-time or part-time employment, scheduled hours, and benefit eligibility.”

The bill was ordered to third reading.

S. B. 344, Relating to application of payments on consumer credit sale and loans; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §46A-2-115 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §46A-3-111, §46A-3-112 and §46A-3-113 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. CONSUMER CREDIT PROTECTION.

§46A-2-115. Limitation on default charges.

(a) Except for reasonable expenses, including costs and fees authorized by statute incurred in realizing on a security interest, the agreements that evidence a consumer credit sale or a consumer loan may not provide for charges as a result of default by the consumer other than those authorized by this chapter.

(b) With respect to this subsection:

(1) The phrase ‘consumer loan’ shall mean a consumer loan secured by real property: (A) Originated by a bank or savings and loan association, or an affiliate, not solicited by an unaffiliated broker; (B) held by a federal home loan bank, the federal National Mortgage Association, the federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the West Virginia Housing Development Fund; or (C) insured or guaranteed by the Farmers Home Administration, the Veteran’s Administration or the Department of Housing and Urban Development.

(2) Except as provided in subdivision (3) of this subsection, the agreements that evidence a consumer loan may permit the recovery of the following charges: (A) Costs of publication; (B) an appraisal fee; (C) all costs incidental to a title examination including professional fees, expenses incident to travel, and copies of real estate and tax records; (D) expenses incidental to notice made to lienholders and other parties and entities having an interest in the real property to be sold; (E) certified mailing costs; and (F) all fees

and expenses incurred by a trustee incident to a pending trustee's sale of the real property securing the consumer loan.

(3) For purposes of the charges expressly authorized by this subsection, no charge may be assessed and collected from a consumer unless: (A) Each charge is reasonable in its amount; (B) each charge is actually incurred by or on behalf of the holder of the consumer loan; (C) each charge is actually incurred after the last day allowed for cure of the consumer's default pursuant to section one hundred six, of this article and before the consumer reinstates the consumer loan or otherwise cures the default; (D) the holder of the consumer loan and the consumer have agreed to cancel any pending trustee's sale or other foreclosure on the real property securing the consumer loan; and (E) in the case of an appraisal fee, no appraisal fee has been charged to the consumer within the preceding six months.

(c) All payments made to a creditor in accordance with the terms ~~amounts paid to a creditor arising out~~ of any consumer credit sale or consumer loan shall be credited upon receipt against payments due: *Provided*, That amounts received and applied during a cure period will not result in a duty to provide a new notice of right to cure: *Provided, however*, That partial amounts received during the period set forth in subdivision (3) subsection (b) of this section do not create an automatic duty to reinstate and may be returned by the creditor. Default charges shall be accounted for separately. Those recoverable charges set forth in said subsection arising during the period described therein may be added to principal.

(d) At least once every twelve months, the holder or servicer of each consumer loan secured by real property against which the creditor assesses any default charge, and: (1) Not serviced by the originating lender or its affiliate or their successors by merger; (2) not held by a federal home loan bank, the federal National Mortgage Association, the federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the West Virginia Housing Development Fund; or (3) not insured or guaranteed by the Farmers Home Administration, the Veteran's Administration, Department of Housing and Urban Development,

shall transmit to the consumer an accounting of every default charge assessed within the previous twelve months, including the date, amount and nature of the cost.

This subsection does not apply to delinquency charges permitted under sections one hundred twelve and one hundred thirteen, article three of this chapter; credit line over-the-limit fees; deferral charges permitted under section one hundred fourteen, article three of this chapter; collateral protection insurance permitted under section one hundred nine-a, article three of this chapter; and advances to pay taxes.

(e) A provision in violation of this section is unenforceable. The amendments to this section by acts of the Legislature in the regular session of 2003 are a clarification of existing law and shall be retroactively applied to all agreements in effect on the date of passage of the amendments, except where controversies arising under those agreements are pending prior to the date of passage of the amendments.

(f) Nothing in this section limits the expenses incidental to a trustee's sale of real property that are recoverable pursuant to section seven, article one, chapter thirty-eight of this code.

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.

§46A-3-111. Application of payments on account; rebate upon prepayment, refinancing or consolidation; judgments and interest on judgments.

(a) ~~When a consumer credit sale or consumer loan is precomputed all~~ All payments made to a creditor in accordance with the terms of a precomputed consumer credit sale or consumer loan on account shall be applied to installments in the order in which they fall due. ~~except as provided in subsection (3), section one hundred twelve of this article~~

(b) All payments made to a creditor which do not comply with the terms of a precomputed consumer credit sale or consumer loan may be held in a suspense or unapplied funds account. The creditor

must disclose to the consumer the total amount of funds held in a suspense or unapplied funds account. On accumulation of funds sufficient to cover a full payment in accordance with terms of the precomputed consumer credit sale or consumer loan agreement, the creditor shall apply the payment in accordance with subsection (a) of this section.

(c) When the total amount is payable in substantially equal consecutive monthly installments, the portion of the sales finance charge or loan finance charge attributable to any particular monthly installment period shall be that proportion of the sales finance charge or loan finance charge originally contracted for, as the balance scheduled to be outstanding on the last day of the monthly installment period before deducting the payment, if any, scheduled to be made on that day bears to the sum of all the monthly installment balances under the original schedule of payments. (This method of allocation is the sum of the digits method, commonly referred to as the "Rule of 78").

~~(2)~~ (d) Upon prepayment in full of a precomputed consumer credit sale or consumer loan by cash, a new loan, refinancing, consolidation or otherwise, the creditor shall rebate to the consumer that portion of the sales finance charge or loan finance charge in the manner specified in section five-d, article six, chapter forty-seven of this code: *Provided*, That no rebate of less than \$1 need be made.

~~(3)~~ (e) Upon prepayment in full of a precomputed or nonprecomputed consumer credit sale or consumer loan by cash, execution of a new loan, refinancing, consolidation or otherwise, except where the loan is a purchase money loan secured by a first lien mortgage on residential property, or is made by a federally-insured depository institution, the creditor shall rebate to the consumer that portion of the unearned prepaid finance charges attributable to loan or credit investigations fees, origination fees or points in the manner specified in subsection (c), section five-d, article six, chapter forty-seven of this code: *Provided*, That no rebate of less than \$1 need be made: *Provided, however*, That if the loan was made in furtherance of aiding or abetting a person to

whom the loan is assigned, evade this rebate, then the rebate required herein shall apply.

(4) (f) If the maturity of a precomputed consumer credit sale or consumer loan is accelerated for any reason and judgment is obtained, the debtor is entitled to the same rebate as if the payment had been made on the date judgment is entered and such judgment shall bear interest until paid at the rate of ten percent per annum.

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.

§46A-3-112. Delinquency charges on precomputed consumer credit sales or consumer loans.

(1) With respect to a precomputed consumer credit sale or consumer loan, refinancing or consolidation, the parties may contract for a delinquency charge on any installment not paid in full within ten days after its scheduled due date in an amount not exceeding the greater of:

(a) Five percent of the unpaid amount of the installment, not to exceed \$30; or

(b) An amount equivalent to the deferral charge that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent.

(2) A delinquency charge under subdivision (a), subsection (1) of this section may be collected only once on an installment however long it remains in default. No delinquency charge may be collected with respect to a deferred installment unless the installment is not paid in full within ten days after its deferred due date. A delinquency charge may be collected at the time it accrues or at any time thereafter.

(3) No delinquency charge may be collected on an installment which is paid in full within ten days after its scheduled or deferred installment due date, even though ~~an earlier maturing installment~~ or a delinquency or deferral charge on an earlier installment may not have been paid in full. ~~For purposes of this subsection,~~

~~payments shall be applied first to current installments, then to delinquent installments and then to delinquency and other charges.~~

(4) If two installments, or parts thereof, of a precomputed consumer credit sale or consumer loan are in default for ten days or more, the creditor may elect to convert such sale or loan from a precomputed sale or loan to one in which the sales finance charge or loan finance charge is based on unpaid balances. In such event, the creditor shall make a rebate pursuant to the provisions on rebate upon prepayment, refinancing or consolidation as of the maturity date of any installment then delinquent and thereafter may make a sales finance charge or loan finance charge as authorized by the appropriate provisions on sales finance charges or loan finance charges for consumer credit sales or consumer loans. The amount of the rebate may not be reduced by the amount of any permitted minimum charge. If the creditor proceeds under this subsection, any delinquency or deferral charges made with respect to installments due at or after the maturity date of the delinquent installments shall be rebated and no further delinquency or deferral charges shall be made.

(5) The commissioner shall prescribe by rule the method or procedure for the calculation of delinquency charges consistent with the other provisions of this chapter where the precomputed consumer credit sale or consumer loan is payable in unequal or irregular installments.

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.

§46A-3-113. Delinquency charges on nonprecomputed consumer credit sales or consumer loans repayable in installments.

(1) In addition to the continuation of the sales finance charge or loan finance charge on a delinquent installment with respect to a nonprecomputed consumer credit sale or consumer loan, refinancing or consolidation, repayable in installments, the parties may contract for a delinquency charge on any installment not paid

in full within ten days after its scheduled due date of five percent of the unpaid amount of the installment, not to exceed \$30.

(2) A delinquency charge under subsection (1) of this section may be collected only once on an installment however long it remains in default. A delinquency charge may be collected at the time it accrues or at any time thereafter.

(3) No delinquency charge may be collected on an installment which is paid in full within ten days after its scheduled or deferred installment due date, even though ~~an earlier maturing installment~~ or a delinquency or deferral charge on an earlier installment may not have been paid in full. ~~For purposes of this subsection, payments shall be applied first to current installments, then to delinquent installments and then to delinquency and other charges.~~²²

The bill was ordered to third reading.

Com. Sub. for S. B. 350, Allowing licensed professional counselors be issued temporary permit; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 358, Relating generally to trustee sale of timeshare estates; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §36-9-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §36-9-15a, all to read as follows:

**ARTICLE 9. WEST VIRGINIA REAL ESTATE
TIMESHARING ACT.**

§36-9-15. Liens for overdue assessments; mechanic's liens, insurance.

(a) The managing entity has a lien on a timeshare period for any assessment levied against that timeshare period from the date such assessment becomes due.

(b) The managing entity may bring an action in its name to foreclose a lien for assessments, in the manner a mortgage of real property is foreclosed.

(c) The managing entity may cause a trustee sale of the timeshare estate if the owner is delinquent to the managing entity for more than one year for assessments against the timeshare estate: *Provided*, That a trustee sale shall be effectuated as provided in section fifteen-a, article nine, chapter thirty-six of this code.

(d) In addition to the remedies in subsections (b) and (c) of this section, the managing entity may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. However, in the case of a timesharing plan in which no interest in real property is conveyed, the managing entity may bring an action under chapter forty-six of this code.

~~(e)~~(e) The lien is effective from the date of recording a claim of lien in the public records of the county or counties in which the accommodations or facilities constituting the timesharing plan are located. The claim of lien shall state the name of the timesharing plan and identify the timeshare period for which the lien is effective, state the name of the purchaser, state the assessment amount due and state the due dates. The lien is effective until satisfied or until barred by law. The claim of lien may include only assessments which are due when the claim is recorded. A claim of lien shall be signed and acknowledged by an officer or agent of the managing entity. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

~~(f)~~(f) A judgment in any action or suit brought under this section shall include costs and reasonable attorney's fees for the prevailing party.

~~(e)~~(g) Labor performed on a unit, or materials furnished to a unit, shall not be the basis for the filing of a lien pursuant to the mechanic's lien law against the timeshare unit of any timeshare period owner not expressly consenting to or requesting the labor or materials.

~~(f)~~(h) The seller, initially, and thereafter the managing entity, shall be responsible for obtaining insurance to protect the accommodations and facilities of the timesharing plan in an amount equal to the replacement cost of such accommodations and facilities.

(i) Notwithstanding any provision in this article, the lien granted pursuant to this section shall not have priority over any voluntarily granted lien or security interest in the timeshare estate.

(j) A copy of each policy of insurance in effect shall be made available for reasonable inspection by purchasers and their authorized agents.

§36-9-15a. Trustee's sale of timeshare estates.

(a) A managing entity that desires to use a trustee sale shall prepare, execute and acknowledge a notice of trustee sale which shall include the following:

(1) The time and place of sale;

(2) The names of the parties to the deed under which it will be made;

(3) The date of the deed;

(4) The office and book in which it is recorded;

(5) The terms of sale;

(6) The nature and amount of the owner's current delinquency;

(7) The legal description of the owner's timeshare estate;

(8) The name and address of the association or other managing entity; and

(9) The name and address of the trustee designated by the association or managing entity to conduct the trustee sale.

(b) The managing entity shall record the notice of trustee sale with the clerk of the county commission of the county in which the timeshare estate is located and shall mail by certified mail, return receipt requested, a copy of the notice of trustee sale to the owner listed in the notice at the last address for each delinquent timeshare period according to the records of the managing entity, and, to any holder of a lien or security interest against the timeshare estate being sold, other than the state and the managing entity. To the extent the owner is unable to be located, notice under this subsection is satisfied by notice by publication as provided in subsection (c) of this section.

(c) At least thirty days prior to the date of the trustee sale, the notice of trustee sale shall be 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 county where the property is located.

(d) A trustee appointed in a notice of delinquency may conduct a trustee sale of a timeshare estate under this section. The recording of a notice of trustee sale shall satisfy all requirements for the trustee to appear in the chain of title for the timeshare estate in order for the trustee to be entitled to issue a trustee deed on completion of a trustee's sale for the timeshare estate.

(e) If the delinquencies identified in a notice of trustee sale are not cured within thirty days after the managing entity mails the notice of trustee sale pursuant to subsection (b) of this section, and publication is made under subsection (c) of this section, the managing entity may cause the trustee to conduct a trustee's sale of the delinquent owner's timeshare estate at public auction.

(f) The trustee's sale may include multiple timeshare estates owned by an owner if the owner is delinquent in payment of

assessments for all of the timeshare estates included in the trustee's sale proceeding. The trustee's sale may include timeshare estates owned by multiple owners if the notice of trustee's sale provides all information required by this section for each owner and timeshare estate and each timeshare estate is sold separately.

(g) This section shall not apply to any timeshare property if the timeshare instrument expressly mandates that judicial foreclosure is the sole method for the managing entity to foreclose or liquidate a lien securing payment of assessments due to the managing entity.

(h) When a sale of property is made under any trustee deed, there shall, within two months after the sale, be returned by the trustee, to the clerk of the county commission of the county wherein such deed may have been first recorded, an inventory of the property sold and an account of the sale. The clerk of the county commission shall record the same, as provided in section nine, article one, chapter thirty-eight of this code. When a report of the sale of the property sold pursuant to a trustee deed is placed on record by the trustee with the clerk of the county commission as provided in section eight of this article, the trustee shall include in a disclosure form submitted with and made a part of the report of sale the information identified in section eight-a, article one, chapter thirty-eight of this code, to the extent applicable.

(i) If notice is given as provided in this section, no action or proceeding to set aside a trustee sale due to the failure to follow any notice, service, process or other procedural requirement relating to a sale of property under a timeshare instrument, shall be filed or commenced more than one year from the date of the sale."

The bill was ordered to third reading.

S. B. 364, Incorporating changes to Streamlined Sales and Use Tax Agreement; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 365, Maintaining solvency of Unemployment Compensation Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 386, Creating WV Medical Cannabis Act; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was placed at the foot of the calendar.

S. B. 392, Relating to Municipal Police Officers and Firefighters Retirement System; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 398, Creating Emergency Volunteer Health Practitioners Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 412, Relating to WV Jobs Act reporting requirements; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

S. B. 495, Relating to regulation of events by State Athletic Commission; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 499, Creating Debt Resolution Services Division in Auditor's office; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 505, Providing five-year reclamation period following completion of well pads for horizontal wells; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 563, Relating to Consumer Credit and Protection Act; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

S. B. 564, Relating to Statewide Independent Living Council; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page seven, section six, line ninety-seven, by striking out the words “to pay reasonable compensation to a member of the council”.

And,

On page seven, section six, line ninety-nine, by striking out the words “for each day the member is engaged in performing council duties” and inserting in lieu thereof “to pay compensation to the member for attending official meetings or engaging in official duties not to exceed the amount paid to member of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law.”

The bill was ordered to third reading.

S. B. 566, Claims against state; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 581, Relating generally to administration of trusts; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 588, Relating to reproduction, distribution and sale of tax maps; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page nine, section ten, line thirty-one, after

the word "code", by inserting a comma and the words "\$1 to the county 911 center" and a comma.

And,

On page nine, section ten, line thirty-two, by striking out the dollar sign and the numeral "3" and inserting in lieu thereof a dollar sign and the numeral "2".

The bill was ordered to third reading.

S. B. 621, Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 671, Relating to WV Anatomical Board; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 300, Supplemental appropriation from unappropriated balance in Treasury to Division of Personnel,

Com. Sub. for S. B. 303, Supplemental appropriation of public moneys from Treasury to DHHR,

Com. Sub. for S. B. 305, Supplemental appropriation of public moneys from Treasury to Fire Commission,

Com. Sub. for S. B. 337, Hiring correctional officers without regard to placement on correctional officer register,

And,

S. B. 493, Providing increase in compensation for conservation officers.

At 1:29 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 3:00 p.m.

Afternoon Session

The House of Delegates was called to order by The Honorable Tim Armstead, Speaker.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 26, Naming the NASA IV & V Facility at Fairmont for West Virginia mathematician Katherine Coleman Johnson.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 94, Katherine Johnson Day.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 206, Expanding definition of “kidnapping” to include taking or gaining custody of, confining or concealing person by force.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 214, Adopting Uniform Electronic Legal Material Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 222, Relating to disqualification for unemployment benefits.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 225, Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 261, Relating to increasing salary or wages of judgment debtor.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 445, Amending definition of “abused child”.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 634, Relating generally to certain agreements between DHHR and state’s medical schools.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 339, Creating Legislative Coalition on Chronic Pain Management.

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

Delegate Ellington, Chair of the Committee on Health and Human Resources submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 360, Creating Legislative Coalition on Diabetes Management,

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

recommendation that second reference to the Committee on Government Organization be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 360) to the Committee on Government Organization was abrogated.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 299, Supplementing, amending, decreasing and increasing items of appropriations from State Road Fund to DOH,

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

Delegate Hanshaw, Chair of 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 3rd day of April, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 113, Authorizing DEP promulgate legislative rules.

Delegate Hanshaw, Chair of 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 3rd day of April, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 338, Relating to medical professional liability.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 484, Relating generally to taxation,

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

Delegate Sponaugle arose to a point of order questioning whether Com. Sub. for S. B. 484 was properly reported from the Committee on Finance.

Mr. Speaker, Mr. Armstead, replied that the report from the Committee on Finance indicated that the bill was reported back, with amendment, with the recommendation that it do pass, as amended.

The report was received.

Second Reading

-continued-

Com. Sub. for S. B. 386, Creating WV Medical Cannabis Act; on second reading, having been placed at the foot of the calendar in earlier proceedings, was read a second time.

Delegate Cowles asked and obtained unanimous consent that the two strike and insert amendments be explained, with the understanding that adoption of the first amendment would preclude consideration of the other, and further, that amendments to an adopted strike and insert amendment be allowed after adoption of the strike and insert amendment.

An amendment, offered by Delegates Shott and Zatezalo, on page two, by striking out everything after the enacting clause and inserting in lieu thereof the following, was reported by the Clerk:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new chapter, designated §16A-1-1,

§16A-2-1, §16A-3-1, §16A-3-2, §16A-3-3, §16A-3-4, §16A-4-1, §16A-4-2, §16A-4-3, §16A-4-4, §16A-4-5, §16A-5-1, §16A-5-2, §16A-5-3, §16A-5-4, §16A-5-5, §16A-5-6, §16A-5-7, §16A-5-8, §16A-5-9, §16A-5-10, §16A-6-1, §16A-6-2, §16A-6-3, §16A-6-4, §16A-6-5, §16A-6-6, §16A-6-7, §16A-6-8, §16A-6-9, §16A-6-10, §16A-6-11, §16A-6-12, §16A-6-13, §16A-7-1, §16A-7-2, §16A-7-3, §16A-7-4, §16A-7-5, §16A-7-6, §16A-8-1, §16A-8-2, §16A-8-3, §16A-9-1, §16A-9-2, §16A-10-1, §16A-10-2, §16A-10-3, §16A-10-4, §16A-10-5, §16A-10-6, §16A-11-1, §16A-11-2, §16A-12-1, §16A-12-2, §16A-12-3, §16A-12-4, §16A-12-5, §16A-12-6, §16A-12-7, §16A-12-8, §16A-12-9, §16A-13-1, §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, §16A-13-7, §16A-13-8, §16A-14-1, §16A-14-2, §16A-14-3, §16A-15-1, §16A-15-2, §16A-15-3, §16A-15-4, §16A-15-5, §16A-15-6, §16A-15-7, §16A-15-8, §16A-15-9 and §16A-16-1, all to read as follows:

CHAPTER 16A. MEDICAL CANNABIS ACT

ARTICLE 1. SHORT TITLE

§16A-1-1. Short title.

This chapter shall be known and cited as the West Virginia Medical Cannabis Act.

ARTICLE 2. DEFINITIONS.

§16A-2-1. Definitions.

(a) The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) ‘Act’ means the West Virginia Medical Cannabis Act and the provisions contained in chapter sixty-a of this code.

(2) ‘Advisory board’ means the advisory board established under article eleven of this chapter.

(3) ‘Bureau’ mean the Bureau for Public Health within the West Virginia Department of Health and Human Resources.

(4) ‘Caregiver’ means the individual designated by a patient or, if the patient is under 18 years of age, an individual under article five, to deliver medical cannabis.

(5) ‘Certified medical use’ means the acquisition, possession, use or transportation of medical cannabis by a patient, or the acquisition, possession, delivery, transportation or administration of medical cannabis by a caregiver, for use as part of the treatment of the patient’s serious medical condition, as authorized in a certification under this act, including enabling the patient to tolerate treatment for the serious medical condition.

(6) ‘Change in control’ means the acquisition by a person or group of persons acting in concert of a controlling interest in an applicant or permittee either all at one time or over the span of a 12-consecutive-month period.

(7) ‘Commissioner’ means the Commissioner of the Bureau for Public Health.

(8) ‘Continuing care’ means treating a patient for at least six months, in the course of which the practitioner has completed a full assessment of the patient’s medical history and current medical condition, including an in-person consultation with the patient, and is able to document and make a medical diagnosis based upon the substantive treatment of the patient.

(9) ‘Controlling interest’ means:

(A) For a publicly traded entity, voting rights that entitle a person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of 5% or more of the securities of the publicly traded entity.

(B) For a privately held entity, the ownership of any security in the entity.

(10) ‘Dispensary’ means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the bureau to dispense medical cannabis. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(11) ‘Family or household member’ means the same as defined in section two hundred four, article twenty-seven, chapter forty-eight of this code.

(12) ‘Financial backer’ means an investor, mortgagee, bondholder, note holder or other source of equity, capital or other assets, other than a financial institution.

(13) ‘Financial institution’ means a bank, a national banking association, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a mutual savings bank, a credit union or a savings bank.

(14) ‘Form of medical cannabis’ means the characteristics of the medical cannabis recommended or limited for a particular patient, including the method of consumption and any particular dosage, strain, variety and quantity or percentage of medical cannabis or particular active ingredient.

(15) ‘Fund’ means the Medical Cannabis Program Fund established in section two, article nine of this chapter.

(16) ‘Grower’ means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the bureau under this act to grow medical cannabis. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(17) ‘Identification card’ means a document issued under article five of this chapter that authorizes access to medical cannabis under this act.

(18) ‘Individual dose’ means a single measure of medical cannabis.

(19) ‘Medical cannabis’ means cannabis for certified medical use as set forth in this act.

(20) ‘Medical cannabis organization’ means a dispensary, grower or processor. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(21) ‘Patient’ means an individual who:

(A) Has a serious medical condition;

(B) Has met the requirements for certification under this act;
and

(C) Is a resident of this state.

(22) ‘Permit’ means an authorization issued by the bureau to a medical cannabis organization to conduct activities under this act.

(23) ‘Post-traumatic stress disorder’ means a diagnosis made as part of continuing care of a patient by a medical doctor, licensed counselor or psychologist.

(24) ‘Practitioner’ means a physician who is registered with the bureau under article four of this chapter.

(25) ‘Prescription drug monitoring program’ means the West Virginia Controlled Substances Monitoring program under article nine chapter sixty-a of this code.

(26) ‘Principal’ means an officer, director or person who directly owns a beneficial interest in or ownership of the securities of an applicant or permittee, a person who has a controlling interest in an applicant or permittee or who has the ability to elect the majority of the board of directors of an applicant or permittee or otherwise control an applicant or permittee, other than a financial institution.

(27) ‘Processor’ means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the bureau under this act to process medical cannabis. The term does not include a

health care medical cannabis organization under article thirteen of this chapter.

(28) 'Registry' means the registry established by the bureau for practitioners.

(29) 'Serious medical condition' means any of the following, as has been diagnosed as part of a patient's continuing care:

(A) Cancer.

(B) Positive status for human immunodeficiency virus or acquired immune deficiency syndrome.

(C) Amyotrophic lateral sclerosis.

(D) Parkinson's disease.

(E) Multiple sclerosis.

(F) Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.

(G) Epilepsy.

(H) Neuropathies.

(I) Huntington's disease.

(J) Crohn's disease.

(K) Post-traumatic stress disorder.

(L) Intractable seizures.

(M) Sickle cell anemia.

(N) Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or has proved ineffective as determined as part of continuing care.

(O) Terminally ill.

(30) ‘Terminally ill.’ A medical prognosis of life expectancy of approximately one year or less if the illness runs its normal course.

ARTICLE 3. MEDICAL CANNABIS PROGRAM.

§16A-3-1. Establishment of program.

(a) A medical cannabis program for patients suffering from serious medical conditions is established. The program shall be implemented and administered by the bureau. The bureau shall:

(1) Issue permits to medical cannabis organizations to authorize them to grow, process or dispense medical cannabis and ensure their compliance with this act.

(2) Register practitioners and ensure their compliance with this act.

(3) Have regulatory and enforcement authority over the growing, processing, sale and use of medical cannabis in this state.

(4) Establish and maintain an electronic database to include activities and information relating to medical cannabis organizations, certifications and identification cards issued, practitioner registration and electronic tracking of all medical cannabis as required under this act to include:

(A) Ensurance that medical cannabis is not diverted or otherwise used for unlawful purposes by a practitioner or medical cannabis organization.

(B) Ability to establish the authenticity of identification cards.

(C) Recording recommended forms of medical cannabis provided in a certification filed by the practitioner.

(D) Monitoring all growth, transfer, possession, processing, testing and dispensing of medical cannabis in this state.

(E) The tracking system under article seven of this chapter must include information under section one, article eight of this

chapter and any other information required by the bureau to be used by the bureau and dispensaries to enable a dispensary to lawfully provide medical cannabis. The tracking system and database shall be capable of providing information in real time. The database shall be capable of receiving information from a dispensary regarding the disbursement of medical cannabis to patients and caregivers. This information shall be immediately accessible to the bureau and other dispensaries to inhibit diversion and ensure compliance with this act.

(5) Maintain a directory of patients and caregivers approved to use or assist in the administration of medical cannabis within the bureau's database.

(6) Develop a four-hour training course for physicians, pharmacists, certified registered nurse practitioners and physician assistants regarding the latest scientific research on medical cannabis, including the risks and benefits of medical cannabis, and other information deemed necessary by the bureau. Successful completion of the course shall be approved as continuing education credits as determined by:

(A) The State Board of Medicine.

(B) The State Board of Pharmacy.

(C) The State Board of Nursing.

(7) Develop a two-hour course for the principals and employees of a medical cannabis organization who either have direct contact with patients or caregivers or who physically handle medical cannabis. Employees must successfully complete the course no later than 90 days after commencing employment. Principals must successfully complete the course prior to commencing initial operation of the medical cannabis organization. The subject matter of the course shall include the following:

(A) Methods to recognize and report unauthorized activity, including diversion of medical cannabis for unlawful purposes and falsification of identification cards.

- (B) Proper handling of medical cannabis and recordkeeping.
- (C) Any other subject required by the bureau.

(8) Develop enforcement procedures, including announced and unannounced inspections of facilities of the grower/processors and dispensaries and all records of the medical cannabis organizations.

(9) Establish a program to authorize the use of medical cannabis to conduct medical research relating to the use of medical cannabis to treat serious medical conditions, including the collection of data and the provision of research grants.

(10) Establish and maintain public outreach programs about the medical cannabis program, including:

(A) A dedicated telephone number for patients, caregivers and members of the public to obtain basic information about the dispensing of medical cannabis under this act.

(B) A publicly accessible Internet website with similar information.

(11) Collaborate as necessary with other State agencies or contract with third parties as necessary to carry out the provisions of this act.

(12) Determine the number and type of medical cannabis products to be produced by a grower/processor and dispensed by a dispensary.

(13) Develop recordkeeping requirements for all books, papers, any electronic database or tracking system data and other information of a medical cannabis organization. Information shall be retained for a minimum period of four years unless otherwise provided by the bureau.

(14) Restrict the advertising and marketing of medical cannabis, which shall be consistent with the Federal rules and regulations governing prescription drug advertising and marketing.

(b) The bureau shall propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code as may be necessary to carry out and implement the provisions of this act. The bureau shall also have the power to propose and promulgate emergency rules as may be necessary to carry out and implement the provisions of this act.

§16A-3-2. Lawful use of medical cannabis.

(a) Notwithstanding any provision of law to the contrary, the use or possession of medical cannabis as set forth in this act is lawful within this State, subject to the following conditions:

(1) Medical cannabis may only be dispensed to:

(A) A patient who receives a certification from a practitioner and is in possession of a valid identification card issued by the bureau; and

(B) A caregiver who is in possession of a valid identification card issued by the bureau.

(2) Subject to rules promulgated under this act, medical cannabis may only be dispensed to a patient or caregiver in the following forms:

(A) Pill;

(B) Oil;

(C) Topical forms, including gels, creams or ointments;

(D) A form medically appropriate for administration by vaporization or nebulization, excluding dry leaf or plant form until dry leaf or plant forms become acceptable under rules adopted by the bureau;

(E) Tincture;

(F) Liquid; or

(G) Dermal patch.

(3) Unless otherwise provided in rules adopted by the bureau under section two, article eleven of this chapter, medical cannabis may not be dispensed to a patient or a caregiver in dry leaf or plant form.

(4) An individual may not act as a caregiver for more than five patients.

(5) A patient may designate up to two caregivers at any one time.

(6) Medical cannabis that has not been used by the patient shall be kept in the original package in which it was dispensed.

(7) A patient or caregiver shall possess an identification card whenever the patient or caregiver is in possession of medical cannabis.

(8) Products packaged by a grower/processor or sold by a dispensary shall only be identified by the name of the grower/processor, the name of the dispensary, the form and species of medical cannabis, the percentage of tetrahydrocannabinol and cannabiniol contained in the product.

§16A-3-3. Unlawful use of medical cannabis.

(a) Except as provided in section two of this article, section four of article seven, article thirteen or article fourteen of this chapter, the use of medical cannabis is unlawful and shall, in addition to any other penalty provided by law, be deemed a violation of the Uniform Controlled Substances Act under chapter sixty-a of this code.

(b) It shall be unlawful to:

(1) Smoke medical cannabis.

(2) Except as provided under subsection (c), incorporate medical cannabis into edible form or sell in edible form.

(3) Grow medical cannabis unless the grower/processor has received a permit from the bureau under this act.

(4) Grow or dispense medical cannabis unless authorized as a health care medical cannabis organization under article thirteen of this chapter.

(5) Dispense medical cannabis unless the dispensary has received a permit from the bureau under this act.

(c) *Edible medical cannabis*.—Nothing in this act shall be construed to preclude the incorporation of medical cannabis into edible form by a patient or a caregiver in order to aid ingestion of the medical cannabis by the patient.

§16A-3-4. Confidentiality.

(a) *Patient information*.—The bureau shall maintain a confidential list of patients and caregivers to whom it has issued identification cards. All information obtained by the bureau relating to patients, caregivers and other applicants shall be confidential and not subject to public disclosure under chapter twenty-nine-b of this code, including specifically the following:

(1) Individual identifying information about patients and caregivers.

(2) Certifications issued by practitioners.

(3) Information on identification cards.

(4) Information provided by the West Virginia State Police under section two, article five of this chapter.

(5) Information relating to the patient's serious medical condition.

(b) *Public information*.—The following records are public records and shall be subject to the Freedom of Information Act, under chapter twenty-nine-b of this code:

(1) Applications for permits submitted by medical cannabis organizations.

(2) The names, business addresses and medical credentials of practitioners authorized to provide certifications to patients to enable them to obtain and use medical cannabis in this State. All other practitioner registration information shall be confidential and exempt from public disclosure under the Freedom of Information Act.

(3) Information relating to penalties or other disciplinary actions taken against a medical cannabis organization or practitioner by the bureau for violation of this act.

ARTICLE 4. PRACTITIONERS.

§16A-4-1. Registration.

(a) *Eligibility.*—A physician included in the registry is authorized to issue certifications to patients to use medical cannabis. To be eligible for inclusion in the registry:

(1) A physician must apply for registration in the form and manner required by the bureau.

(2) The bureau must determine that the physician is, by training or experience, qualified to treat a serious medical condition. The physician shall provide documentation of credentials, training or experience as required by the bureau.

(3) The physician must have successfully completed the course under subsection (a), section one, article three of this chapter.

(b) *Bureau action.*—

(1) The bureau shall review an application submitted by a physician to determine whether to include the physician in the registry. The review shall include information regarding whether the physician has a valid, unexpired, unrevoked, unsuspended license to practice medicine in this state and whether the physician has been subject to discipline.

(2) The inclusion of a physician in the registry shall be subject to annual review to determine if the physician's license is no longer valid, has expired or been revoked or the physician has been subject to discipline. If the license is no longer valid, the bureau shall remove the physician from the registry until the physician holds a valid, unexpired, unrevoked, unsuspended state license to practice medicine in West Virginia.

(3) The West Virginia Board of Medicine shall report to the bureau the expiration, suspension or revocation of a physician's license and any disciplinary actions in a timely fashion.

(c) *Practitioner requirements.*—A practitioner included in the registry shall have an ongoing responsibility to immediately notify the bureau in writing if the practitioner knows or has reason to know that any of the following is true with respect to a patient for whom the practitioner has issued a certification:

(1) The patient no longer has the serious medical condition for which the certification was issued.

(2) Medical cannabis would no longer be therapeutic or palliative.

(3) The patient has died.

§16A-4-2. Practitioner restrictions.

(a) *Practices prohibited.*—The following shall apply with respect to practitioners:

(1) A practitioner may not accept, solicit or offer any form of remuneration from or to a prospective patient, patient, prospective caregiver, caregiver or medical cannabis organization, including an employee, financial backer or principal, to certify a patient, other than accepting a fee for service with respect to the examination of the prospective patient to determine if the prospective patient should be issued a certification to use medical cannabis.

(2) A practitioner may not hold a direct or economic interest in a medical cannabis organization.

(3) A practitioner may not advertise the practitioner's services as a practitioner who can certify a patient to receive medical cannabis.

(b) *Unprofessional conduct.*—A practitioner who violates subsection (a) of this section shall not be permitted to issue certifications to patients and shall be removed from the registry.

(c) *Discipline.*—In addition to any other penalty that may be imposed under this act, a violation of subsection (a) of this section or subsection (f), section three of this article shall be deemed unprofessional conduct under the West Virginia Medical Practice Act, and shall subject the practitioner to discipline by the West Virginia Board of Medicine, as appropriate.

§16A-4-3. Issuance of certification.

(a) *Conditions for issuance.*—A certification to use medical cannabis may be issued by a practitioner to a patient if all of the following requirements are met:

(1) The practitioner has been approved by the bureau for inclusion in the registry and has a valid, unexpired, unrevoked, unsuspended license to practice medicine in this state at the time of the issuance of the certification.

(2) The practitioner has determined that the patient has a serious medical condition and has included the condition in the patient's health care record.

(3) The patient is under the practitioner's continuing care for the serious medical condition.

(4) In the practitioner's professional opinion and review of past treatments, the practitioner determines the patient is likely to receive therapeutic or palliative benefit from the use of medical cannabis, and other treatments, including treatments involving opioids, have proven ineffective or otherwise are contraindicated.

(b) *Contents.*—The certification shall include:

(1) The patient's name, date of birth and address.

(2) The specific serious medical condition of the patient.

(3) A statement by the practitioner that the patient has a serious medical condition and the patient is under the practitioner's continuing care for the serious medical condition.

(4) The date of issuance.

(5) The name, address, telephone number and signature of the practitioner.

(6) Any requirement or limitation concerning the appropriate form of medical cannabis and limitation on the duration of use, if applicable, including whether the patient is terminally ill.

(c) *Consultation.*—(1) A practitioner shall review the prescription drug monitoring program prior to:

(A) Issuing a certification to determine the controlled substance history of a patient.

(B) Recommending a change of amount or form of medical cannabis.

(2) The practitioner shall consider and give due consideration to other controlled substances the patient may be taking prior to certifying medical cannabis.

(d) *Other access by practitioner.*—A practitioner may access the prescription drug monitoring program to do any of the following:

(1) Determine whether a patient may be under treatment with a controlled substance by another physician or other person.

(2) Allow the practitioner to review the patient's controlled substance history as deemed necessary by the practitioner.

(3) Provide to the patient, or caregiver on behalf of the patient if authorized by the patient, a copy of the patient's controlled substance history.

(e) *Duties of practitioner.*—The practitioner shall:

(1) Provide the certification to the patient.

(2) Provide a copy of the certification to the bureau, which shall place the information in the patient directory within the bureau's electronic database. The bureau shall permit electronic submission of the certification.

(3) File a copy of the certification in the patient's health care record.

(f) *Prohibition.*—A practitioner may not issue a certification for the practitioner's own use or for the use of a family or household member.

§16A-4-4. Certification form.

The bureau shall develop a standard certification form, which shall be available to practitioners upon request. The form shall be available electronically. The form shall include a statement that a false statement made by a practitioner is punishable under the applicable provisions of law.

§16A-4-5. Duration.

Receipt of medical cannabis by a patient or caregiver from a dispensary may not exceed a 30-day supply of individual doses. During the last seven days of any 30-day period during the term of the identification card, a patient may obtain and possess a 30-day supply for the subsequent 30-day period. Additional 30-day supplies may be provided in accordance with this section for the duration of the authorized period of the identification card unless a shorter period is indicated on the certification.

ARTICLE 5. PATIENTS.

§16A-5-1. Identification cards.

(a) *Issuance.*—The bureau may issue an identification card to a patient who has a certification approved by the bureau and to a caregiver designated by the patient. An identification card issued to a patient shall authorize the patient to obtain and use medical cannabis as authorized by this act. An identification card issued to a caregiver shall authorize the caregiver to obtain medical cannabis on behalf of the patient.

(b) *Procedure for issuance.*—The bureau shall develop and implement procedures for:

(1) Review and approval of applications for identification cards.

(2) Issuance of identification cards to patients and caregivers.

(3) Review of the certification submitted by the practitioner and the patient.

(c) *Application.*—A patient or a caregiver may apply, in a form and manner prescribed by the bureau, for issuance or renewal of an identification card. A caregiver must submit a separate application for issuance or renewal. Each application must include:

(1) The name, address and date of birth of the patient.

(2) The name, address and date of birth of a caregiver.

(3) The certification issued by the practitioner.

(4) The name, address and telephone number of the practitioner and documentation from the practitioner that all of the requirements of subsection (a), section three, article four of this chapter have been met.

(5) A \$50 processing fee. The bureau may waive or reduce the fee if the applicant demonstrates financial hardship.

(6) The signature of the applicant and date signed.

(7) Other information required by the bureau.

(d) *Forms.*—Application and renewal forms shall be available on the bureau’s publicly accessible Internet website.

(e) *Expiration.*—An identification card of a patient or caregiver shall expire within one year from the date of issuance, upon the death of the patient, or as otherwise provided in this section.

(f) *Separate cards to be issued.*—The bureau shall issue separate identification cards for patients and caregivers as soon as reasonably practicable after receiving completed applications, unless it determines that an application is incomplete or factually inaccurate, in which case it shall promptly notify the applicant.

(g) *Change in name or address.*—A patient or caregiver who has been issued an identification card shall notify the bureau within 10 days of any change of name or address. In addition, the patient shall notify the bureau within 10 days if the patient no longer has the serious medical condition noted on the certification.

(h) *Lost or defaced card.*—In the event of a lost, stolen, destroyed or illegible identification card, the patient or caregiver shall apply to the bureau within 10 business days of discovery of the loss or defacement of the card for a replacement card. The application for a replacement card shall be on a form furnished by the bureau and accompanied by a \$25 fee. The bureau may establish higher fees for issuance of second and subsequent replacement identification cards. The bureau may waive or reduce the fee in cases of demonstrated financial hardship. The bureau shall issue a replacement identification card as soon as practicable. A patient or caregiver may not obtain medical cannabis until the bureau issues the replacement card.

§16A-5-2. Caregivers.

(a) *Requirements.*—

(1) If the patient designates a caregiver, the application shall include the name, address and date of birth of the caregiver, and other individual identifying information required by the bureau and the following:

(A) Federal and State criminal history record information as set forth in subsection (b) of this section.

(B) If the caregiver has an identification card for the caregiver or another patient, the expiration date of the identification card.

(C) Other information required by the bureau.

(2) The application shall be accompanied by a fee of \$50. The bureau may waive or reduce the fee in cases of demonstrated financial hardship.

(3) The bureau may require additional information for the application.

(4) The application shall be signed and dated by the applicant.

(b) *Criminal history*.—A caregiver shall submit fingerprints for the purpose of obtaining criminal history record checks, and the West Virginia State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to a caregiver obtained under this section by the bureau may be interpreted and used by the bureau only to determine the applicant's character, fitness and suitability to serve as a caregiver under this act. The bureau shall also review the prescription drug monitoring program relating to the caregiver. The bureau shall deny the application of a caregiver who has been convicted of a criminal offense that occurred within the past five years relating to the felony sale or possession of drugs, narcotics or controlled substances, or conspiracy thereof. The bureau may deny an application if the applicant has a history of drug abuse or of diverting controlled substances or illegal drugs.

§16A-5-3. Notice.

An application for an identification card shall include notice that a false statement made in the application is punishable under the applicable provisions of law.

§16A-5-4. Verification.

The bureau shall verify the information in a patient or caregiver's application and on any renewal form.

§16A-5-5. Special conditions.

The following apply:

(1) If the practitioner states in the certification that, in the practitioner's professional opinion, the patient would benefit from medical cannabis only until a specified earlier date, then the identification card shall expire on that date.

(2) If the certification so provides, the identification card shall state any requirement or limitation by the practitioner as to the form of medical cannabis for the patient.

§16A-5-6. Minors.

If a patient is under 18 years of age, the following shall apply:

(1) The patient shall have a caregiver.

(2) A caregiver must be one of the following:

(A) A parent or legal guardian of the patient.

(B) An individual designated by a parent or legal guardian.

(C) An appropriate individual approved by the bureau upon a sufficient showing that no parent or legal guardian is appropriate or available.

§16A-5-7. Caregiver authorization and limitations.

(a) *Age*.—An individual who is under 21 years of age may not be a caregiver unless a sufficient showing, as determined by the bureau, is made to the bureau that the individual should be permitted to serve as a caregiver.

(b) *Changing caregiver*.—If a patient wishes to change or terminate the designation of the patient's caregiver, for whatever

reason, the patient shall notify the bureau as soon as practicable. The bureau shall issue a notification to the caregiver that the caregiver's identification card is invalid and must be promptly returned to the bureau.

(c) *Denial in part.*—If an application of a patient designates an individual as a caregiver who is not authorized to be a caregiver, that portion of the application shall be denied by the bureau. The bureau shall review the balance of the application and may approve that portion of it.

§16A-5-8. Contents of identification card.

An identification card shall contain the following:

(1) The name of the caregiver or the patient, as appropriate. The identification card shall also state whether the individual is designated as a patient or as a caregiver.

(2) The date of issuance and expiration date.

(3) An identification number for the patient or caregiver, as appropriate.

(4) A photograph of the individual to whom the identification card is being issued, whether the individual is a patient or a caregiver. The method of obtaining the photograph shall be specified by the bureau by rule. The bureau shall provide reasonable accommodation for a patient who is confined to the patient's home or is in inpatient care.

(5) Any requirement or limitation set by the practitioner as to the form of medical cannabis.

(6) Any other requirements determined by the bureau, except the bureau may not require that an identification card disclose the patient's serious medical condition.

§16A-5-9. Suspension.

If a patient or caregiver intentionally, knowingly or recklessly violates any provision of this act as determined by the bureau, the

identification card of the patient or caregiver may be suspended or revoked. The suspension or revocation shall be in addition to any criminal or other penalty that may apply.

§16A-5-10. Prohibitions.

(a) The following prohibitions shall apply:

(1) A patient may not operate or be in physical control of any of the following while under the influence with a blood content of more than 3 nanograms of active tetrahydrocannabinol per milliliter of blood in serum:

(A) Chemicals which require a permit issued by the Federal Government or a state government or an agency of the Federal Government or a state government.

(B) High-voltage electricity or any other public utility.

(C) Vehicle, aircraft, train, boat or heavy machinery.

(2) A patient may not perform any employment duties at heights or in confined spaces, including, but not limited to, mining while under the influence of medical cannabis.

(3) A patient may be prohibited by an employer from performing any task which the employer deems life-threatening, to either the employee or any of the employees of the employer, while under the influence of medical cannabis. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

(4) A patient may be prohibited by an employer from performing any duty which could result in a public health or safety risk while under the influence of medical cannabis. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

ARTICLE 6. MEDICAL CANNABIS ORGANIZATIONS.

§16A-6-1. Authorized medical cannabis organizations.

The following entities shall be authorized to receive a permit to operate as a medical cannabis organization to grow, process or dispense medical cannabis:

- (1) Growers.
- (2) Processors.
- (2) Dispensaries.

§16A-6-2. Permits.

(a) Application.—An application for a grower, processor or dispensary permit to grow, process or dispense medical cannabis shall be in a form and manner prescribed by the bureau and shall include:

(1) Verification of all principals, operators, financial backers or employees of a medical cannabis grower/processor or dispensary.

(2) A description of responsibilities as a principal, operator, financial backer or employee.

(3) Any release necessary to obtain information from governmental agencies, employers and other organizations.

(4) A criminal history record check. Medical cannabis organizations applying for a permit shall submit fingerprints of principals, financial backers, operators and employees to the West Virginia State Police for the purpose of obtaining criminal history record checks and the West Virginia State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the principals, financial backers, operators and employees and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to principals, financial backers, operators and employees obtained under this section by the bureau may be interpreted and used by the bureau only to determine the principal's, financial backer's, operator's and employee's character, fitness and suitability to serve as a principal,

financial backer, operator and employee under this act. This subdivision shall not apply to an owner of securities in a publicly traded corporation if the bureau determines that the owner of the securities is not substantially involved in the activities of the medical cannabis organization.

(5) Details relating to a similar license, permit or other authorization obtained in another jurisdiction, including any suspensions, revocations or discipline in that jurisdiction.

(6) A description of the business activities in which it intends to engage as a medical cannabis organization.

(7) A statement that the applicant:

(A) Is of good moral character. For purposes of this subparagraph, an applicant shall include each financial backer, operator, employee and principal of the medical cannabis organization.

(B) Possesses the ability to obtain in an expeditious manner the right to use sufficient land, buildings and other premises and equipment to properly carry on the activity described in the application and any proposed location for a facility.

(C) Is able to maintain effective security and control to prevent diversion, abuse and other illegal conduct relating to medical cannabis.

(D) Is able to comply with all applicable State laws and rules relating to the activities in which it intends to engage under this act.

(8) The name, residential address and title of each financial backer and principal of the applicant. Each individual, or lawful representative of a legal entity, shall submit an affidavit with the application setting forth:

(A) Any position of management or ownership during the preceding 10 years of a controlling interest in any other business, located inside or outside this State, manufacturing or distributing controlled substances.

(B) Whether the person or business has been convicted of a criminal offense graded higher than a summary offense or has had a permit relating to medical cannabis suspended or revoked in any administrative or judicial proceeding.

(9) Any other information the bureau may require.

(b) *Notice.*—An application shall include notice that a false statement made in the application is punishable under the applicable provisions of law.

§16A-6-3. Granting of permit.

(a) The bureau may grant or deny a permit to a grower, processor or dispensary. In making a decision under this subsection, the bureau shall determine that:

(1) The applicant will maintain effective control of and prevent diversion of medical cannabis.

(2) The applicant will comply with all applicable laws of this State.

(3) The applicant is a resident of this State, or is organized under the law of this State.

(4) The applicant is ready, willing and able to properly carry on the activity for which a permit is sought.

(5) The applicant possesses the ability to obtain in an expeditious manner sufficient land, buildings and equipment to properly grow, process or dispense medical cannabis.

(6) It is in the public interest to grant the permit.

(7) The applicant, including the financial backer or principal, is of good moral character and has the financial fitness necessary to operate.

(8) The applicant is able to implement and maintain security, tracking, recordkeeping and surveillance systems relating to the acquisition, possession, growth, manufacture, sale, delivery,

transportation, distribution or the dispensing of medical cannabis as required by the bureau.

(9) The applicant satisfies any other conditions as determined by the bureau.

(b) *Nontransferability*.—A permit issued under this chapter shall be nontransferable.

(c) *Privilege*.—The issuance or renewal of a permit shall be a revocable privilege.

(d) *Regions*.—The bureau shall establish a minimum of three regions within this State for the purpose of granting permits to grower/processors and dispensaries and enforcing this act. The bureau shall approve permits for growers, processors and dispensaries in a manner which will provide an adequate amount of medical cannabis to patients and caregivers in all areas of this State. The bureau shall consider the following when issuing a permit:

(1) Regional population.

(2) The number of patients suffering from serious medical conditions.

(3) The types of serious medical conditions.

(4) Access to public transportation.

(5) Approval by local Health Bureaus.

(6) Whether the county has disallowed the location of a grower, processor or dispensary.

(7) Any other factor the bureau deems relevant.

§16A-6-4. Notice.

When the boundaries under subsection (d), section three of this article are established, the bureau shall publish notice of the determination in the State Register. The bureau may adjust the

boundaries as necessary every two years. Notice of any adjustment to the boundaries shall be published in the State Register.

§16A-6-5. Application and issuance.

(a) *Duty to report.*—An applicant to be a grower/processor or to operate a dispensary is under a continuing duty to:

(1) Report to the bureau any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application, including a change in control of the medical cannabis organization.

(2) Report to law enforcement, within 24 hours, any loss or theft of medical cannabis.

(3) Submit to announced or unannounced inspections by the bureau of the facilities for growing, processing, dispensing or selling medical cannabis, including all records of the organization.

(b) *Additional information.*—If the bureau is not satisfied that the applicant should be issued a permit, the bureau shall notify the applicant in writing of the factors for which further documentation is required. Within 30 days of the receipt of the notification, the applicant may submit additional material to the bureau.

§16A-6-6. Fees and other requirements.

The following apply:

(1) For a grower or processor:

(A) An initial application fee in the amount of \$10,000 shall be paid. The fee is nonrefundable.

(B) A fee for a permit as a grower/processor in the amount of \$100,000 shall be paid. The permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission of the application. The fee shall be returned if the permit is not granted.

(C) A renewal fee for the permit as a grower/processor in the amount of \$10,000 shall be paid and shall cover renewal for all locations. The renewal fee shall be returned if the renewal is not granted.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(2) For a dispensary:

(A) An initial application fee in the amount of \$5,000 shall be paid. The fee is nonrefundable.

(B) A permit fee for a dispensary shall be \$25,000 for each location. The period of the permit is one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted.

(C) A renewal fee for the permit as a dispensary in the amount of \$5,000 shall be paid. The fee shall be returned if the renewal is not granted and shall cover renewal for all locations.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(3) A fee of \$250 shall be required when amending the application to indicate relocation within this State or the addition or deletion of approved activities by the medical cannabis organization.

(4) Fees payable under this section shall be deposited into the fund.

§16A-6-7. Issuance.

A permit issued by the bureau to a medical cannabis organization shall be effective only for that organization and shall specify the following:

(1) The name and address of the medical cannabis organization.

(2) The activities of the medical cannabis organization permitted under this act.

(3) The land, buildings, facilities or location to be used by the medical cannabis organization.

(4) Any other information required by the bureau.

§16A-6-8. Relocation.

The bureau may approve an application from a medical cannabis organization to relocate within this State or to add or delete activities or facilities.

§16A-6-9. Terms of permit.

A permit issued by the bureau shall be valid for one year from the date of issuance.

§16A-6-10. Permit renewals.

(a) *Renewal.*—An application for renewal shall include the following information:

(1) Any material change in the information provided by the medical cannabis organization in a prior application or renewal of a permit.

(2) Any charge or initiated, pending or concluded investigation, during the period of the permit, by any governmental or administrative agency with respect to:

(A) Any incident involving the theft, loss or possible diversion of medical cannabis grown, processed or dispensed by the applicant; and

(B) Compliance by the applicant with the laws of this State with respect to any substance listed under article two of chapter sixty-a.

(b) *Approval.*—The bureau shall renew a permit unless the bureau determines that:

(1) The applicant is unlikely to maintain or be able to maintain effective control against diversion of medical cannabis.

(2) The applicant is unlikely to comply with all laws of this State applicable to the activities in which it may engage under the permit.

(c) *Nonrenewal decision.*—The denial or nonrenewal shall specify in detail how the applicant has not satisfied the bureau's requirements for renewal. Within 30 days of the bureau's decision, the applicant may submit additional material to the bureau or demand a hearing, or both. If a hearing is demanded, the bureau shall fix a date as soon as practicable.

§16A-6-11. Suspension or revocation.

The bureau may suspend or revoke a medical cannabis organization permit if:

(1) The bureau has evidence that the medical cannabis organization has failed to maintain effective control against diversion of medical cannabis.

(2) The organization violates any provision of this act or a rule of the bureau.

(3) The organization has intentionally, knowingly, recklessly or negligently failed to comply with applicable laws of this State relating to medical cannabis.

§16A-6-12. Convictions prohibited.

(a) The following individuals may not hold volunteer positions or positions with remuneration in or be affiliated with a medical cannabis organization, including a clinical registrant under article

fourteen of this chapter, in any way if the individual has been convicted of any felony criminal offense related to the sale or possession of illegal drugs, narcotics or controlled substances, or conspiracy thereof:

- (1) Financial backers.
- (2) Principals.
- (3) Employees.

(b) If an individual seeking to hold a volunteer position or position with remuneration in or be affiliated with a dispensary is otherwise prohibited under subsection (a) of this section, such individual may seek a waiver from the bureau in order to hold such a position with a dispensary. The allowance of the waiver, including any additional restrictions or conditions as part of the waiver, shall be in the discretion of the bureau.

§16A-6-13. Limitations on permits.

(a) The following limitations apply to approval of permits for growers, processors and dispensaries, subject to the limitations in subsection (b) of this section:

- (1) The bureau may not issue permits to more than 5 growers.
- (2) The bureau may not issue permits to more than 5 processors.
- (3) The bureau may not issue permits to more than 15 dispensaries, with no more than 5 in any region.
- (4) The bureau may not issue more than two individual dispensary permits to one person.
- (5) The bureau may not issue more than one individual grower permit to one person.
- (6) The bureau may not issue more than one individual processor permit to one person.

(7) A dispensary may only obtain medical cannabis from a grower or processor holding a valid permit under this act.

(8) A grower or processor may only provide medical cannabis to a dispensary holding a valid permit under this act.

(9) A grower or a processor may not be a dispensary.

(b) Before a permit may be issued, the bureau shall obtain the following:

(1) A written approval from the Board of Health for the county in which the permit is to be located and operate business.

(2) A written statement from the county commission for the county in which the permit is to be located and conduct business that the County has not voted, pursuant to section six, article seven of this chapter to disapprove a medical cannabis organization to be located or operate within the county.

ARTICLE 7. MEDICAL CANNABIS CONTROLS.

§16A-7-1. Electronic tracking.

(a) *Requirement.*—A medical cannabis organization must implement an electronic inventory tracking system which shall be directly accessible to the bureau through its electronic database that electronically tracks all medical cannabis on a daily basis. The system shall include tracking of all of the following:

(1) For a grower or processor, a seed-to-sale tracking system that tracks the medical cannabis from seed to plant until the medical cannabis is sold to a dispensary.

(2) For a dispensary, medical cannabis from purchase from the grower/processor to sale to a patient or caregiver and that includes information that verifies the validity of an identification card presented by the patient or caregiver.

(3) For a medical cannabis organization, a daily log of each day's beginning inventory, acquisitions, amounts purchased and sold, disbursements, disposals and ending inventory. The tracking

system shall include prices paid and amounts collected from patients and caregivers.

(4) For a medical cannabis organization, a system for recall of defective medical cannabis.

(5) For a medical cannabis organization, a system to track the plant waste resulting from the growth of medical cannabis or other disposal, including the name and address of any disposal service.

(b) *Additional requirements.*—In addition to the information under subsection (a) of this section, each medical cannabis organization shall track the following:

(1) Security and surveillance.

(2) Recordkeeping and record retention.

(3) The acquisition, possession, growing and processing of medical cannabis.

(4) Delivery and transportation, including amounts and method of delivery.

(5) Dispensing, including amounts, pricing and amounts collected from patients and caregivers.

(c) *Access.*—(1) Information maintained in electronic tracking systems under subsection (a) of this section shall be confidential and not subject to public disclosure under chapter twenty-nine-b of this code.

(2) Pursuant to conditions and procedures established by the bureau, law enforcement shall be provided access to the tracking system.

(d) *Reports.*—Within one year of the issuance of the first permit to a medical cannabis organization, and every three months thereafter in a form and manner prescribed by the bureau, the following information shall be provided to the bureau, which shall compile the information and post it on the bureau's publicly accessible Internet website:

(1) The amount of medical cannabis sold by a grower and a processor during each three-month period.

(2) The price of amounts of medical cannabis sold by growers and processors as determined by the bureau.

(3) The amount of medical cannabis purchased by each dispensary in this state.

(4) The cost of amounts of medical cannabis to each dispensary in amounts as determined by the bureau.

(5) The total amount and dollar value of medical cannabis sold by each dispensary in the three-month period.

§16A-7-2. Grower/processors.

(a) *Authorization.*—Subject to subsection (b), a grower or processor may do all of the following in accordance with bureau rules:

(1) Obtain seed from outside this State to initially grow medical cannabis.

(2) Obtain seed and plant material from another grower/processor within this State to grow medical cannabis.

(b) *Limitations.*— A grower or processor may only grow, store, harvest or process medical cannabis in an indoor, enclosed, secure facility which:

(1) Includes electronic locking systems, electronic surveillance and other features required by the bureau; and

(2) Is located within this state.

§16A-7-3. Storage and transportation.

The bureau shall develop rules relating to the storage and transportation of medical cannabis among grower/processors, testing laboratories and dispensaries which ensure adequate security to guard against in-transit losses. The tracking system

developed by the bureau shall include all transportation and storage of medical cannabis. The rules shall provide for the following:

- (1) Requirements relating to shipping containers and packaging.
- (2) The manner in which trucks, vans, trailers or other carriers will be secured.
- (3) Security systems that include a numbered seal on the trailer.
- (4) Obtaining copies of drivers' licenses and registrations and other information related to security and tracking.
- (5) Use of GPS systems.
- (6) Number of drivers or other security required to ensure against storage or in-transit losses.
- (7) Recordkeeping for delivery and receipt of medical cannabis products.
- (8) Requirements to utilize any electronic tracking system required by the bureau.
- (9) Transporting medical cannabis to a grower/processor, approved laboratory or dispensary.

§16A-7-4. Laboratory.

A grower and processor shall contract with an independent laboratory to test the medical cannabis produced by the grower or processor. The bureau shall approve the laboratory and require that the laboratory report testing results in a manner as the bureau shall determine, including requiring a test at harvest and a test at final processing. The possession by a laboratory of medical cannabis shall be a lawful use.

§16A-7-5. Prices.

The bureau and the Bureau of Revenue shall monitor the price of medical cannabis sold by growers, processors and by dispensaries, including a per-dose price. If the bureau and the Bureau of Revenue determine that the prices are unreasonable or excessive, the bureau may implement a cap on the price of medical cannabis being sold for a period of six months. The cap may be amended during the six-month period. If the bureau and the Bureau of Revenue determine that the prices become unreasonable or excessive following the expiration of a six-month cap, additional caps may be imposed for periods not to exceed six months.

§16A-7-6. County prohibition.

A county may pass an ordinance or general law by vote of the residents of the county to prohibit the operation or location of a medical cannabis organization within that particular county. A prohibition under this section shall remain in effect unless and until changed by a subsequent vote.

ARTICLE 8. DISPENSARIES.**§16A-8-1. Dispensing to patients and caregivers.**

(a) General rule.—A dispensary that has been issued a permit under article six of this chapter may lawfully dispense medical cannabis to a patient or caregiver upon presentation to the dispensary of a valid identification card for that patient or caregiver. The dispensary shall provide to the patient or caregiver a receipt, as appropriate. The receipt shall include all of the following:

- (1) The name, address and any identification number assigned to the dispensary by the bureau.
- (2) The name and address of the patient and caregiver.
- (3) The date the medical cannabis was dispensed.
- (4) Any requirement or limitation by the practitioner as to the form of medical cannabis for the patient.

(5) The form and the quantity of medical cannabis dispensed.

(b) *Requirements.*—A dispensary shall have a physician or a pharmacist onsite at all times during the hours the dispensary is open to receive patients and caregivers. A physician or a pharmacist shall, prior to assuming duties under this paragraph, successfully complete the course established in subsection (a), section one, article three of this chapter. A physician may not issue a certification to authorize patients to receive medical cannabis or otherwise treat patients at the dispensary.

(c) *Filing with bureau.*—Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall file the receipt information with the bureau utilizing the electronic tracking system. When filing receipts under this subsection, the dispensary shall dispose of any electronically recorded certification information as provided by rule.

(d) *Limitations.*—No dispensary may dispense to a patient or caregiver:

(1) A quantity of medical cannabis greater than that which the patient or caregiver is permitted to possess under the certification; or

(2) A form of medical cannabis prohibited by this act.

(e) *Supply.*—When dispensing medical cannabis to a patient or caregiver, the dispensary may not dispense an amount greater than a 30-day supply until the patient has exhausted all but a seven-day supply provided pursuant to section five, article four of this chapter.

(f) *Verification.*—Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall verify the information in subsections (e) and (g) of this section by consulting the electronic tracking system included in the bureau's electronic database established under section one, article three of this chapter and the dispensary tracking system under section one, article seven of this chapter.

(g) *Form of medical cannabis.*—Medical cannabis dispensed to a patient or caregiver by a dispensary shall conform to any requirement or limitation set by the practitioner as to the form of medical cannabis for the patient.

(h) *Safety insert.*—When a dispensary dispenses medical cannabis to a patient or caregiver, the dispensary shall provide to that patient or caregiver, as appropriate, a safety insert. The insert shall be developed and approved by the bureau. The insert shall provide the following information:

(1) Lawful methods for administering medical cannabis in individual doses.

(2) Any potential dangers stemming from the use of medical cannabis.

(3) How to recognize what may be problematic usage of medical cannabis and how to obtain appropriate services or treatment for problematic usage.

(4) How to prevent or deter the misuse of medical cannabis by minors or others.

(5) Any other information as determined by the bureau.

(i) *Sealed and labeled package.*—Medical cannabis shall be dispensed by a dispensary to a patient or caregiver in a sealed and properly labeled package. The labeling shall contain the following:

(1) The information required to be included in the receipt provided to the patient or caregiver, as appropriate, by the dispensary.

(2) The packaging date.

(3) Any applicable date by which the medical cannabis should be used.

(4) A warning stating:

‘This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the practitioner who issued the certification and, in the case of breastfeeding, the infant’s pediatrician. This product might impair the ability to drive or operate heavy machinery. Keep out of reach of children.’

(5) The amount of individual doses contained within the package and the species and percentage of tetrahydrocannabinol and cannabidiol.

(6) A warning that the medical cannabis must be kept in the original container in which it was dispensed.

(7) A warning that unauthorized use is unlawful and will subject the person to criminal penalties.

(8) Any other information required by the bureau.

§16A-8-2. Facility requirements.

(a) General rule.—

(1) A dispensary may only dispense medical cannabis in an indoor, enclosed, secure facility located within this State, as determined by the bureau.

(2) A dispensary may not operate on the same site as a facility used for growing and processing medical cannabis.

(3) A dispensary may not be located within 1,000 feet of the property line of a public, private or parochial school or a day-care center.

(4) A dispensary may, pursuant to bureau conditions and limitations, sell medical devices and instruments which are needed to administer medical cannabis under this act.

(b) *Adjustment or waiver of prohibition.*—The bureau may amend a prohibition under subsection (a)(3) of this section if it is shown by clear and convincing evidence that the amendment is necessary to provide adequate access to patients. An amendment

may include additional security, physical plant of a facility or other conditions necessary to protect children.

§16A-8-3. Posting.

A dispensary shall post a copy of its permit in a location within its facility in a manner that is easily observable by patients, caregivers, law enforcement officers and agents of the bureau.

ARTICLE 9. TAX ON MEDICAL CANNABIS.

§16A-9-1. Tax on medical cannabis.

(a) *Tax imposed.*—A tax is imposed on the gross receipts of a grower/processor received from the sale of medical cannabis by a grower/processor to a dispensary, to be paid by the grower/processor, at the rate of 10%. The tax shall be charged against and be paid by the grower/processor and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price paid by a dispensary, patient or caregiver.

(b) *Payment of tax and reports.*— A grower/processor shall make quarterly payments under this section for each calendar quarter at the rate prescribed in subsection (a) on the gross receipts for the calendar quarter. The tax shall be due and payable on the 20th day of January, April, July and October for the preceding calendar quarter on a form prescribed by the Bureau of Revenue.

(c) *Deposit of proceeds.*—All money received from the tax imposed under subsection (a) shall be deposited into the fund.

(d) *Exemption.*—Medical cannabis shall not be subject to a sales tax.

(e) *Information.*—A grower/processor that sells medical cannabis shall provide to the Bureau of Revenue information required by the bureau.

§16A-9-2. Medical Cannabis Program Fund.

(a) *Fund established.*—The Medical Cannabis Program Fund is established as a special fund in the State Treasury. Money in the fund is appropriated as set forth in subsection (c) of this section. Any amount unspent at the end of a fiscal year shall be appropriated to the bureau for its operations.

(b) *Source of funds.*—Fees and taxes payable under this act shall be deposited into the fund. The money deposited into the fund may only be used for the purposes set forth in this section. Any interest accrued shall be deposited into the fund.

(c) *Use of proceeds.*— Money in the fund is allocated in accordance with the following percentages:

(1) Fifty-five percent of the revenue in the fund shall be allocated to the bureau.

(2) The remaining forty-five percent of the revenue in the fund shall be allocated as follows:

(A) Fifty percent shall be allocated to the Fight Substance Abuse Fund created by section eight, article nine, chapter sixty-a of the code.

(B) Forty percent shall be allocated to the Division of Justice and Community Services, for grants to local law enforcement agencies for training, drug diversion, and other programs focused on crime and addiction, pursuant to and in accordance with the provisions of article nine-a, chapter fifteen of this code.

(C) Ten percent shall be allocated to the fund created in section four, article twenty-nine, chapter thirty, to be used for law enforcement professional training and professional development programs.

ARTICLE 10. ADMINISTRATION.

§16A-10-1. Administration.

The Commissioner of the Bureau of Public Health may establish and create an Office of Medical Cannabis within the

Bureau to assist in the administration and enforcement of the provisions of this act.

§16A-10-2. Reports by medical cannabis organizations.

A medical cannabis organization shall periodically file reports related to its activities. The bureau shall determine the information required in and the frequency of filing the reports.

§16A-10-3. Law enforcement notification.

Notwithstanding any provision of this act or any other law to the contrary, the bureau may notify any appropriate law enforcement agency of information relating to any violation or suspected violation of this act. In addition, the bureau shall verify to law enforcement personnel in an appropriate case whether a certification, permit, registration or an identification card is valid, including release of the name of the patient.

§16A-10-4. Evaluation.

The bureau may provide for an analysis and evaluation of the implementation and effectiveness of this act. The bureau may enter into agreements with one or more persons for the performance of an evaluation of the implementation and effectiveness of this act.

§16A-10-5. Report.

(a) *Report required.*—The bureau shall submit a written report under subsection (b) of this section every two years, beginning two years after the effective date of this section, to the following:

- (1) The Governor.
- (2) The Joint Committee on Government and Finance.
- (3) The Attorney General of the State.

(b) *Contents of report.*—The following information shall be included in the report:

(1) An assessment of the use of medical cannabis as a result of the enactment of this act.

(2) An assessment of the benefits and risks to patients using medical cannabis under this act, including adverse events.

(3) Recommendations for amendments to this act for reasons of patient safety or to aid the general welfare of the citizens of this State.

§16A-10-6. Emergency rules.

(a) *Promulgation*—In order to facilitate the prompt implementation of this act, the bureau may promulgate emergency rules that shall expire not later than two years following the publication of the emergency rule.

(b) *Expiration*—The bureau's authority to adopt emergency rules under subsection (a) of this section shall expire two years after the effective date of this section. Rules adopted after this period shall be promulgated as provided by law.

(c) *Publication*—The bureau shall begin publishing emergency rules in the State Register no later than six months after the effective date of this section.

ARTICLE 11. MEDICAL CANNABIS ADVISORY BOARD.

§16A-11-1. Advisory board.

(a) The Medical Cannabis Advisory Board is established within the bureau. The advisory board shall consist of the following members:

(1) The commissioner or a designee.

(2) The Superintendent of the West Virginia State Police or a designee.

(3) One physician licensed to practice in the state, to be appointed by the State Medical Association.

(4) One physician licensed to practice in the state, to be appointed by the Governor.

(5) One pharmacist licensed to practice in the state, to be designated by the Board of Pharmacy.

(6) One pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor.

(7) One member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture.

(8) One member designated by the West Virginia Association of Alcoholism and Drug Counselors.

(9) An attorney licensed in the state who is knowledgeable about medical cannabis laws.

(10) One member appointed by the West Virginia Prosecuting Attorneys Institute.

(11) One member appointed by the Governor, who shall be a patient, a family or household member of a patient or a patient advocate.

(b) *Terms.*—Except as provided under subsection (g) of this section, the members shall serve a term of four years or until a successor has been appointed and qualified, but no longer than six months beyond the four-year period.

(c) *Chair.*—The commissioner, or a designee, shall serve as chair of the advisory board.

(d) *Voting; quorum.*— A majority of the members shall constitute a quorum for the purpose of organizing the advisory board, conducting its business and fulfilling its duties. A vote of the majority of the members present shall be sufficient for all actions of the advisory board unless the bylaws require a greater number.

(e) *Attendance*.—A member of the advisory board who fails to attend three consecutive meetings shall be deemed vacant, unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting for good cause. A member who cannot be physically present may attend meetings via electronic means, including video conference.

(f) *Governance*.—The advisory board shall have the power to prescribe, amend and repeal bylaws governing the manner in which the business of the advisory board is conducted and the manner in which the duties granted to it are fulfilled. The advisory board may delegate supervision of the administration of advisory board activities to an administrative commissioner and other employees of the bureau as the commissioner shall appoint.

(g) *Initial terms*.—The initial terms of members appointed under shall be for terms of one, two, three or four years, the particular term of each member to be designated by the commissioner at the time of appointment. All other members shall serve for a term of four years.

(h) *Vacancy*.—In the event that any member appointed under subsection (a) of this section shall die or resign or otherwise become disqualified during the member's term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in this section and shall hold office for the unexpired term. An appointed member of the advisory board shall be eligible for reappointment.

(i) *Expenses*.—A member shall receive the amount of reasonable travel, hotel and other necessary expenses incurred in the performance of the duties of the member in accordance with State rules, but shall receive no other compensation for the member's service on the board.

(j) *Duties*.—The advisory board shall have the following duties:

(1) To examine and analyze the statutory and regulatory law relating to medical cannabis within this state.

(2) To examine and analyze the law and events in other states and the nation with respect to medical cannabis.

(3) To accept and review written comments from individuals and organizations about medical cannabis.

(4) To issue two years after the effective date of this section a written report to the Governor, the Senate and the House of Delegates.

(5) The written report under subdivision (4) shall include recommendations and findings as to the following:

(A) Whether to change the types of medical professionals who can issue certifications to patients.

(B) Whether to change, add or reduce the types of medical conditions which qualify as serious medical conditions under this act.

(C) Whether to change the form of medical cannabis permitted under this act.

(D) Whether to change, add or reduce the number of growers, processors or dispensaries.

(E) How to ensure affordable patient access to medical cannabis.

(F) Whether to permit medical cannabis to be dispensed in dry leaf or plant form, for administration by vaporization.

(6) The final written report under this section shall be adopted at a public meeting.

§16A-11-2. Rules based on recommendations of advisory board.

After receiving the report of the advisory board, at the discretion of the commissioner, the bureau may promulgate rules to effectuate recommendations made by the advisory board. The commissioner shall issue notice in the State Register within 12

months of the receipt of the report of the advisory board. The notice shall include the recommendations of the advisory board and shall state the specific reasons for the decision of the commissioner on whether or not to effectuate each recommendation.

ARTICLE 12. OFFENSES RELATED TO MEDICAL CANNABIS.

§16A-12-1. Criminal diversion of medical cannabis by practitioners.

In addition to any other penalty provided by law, a practitioner who intentionally and knowingly certifies a person as being able to lawfully receive medical cannabis or who otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

§16A-12-2. Criminal diversion of medical cannabis.

(a) In addition to any other penalty provided by law, any employee, financial backer, operator or principal of any qualifying entities who intentionally and knowingly sells, dispenses, trades, delivers or otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

(b) For purposes of this section, ‘qualifying entity’ shall mean:

(1) A medical cannabis organization.

(2) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(3) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(4) A laboratory utilized to test medical cannabis under section four, article seven of this chapter.

§16A-12-3. Criminal retention of medical cannabis.

In addition to any other penalty provided by law, any patient or caregiver who intentionally and knowingly possesses, stores or maintains an amount of medical cannabis in excess of the amount legally permitted is guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail for not more than six months.

§16A-12-4. Criminal diversion of medical cannabis by patient or caregiver.

In addition to any other penalty provided by law, any patient or caregiver that intentionally and knowingly provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

§16A-12-5. Falsification of identification cards.

In addition to any other penalty provided by law, any person who commits one of the following, knowing he or she is not privileged to hold an identification card:

(1) Possesses an identification card and either attempts to use the card to obtain medical cannabis or obtains medical cannabis;

(2) Possesses an identification card which falsely identifies the person as being lawfully entitled to receive medical cannabis and either attempts to use the card to obtain medical cannabis or obtains medical cannabis; or

(3) Possesses an identification card which contains any false information on the card and the person either attempts to use the card to obtain medical cannabis or obtains medical cannabis, is guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail for not more than twelve months.

§16A-12-6. Adulteration of medical cannabis.

In addition to any other penalty provided by law, any person who adulterates, fortifies, contaminates or changes the character or purity of medical cannabis from that set forth on the patient's or caregiver's identification card, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

§16A-12-7. Disclosure of information prohibited.

(a) In addition to any other penalty provided by law, any employee, financial backer, operator or principal who discloses, except to authorized persons for official governmental or health care purposes, any information related to the use of medical cannabis:

(1) A medical cannabis organization.

(2) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(3) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(4) An employee of the bureau.

(b) *Exception.*—Subsection (a) of this section shall not apply where disclosure is permitted or required by law or by court order.

§16A-12-8. Additional penalties.

(a) *Civil penalties*—In addition to any other remedy available to the bureau, the bureau may assess a civil penalty for a violation of this act, a rule promulgated under this act or an order issued under this act or rule, subject to the following:

(1) The bureau may assess a penalty of not more than \$10,000 for each violation and an additional penalty of not more than \$1,000 for each day of a continuing violation. In determining the

amount of each penalty, the bureau shall take the following factors into consideration:

(A) The gravity of the violation.

(B) The potential harm resulting from the violation to patients, caregivers or the general public.

(C) The willfulness of the violation.

(D) Previous violations, if any, by the person being assessed.

(E) The economic benefit to the person being assessed for failing to comply with the requirements of this act, a rule promulgated under this act or an order issued under this act or rule.

(2) If the bureau finds that the violation did not threaten the safety or health of a patient, caregiver or the general public and the violator took immediate action to remedy the violation upon learning of it, the bureau may issue a written warning in lieu of assessing a civil penalty.

(3) A person who aids, abets, counsels, induces, procures or causes another person to violate this act, a rule promulgated under this act or an order issued under this act or rule shall be subject to the civil penalties provided under this subsection.

(b) *Sanctions.*—

(1) In addition to the penalties provided in subsection (a) of this section, and any other penalty authorized by law, the bureau may impose the following sanctions:

(A) Revoke or suspend the permit of a person found to be in violation of this act, a rule promulgated under this act or an order issued under this act or rule.

(B) Revoke or suspend the permit of a person for conduct or activity or the occurrence of an event that would have disqualified the person from receiving the permit.

(C) Revoke or suspend the registration of a practitioner for a violation of this act or a rule promulgated or an order issued under this act or for conduct or activity which would have disqualified the practitioner from receiving a registration.

(D) Suspend a permit or registration of a person pending the outcome of a hearing in a case in which the permit or registration could be revoked.

(E) Order restitution of funds or property unlawfully obtained or retained by a permittee or registrant.

(F) Issue a cease and desist order.

(2) A person who aids, abets, counsels, induces, procures or causes another person to violate this act shall be subject to the sanctions provided under this subsection.

(c) *Costs of action.*—The bureau may assess against a person determined to be in violation of this act the costs of investigation of the violation.

(d) *Minor violations.*—Nothing in this section shall be construed to require the assessment of a civil penalty or the imposition of a sanction for a minor violation of this act if the bureau determines that the public interest will be adequately served under the circumstances by the issuance of a written warning.

§16A-12-9. Other restrictions.

This act does not permit any person to engage in and does not prevent the imposition of any civil, criminal or other penalty for the following:

(1) Undertaking any task under the influence of medical cannabis when doing so would constitute negligence, professional malpractice or professional misconduct.

(2) Possessing or using medical cannabis in a State correctional facility or regional jail authority facility, including a facility owned or operated or under contract with the Bureau of

Corrections or the regional jail authority, which houses inmates serving a portion of their sentences on parole or other community correction program.

(3) Possessing or using medical cannabis in a youth detention center or other facility which houses children adjudicated delinquent, including the separate, secure State-owned facility or unit utilized for sexually violent delinquent children.

ARTICLE 13. RESEARCH PROGRAM.

§16A-13-1. Definitions.

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

(1) ‘Health care medical cannabis organization.’ A vertically integrated health system approved by the bureau to dispense medical cannabis or grow and process medical cannabis, or both, in accordance with a research study under this chapter.

(2) ‘Vertically integrated health system.’ A health delivery system in which the complete spectrum of care, including primary and specialty care, hospitalization and pharmaceutical care, is provided within a single organization.

§16A-13-2. Establishment of medical cannabis research program.

(a) *Program to be established.*—The bureau shall establish and develop a research program to study the impact of medical cannabis on the treatment and symptom management of serious medical conditions. The program shall not include a clinical registrant or academic clinical research center under article fourteen of this chapter.

(b) *Bureau duties.*—The bureau shall:

(1) Review all serious medical conditions which are cited by a practitioner upon the practitioner's certification that a patient be granted an identification card.

(2) Create a database of all serious medical conditions, including comorbidities, which are cited by practitioners in the certifications of patients. The database shall also include the form of medical cannabis certified to treat each serious medical condition.

(3) When the database contains 25 or more patients with the same serious medical condition, petition the United States Food and Drug Administration and the United States Drug Enforcement Administration for approval to study the condition and the impact of medical cannabis on the condition.

(4) Concurrent with the request to the United States Food and Drug Administration and United States Drug Enforcement Administration, publicly announce the formation of a research study to which a vertically integrated health system and a university within this State may submit a request to participate.

(5) Upon approval of a research study by the United States Food and Drug Administration and the United States Drug Enforcement Administration, select a vertically integrated health system or systems to conduct the research study and designate the form or forms of medical cannabis which will be used to treat the serious medical condition.

(6) Notify a patient who has been issued an identification card:

(A) That the patient has been selected to participate, at the patient's option, in a research study to study medical cannabis as a treatment; and

(B) Where the patient may secure medical cannabis through a health care medical cannabis organization at no cost to the patient in accordance with subsection (c).

(7) If the United States Food and Drug Administration and the United States Drug Enforcement Administration reject the

proposal for the research study, take all reasonable steps to collect and collate data on the serious medical condition and the use of medical cannabis as a treatment for the serious medical condition and consider submitting an additional request to the United States Food and Drug Administration and United States Drug Enforcement Administration for a research study on the same condition.

(c) *Costs.*—The cost of the medical cannabis which is dispensed to patients in accordance with an approved research study shall be paid for by the fund.

(d) *Geographic accessibility.*—The bureau shall take into consideration the geographic location of the health care medical cannabis organization when assigning a patient to a health care medical cannabis organization. The bureau shall make an effort to assign a patient to a health care medical cannabis organization that is located within 50 miles of the patient's residence.

(e) *Data.*—Data collected by the health care medical cannabis organization shall be provided to the university participating in the research study for analysis.

§16A-13-3. Medical cannabis research program administration.

(a) The bureau may establish a research study for each serious medical condition. The bureau may engage universities within this State to participate in the collection, collation, analysis and conclusive findings of the research studies. The bureau shall, by rule, establish the procedure to be used by health care medical cannabis organizations with respect to:

- (1) Real time inventory tracking.
- (2) Real time tracking of the medical cannabis dispensed.
- (3) Recall of defective medical cannabis.

(b) Request for distributions.—The bureau shall establish a form and procedure for universities selected to participate in a

research study to request distributions from the fund to conduct research on medical cannabis, including administrative costs. These distributions shall also be used to pay for the cost of the medical cannabis so that it is not borne by the patient participating in the research study. The forms shall include, at a minimum, the following:

- (1) The form or forms of medical cannabis to be studied.
- (2) The serious medical condition to be studied.
- (c) *Research reports.*—

(1) A vertically integrated health system shall report on the effectiveness of the use of medical cannabis for the treatment of the serious medical condition studied and all counterindications and noted side effects.

(2) The bureau shall notify the vertically integrated health system and the university participating in the research study of the data which is required to meet the United States Food and Drug Administration's and the United States Drug Enforcement Administration's approval for the research study.

(3) The first report, including the data required under subdivision (2), shall be submitted to the bureau and made publicly available within 180 days of the initiation of a research study for a specific serious medical condition.

(4) An annual report of the data required under subdivision (2) shall be submitted to the bureau beginning one year after the initiation of a research study for a specific serious medical condition and each year thereafter.

§16A-13-4. Approval.

A vertically integrated health system located in this State may petition the bureau to participate in a research study to study a serious medical condition. Approval of the vertically integrated health system as a health care medical cannabis organization by the bureau shall authorize access within a region under subsection (d),

section three, article six of this chapter to medical cannabis for all patients included in an approved research study.

§16A-13-5. Requirements.

(a) *Dispensing.*—A health care medical cannabis organization that dispenses medical cannabis shall:

(1) Maintain licensure with the bureau.

(2) Secure the medical cannabis within the associated pharmacies of the health care medical cannabis organization in a manner and method prescribed by the bureau.

(3) Keep a daily log of the medical cannabis dispensed and the research study with which the patient and the medical cannabis are associated. Reports shall be delivered to the bureau and the university participating in the research study on a weekly basis.

(4) Report the utilization rates of those patients participating in the research of medical cannabis and treatment options.

(5) Only dispense medical cannabis received from a grower, processor or a health care medical cannabis organization that is approved to grow and process medical cannabis.

(6) Provide all patients or caregivers with the safety insert, prepared by the bureau, which includes potential dangers, recognition and correction of problematic dosage and any other information required by the bureau or which the bureau deems relevant for patient safety.

(b) *Growing and processing.*—A health care medical cannabis organization that grows and processes medical cannabis shall:

(1) Maintain licensure with the bureau

(2) Only make available medical cannabis to health care medical cannabis organizations that dispense medical cannabis.

(3) Keep a daily log of medical cannabis intended for ultimate use by patients participating in a research study.

§16A-13-6. Restrictions.

A health care medical cannabis organization may not participate in a research study of any kind, including the program established under this article, or dispense or grow and process medical cannabis if it has violated its licensure requirements or conditions.

§16A-13-7. Rules.

The bureau shall, by rule, establish the procedure to be used by a health care medical cannabis organization that grows and processes medical cannabis with respect to:

(1) Real time inventory tracking, including a seed-to-dispensing tracking system that tracks medical cannabis from seed or immature plant stage until the medical cannabis is provided to a patient in a research study.

(2) Security, recordkeeping, record retention and surveillance systems relating to every stage of growing and processing medical cannabis.

(3) A daily log of each day's beginning inventory, acquisitions, disbursements, disposals and ending inventory.

(4) A system to recall defective medical cannabis.

(5) A system to track the plant waste resulting from the growth of medical cannabis.

(6) Testing of medical cannabis by an independent laboratory to test the medical cannabis produced by the health care medical cannabis organization, including requiring a test at harvest and a test at final processing.

(7) Any other procedure deemed necessary by the bureau.

§16A-13-8. Nonentitlement.

Nothing in this chapter shall be construed to create an entitlement or right of a patient to receive medical cannabis or to participate in a research study.

ARTICLE 14. ACADEMIC CLINICAL RESEARCH CENTERS.

§16A-14-1. Definitions.

(a) The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) ‘Academic clinical research center’ means an accredited medical school within this State that operates or partners with an acute care hospital licensed within this state.

(2) ‘Clinical registrant’ means an entity that:

(A) Holds a permit as a grower, processor and a dispensary; and

(B) has a contractual relationship with an academic clinical research center under which the academic clinical research center or its affiliate provides advice to the entity, regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances.

§16A-14-2. Clinical registrants.

Notwithstanding the limitations in section thirteen, article six of this chapter, the bureau may register up to four clinical registrants, and subject to the following:

(1) A clinical registrant must pay the fees and meet all other requirements under this act for obtaining a permit as a grower, processor and a dispensary.

(2) The clinical registrant must comply with all other requirements of this act regarding growing, processing and dispensing medical cannabis.

§16A-14-3. Research study.

Notwithstanding any provision of this act to the contrary, the bureau may, upon application, approve the dispensing of medical cannabis by a clinical registrant to the academic clinical research center for the purpose of conducting a research study. The bureau shall develop the application and standards for approval of such dispensing by the clinical registrant. The following apply to the research study:

(1) The clinical registrant shall disclose the following information to the bureau in its application:

(i) The reason for the research project, including the reason for the trial.

(ii) The strain of medical cannabis to be used and the strength of the medical cannabis to be used in the research study.

(iii) The anticipated duration of the study.

(iv) Evidence of approval of the trial by an accredited institutional review board, including any other required regulatory approvals.

(v) Other information required by the bureau, except that the bureau may not require disclosure of any information that would infringe upon the academic clinical research center's exclusive right to intellectual property or legal obligations for patient confidentiality.

(2) The academic clinical research center shall provide its findings to the bureau within 365 days of the conclusion of the research study or within 365 days of publication of the results of the research study in a peer-reviewed medical journal, whichever is later.

(3) The bureau shall allow the exchange of medical cannabis seed between clinical registrants for the conduct of research.

ARTICLE 15. MISCELLANEOUS PROVISIONS.**§16A-15-1. Conflict.**

The growth, processing, manufacture, acquisition, transportation, sale, dispensing, distribution, possession and consumption of medical cannabis permitted under this act shall not be deemed to be a violation of the provisions of the Uniform Controlled Substance Act under chapter sixty-a. If a provision of Uniform Controlled Substance Act under chapter sixty-a relating to cannabis conflicts with a provision of this act, this act shall take precedence.

§16A-15-2. Financial and employment interests.

(a) *Financial interests.*—Except as may be provided for the judiciary by rule or order of the West Virginia Supreme Court, an executive-level public employee, public official or party officer, or an immediate family member thereof, shall not intentionally or knowingly hold a financial interest in a medical cannabis organization or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

(b) *Employment.*—Except as may be provided by rule or order of the West Virginia Supreme Court, no executive-level public employee, public official or party officer, or an immediate family member thereof, shall be employed by a medical cannabis organization or by any holding company, affiliate, intermediary or subsidiary thereof, while the individual is an executive-level public employee, public official or party officer and for one year following termination of the individual's status as an executive-level public employee, public official or party officer.

§16A-15-3. Insurers.

Nothing in this act shall be construed to require an insurer or a health plan, whether paid for by State funds or private funds, to provide coverage for medical cannabis.

§16A-15-4. Protections for patients and caregivers.

(a) *Licensure.*—None of the following shall be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a State licensing board or commission, solely for lawful use of medical cannabis or manufacture or sale or dispensing of medical cannabis, or for any other action taken in accordance with this act:

(1) A patient.

(2) A caregiver.

(3) A practitioner.

(4) A medical cannabis organization.

(5) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(6) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(7) An employee, principal or financial backer of a medical cannabis organization.

(8) An employee of a health care medical cannabis organization or an employee of a university participating in a research study under article thirteen of this chapter.

(9) An employee of a clinical registrant or an employee of an academic clinical research center under article fourteen of this chapter.

(b) *Employment.*—

(1) No employer may discharge, threaten, refuse to hire or otherwise discriminate or retaliate against an employee regarding an employee's compensation, terms, conditions, location or privileges solely on the basis of such employee's status as an individual who is certified to use medical cannabis.

(2) Nothing in this act shall require an employer to make any accommodation of the use of medical cannabis on the property or premises of any place of employment. This act shall in no way limit an employer's ability to discipline an employee for being under the influence of medical cannabis in the workplace or for working while under the influence of medical cannabis when the employee's conduct falls below the standard of care normally accepted for that position.

(3) Nothing in this act shall require an employer to commit any act that would put the employer or any person acting on its behalf in violation of Federal law.

§16A-15-5. Schools.

The Bureau of Education shall promulgate rules within six months of the effective date of this section regarding the following:

(1) Possession and use of medical cannabis by a student on the grounds of a preschool, primary school and a secondary school.

(2) Possession and use of medical cannabis by an employee of a preschool, primary school and a secondary school on the grounds of such school.

§16A-15-6. Day-care centers.

The Bureau shall promulgate rules within six months of the effective date of this section regarding the following:

(1) Possession and use of medical cannabis by a child under the care of a child-care or social service center licensed or operated by the Bureau of Human Services.

(2) Possession and use of medical cannabis by an employee of a child-care or social service center licensed or operated by the Bureau of Human Services.

(3) Possession and use of medical cannabis by employees of a youth development center or other facility which houses children adjudicated delinquent.

§16A-15-7. Zoning.

The following apply:

(1) A grower/processor shall meet the same municipal zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same zoning district.

(2) A dispensary shall meet the same municipal zoning and land use requirements as other commercial facilities that are located in the same zoning district.

(3) A municipality may enact an ordinance prohibiting or limiting the number and type of medical cannabis organizations permitted to operate in the municipality, including the time, place, and manner of operation.

§16A-15-8. Notice to bureau.

(a) A municipality that enacts a restrictive ordinance pursuant to section seven of this article, shall promptly notify the bureau of such action.

(b) A county commission shall notify the bureau if a county votes to prohibit allowance of a medical cannabis organization pursuant to section six, article seven of this chapter.

§16A-15-9. Applicability.

The issuance of permits and other authorizations shall begin upon publication of a notice by the bureau in the State Register that adequate emergency or permanent rules have been adopted to initiate the program under this act.

ARTICLE 16. EFFECTIVE DATE.**§16A-16-1. Effective date.**

(a) Unless excepted in subsection (b) or (c), the provisions of this act shall be effective upon passage.

(b) The provisions of article twelve of this chapter, and any other criminal provisions or penalties contained in this act, shall not be effective until ninety days from passage of Senate Bill 386 during the 2017 Regular Session.

(c) Notwithstanding any provision of this chapter to the contrary, no identification cards may be issued to patients until July 1, 2019. The Bureau may take sufficient steps through rule to implement the preliminary provisions in preparation for implementation of the provisions of this act.”

An amendment, offered by Delegates Pushkin, Hornbuckle, Byrd, Hill, McGeehan, Lane and Robinson, on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following, was reported by the Clerk:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-8A-1, §16-8A-2, §16-8A-3, §16-8A-4, §16-8A-5, §16-8A-6, §16-8A-7, §16-8A-8, §16-8A-9, §16-8A-10, §16-8A-11, §16-8A-12, §16-8A-13, §16-8A-14, §16-8A-15, §16-8A-16, §16-8A-17, §16-8A-18, and §16-8A-19, all to read as follows:

ARTICLE 8A. THE PATIENT FREEDOM ACT.

§16-8A-1. Definitions.

As used in this article, unless a different meaning appears from the context:

(1) ‘Bona fide practitioner-patient relationship’ means:

(A) A practitioner and patient have a treatment or consulting relationship, during the course of which the practitioner has completed an assessment of the patient’s medical history and current medical condition, including an appropriate examination;

(B) The practitioner has consulted with the patient with respect to the patient’s debilitating medical condition; and

(C) The practitioner is available to or offers to provide follow-up care and treatment to the patient;

(2) ‘Caregiver’ means:

(A) A person who has agreed to assist with a qualifying patient’s medical use of cannabis; and

(B) For a qualifying patient under the age of eighteen years, a parent or legal guardian.

(3) ‘Certifying physician’ means an individual who:

(A) Has an active, unrestricted license to practice medicine that was issued by the West Virginia Board of Medicine or the West Virginia Board of Osteopathic Medicine;

(B) Is in good standing with the West Virginia Board of Medicine or the West Virginia Board of Osteopathic Medicine, whichever is applicable;

(C) Has a valid and unencumbered authority to prescribe controlled substances; and

(D) Is registered with the commission to make cannabis available to patients for medical use in accordance with regulations adopted by the commission;

(4) ‘Commission’ means the West Virginia Medical Cannabis Commission established pursuant to this article;

(5) ‘Dispensary’ means an entity licensed under this article that acquires, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers cannabis, products containing cannabis, related supplies, related products containing cannabis including food, tinctures, aerosols, oils, or ointments, or educational materials for use by a qualifying patient or caregiver;

(6) ‘Dispensary agent’ means an owner, a member, an employee, a volunteer, an officer, or a director of a dispensary;

(7) ‘Fund’ means the West Virginia Medical Cannabis Commission Fund established pursuant to this article.

(8) ‘Grower’ means an entity licensed under this article that cultivates, manufactures, packages, and is authorized by the commission to provide cannabis to a qualifying processor, dispensary, or independent testing laboratory;

(9) ‘Independent testing laboratory’ means a facility, entity, or site that offers or performs tests related to the inspection and testing of cannabis and products containing cannabis;

(10) ‘Mature cannabis plant’ means a cannabis plant that has flowered and has buds that may be observed by visual examination;

(11) ‘Medical cannabis’ means all parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate that is lawfully sold pursuant to this article.

(12) ‘Medical cannabis grower agent’ means an owner, an employee, a volunteer, an officer, or a director of a grower;

(13) ‘Medical cannabis processor’ or ‘processor’ means an entity that transforms medical cannabis into another product or extract; and packages and labels medical cannabis products;

(14) ‘Processor agent’ means an owner, member, employee, volunteer, officer, or director of a processor;

(15) ‘Qualifying patient’ means an individual who has been provided with a written certification by a certifying physician in accordance with a bona fide physician–patient relationship; and if under the age of eighteen years, has a caregiver;

(16) ‘Written certification’ means a certification that is written on tamper-resistant, non-copyable paper and issued by a certifying physician to a qualifying patient with whom the physician has a bona fide physician–patient relationship and includes a written

statement certifying that, in the physician's professional opinion, after having completed an assessment of the patient's medical history and current medical condition, the patient has a condition:

(A) That meets the inclusion criteria and does not meet the exclusion criteria of the certifying physician's application; and

(B) For which the potential benefits of the medical use of cannabis would likely outweigh the health risks for the patient.

§16-8A-2. West Virginia Medical Cannabis Commission.

(a) There is hereby created the West Virginia Medical Cannabis Commission.

(b) The commission is an independent commission that functions within the Department of Health and Human Resources.

(c) The purpose of the commission is to develop policies, procedures, guidelines, and rules to implement programs and to regulate and enforce all activities associated with making medical cannabis available to qualifying patients in a safe and effective manner.

(d) The commission shall employ an executive director and employ persons necessary to administer and enforce the requirements of this article and rules promulgated thereunder. The executive director shall have enforcement authority and may delegate lawful enforcement duties to employees of the commission.

(e) The commission shall develop identification cards for qualifying patients and caregivers, and shall provide identification cards to each authorized person. The cards shall ensure identification cards may not be tampered with, duplicated, or altered. Only persons who are residents of this state are eligible to be designated as qualifying patients;

(f) The commission shall develop procedures to distribute and track identification cards.

(g) The commission shall develop and maintain a website that provides information on how an individual can obtain medical cannabis in the state; and provides contact information for licensed dispensaries.

(h) All licensees must be residents of this state and the commission may not issue more than one license to any person or entity for any activity authorized pursuant to this article.

§16-8A-3. Makeup of commission authorization to charge fees and creation of the West Virginia Medical Cannabis Commission Fund.

(a) The commission shall consist of the following members:

(1) The Secretary of the Department of Health and Human Resources, or the secretary's designee;

(2) The Superintendent of the West Virginia State Police or a designee;

(3) One physician licensed to practice in the state, to be appointed by the State Medical Association;

(4) One physician licensed to practice in the state, to be appointed by the Governor;

(5) One pharmacist licensed to practice in the state, to be designated by the Board of Pharmacy;

(6) One pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor;

(7) One member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture;

(8) One member designated by the West Virginia Association of Alcoholism and Drug Counselors;

(9) An attorney licensed in the state who is knowledgeable about medical cannabis laws;

(10) One member appointed by the West Virginia Prosecuting Attorneys Institute;

(11) One member appointed by the Governor, who shall be a patient, a family or household member of a patient or a patient advocate.

(b) The term of appointed members is four years. However, the Governor shall set the terms of the initial members of the commission such that three expire after one year, three expire after two years, and three expire after three years in order to stagger the membership terms of the commission. At the end of an appointed commission member's term, he or she shall continue to serve until a successor is appointed and qualified. An appointed member may not serve more than three consecutive full terms.

(c) The Governor shall designate the chair from among the members of the commission.

(d) A majority of the membership of the commission is a quorum.

(e) A member of the commission may not receive compensation, but shall be entitled to reimbursement for expenses incurred while engaged in the discharge of official duties, not to exceed the amount paid to members of the Legislature.

(f) The commission is authorized, by legislative rule, to establish reasonable fees for licensees to cover the costs of administering the provisions of this article.

(g) All fees collected shall be deposited in a special account in the State Treasury to be known as the 'West Virginia Medical Cannabis Commission Fund' 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 article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of the code: *Provided*, That for the fiscal year ending the thirtieth day of June 2019, expenditures are authorized by collections rather than pursuant to appropriation by the Legislature.

(h) The commission may enter into reciprocity agreements with any states that have comparable requirements for the use and lawful purchase of medical cannabis in a manner consistent with the provisions of this article.

§16-8A-4. Excise tax on Grower sales to Dispensaries; retail sales subject to state sales tax.

(a) An excise tax of eight percent of the value of all sales is hereby levied and imposed July 1, 2019, upon the sale by growers of medical cannabis to all processors and dispensaries licensed pursuant to this article. Proceeds shall be distributed as follows:

(1) Fifty percent shall be deposited into the Fight Substance Abuse Fund created by section eight, article nine, Chapter sixty-A of this code;

(2) Forty percent shall be allocated to the Division of Justice and Community Services and expended pursuant to section three, article nine-a, chapter fifteen for grants to local law enforcement agencies for training in and promotion of community relations, patients lawful use of medical cannabis, and other training and programs promoting positive community relations; and

(3) Ten percent of the proceeds shall be transferred to the special account created in section four, article twenty-nine chapter thirty for law enforcement profession training.

(b) A retail sales tax shall be imposed on all medical cannabis products sold by a dispensary pursuant to section three, article five, chapter eleven of this code.

§16-8A-5. Rulemaking.

The commission shall, after consultation with the Secretary of the Department of Health and Human Resources and the Commissioner of Agriculture, promulgate emergency rules and propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article, and thereafter propose rules for legislative approval in accordance with the provisions of

article three, chapter twenty-nine-a of this code. The Commission shall by December first, two thousand and seventeen, final file legislative rules authorizing the use of cards by patients to purchase cannabis in other states that the Commission has granted reciprocity, and to allow authorized patients to begin growing for lawful consumption. The Legislative Rule-Making and Review Committee shall consider those commission rules for consideration for passage by the 2018 legislative session. The Commission shall also propose for legislative promulgation, legislative rules establishing licensing and permitting of growers, producers and dispensaries for consideration and authorization during the 2019 regular session.

§16-8A-6. Certifying physician's registration.

(a) The commission shall register a certifying physician who meets the requirements of this article and complies with all requirements of this article and any rules promulgated by the commission.

(b) To be registered as a certifying physician, a physician shall submit a proposal to the commission that includes:

(1) The reasons for including a patient under the care of the physician for the purposes of this article, including the patient's qualifying medical conditions;

(2) An attestation that a standard patient evaluation will be completed, including a history, a physical examination, a review of symptoms, and other pertinent medical information and a bona fide practitioner-patient relationship exists; and

(3) The physician's plan for the ongoing assessment and follow-up care of a patient, and for collecting and analyzing data.

(c) The commission may not require an individual to meet requirements in addition to the requirements listed in subsections (a) and (b) of this section to be registered as a certifying physician.

(d) The commission shall consider for approval physician applications for the following medical conditions:

(1) Chronic or debilitating diseases or medical conditions that result in a patient being admitted into Hospice or receiving palliative care; and

(2) Chronic or debilitating diseases or medical conditions or the treatment of chronic or debilitating diseases or medical conditions that produce:

(i) Cachexia, anorexia, or wasting syndrome;

(ii) Severe or chronic pain that does not find effective relief through standard pain medication, or requires extensive use of opioids;

(iii) Seizures; or

(iv) Refractory generalized anxiety disorder.

(3) Medically assisted treatment for opioid addiction.

(4) Post-traumatic stress disorder.

(e) The commission may authorize, by legislative rule, any other condition that for which other medical treatments have been ineffective if the symptoms reasonably can be expected to be relieved by the medical use of cannabis.

(f) A certifying physician or the spouse of a certifying physician may not receive any gifts from or have an ownership interest in a medical cannabis grower, a processor, or a dispensary. A certifying physician may receive compensation from a medical cannabis grower, a processor, or dispensary if the certifying physician:

(1) Obtains the approval of the commission before receiving the compensation; and

(2) Discloses the amount of compensation received from the medical cannabis grower, processor, or dispensary to the commission.

(g) A qualifying patient may be a patient of the certifying physician or may be referred to the certifying physician. A certifying physician shall provide a written certification to the commission for each qualifying patient. On receipt of a written certification provided, the commission shall issue an identification card to each qualifying patient or caregiver named in the written certification. A qualifying patient or caregiver may obtain medical cannabis only from a dispensary licensed by the commission.

(h) A qualifying patient under the age of eighteen years may obtain medical cannabis only through his or her caregiver. A caregiver may serve no more than five qualifying patients at any time. A qualifying patient may have no more than two caregivers.

(i) The commission shall issue physician registration annually and may grant or deny a renewal of a registration for approval based on the physician's performance in complying with rules adopted by the commission.

(j) Certifying physicians shall report all certifications for qualifying patients as set forth in this article to the Controlled Substances Monitoring Database as set forth in article nine, chapter sixty-A of this code.

§16-8A-7. Medical cannabis growers and grower agents.

(a) The commission may license medical cannabis growers that meet all requirements established by the commission to operate in the state to provide cannabis to:

(1) Processors licensed by the commission under this article;

(2) Dispensaries licensed by the commission under this article;
and

(3) Independent testing laboratories registered with the commission under this article.

(b) The commission may issue the number of licenses necessary to meet the need for medical cannabis by qualifying

patients and caregivers in an affordable, accessible, secure, and efficient manner.

(c) The commission shall establish an application review process for granting medical cannabis grower licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the commission. If the commission finds sufficient availability, at least ten percent of the licenses granted pursuant to this section shall be to persons participating in a veterans' agriculture program. The commission may not issue more than one medical cannabis grower license to each applicant. A grower shall pay an application fee in an amount to be determined by the commission consistent with this article. The commission shall set standards for licensure as a medical cannabis grower to ensure public safety and safe access to medical cannabis.

(d) Each medical cannabis grower agent shall be registered with the commission before the agent may volunteer or work for a licensed grower; and obtain state and national criminal history records checks in accordance with section twelve of this article.

(e) A licensed grower shall apply to the commission for a registration card for each grower agent by submitting the name, address, and date of birth of the agent. The grower agent shall not enter or participate in any way with the growing operation until registered. Within one business day after a grower agent ceases to be associated with a grower, the grower shall notify the commission and return the grower agent's registration card to the commission. On receipt of the notice, the commission shall immediately revoke the registration card of the grower agent and, if the registration card was not returned to the commission, notify the Superintendent of the West Virginia State Police.

(f) The commission may not register a person as a grower agent who has been convicted of a felony drug offense.

(g) A medical cannabis grower license is valid for four years on initial licensure.

(h) A medical cannabis grower license is valid for two years on renewal.

(i) The commission may encourage licensing medical cannabis growers that grow strains of cannabis, including strains with high cannabidiol content, with demonstrated success in alleviating symptoms of specific diseases or conditions.

(j) The commission shall seek to achieve geographic diversity when licensing medical cannabis growers. A grower licensed under this article to operate as a medical cannabis grower shall report annually to the commission regarding geographic diversity and minority ownership and employees of the grower.

(k) Any entity licensed to grow medical cannabis under this section shall ensure that safety precautions established by the commission are followed by any facility operated by the grower. A grower licensed under this section shall allow the commission and its agents to inspect licensed facilities and any other requirements established by rule of the commission.

(l) The commission shall establish requirements for security and the manufacturing process that a grower must meet to obtain a license under this section, including, but not limited to, a requirement for a product-tracking system that tracks cannabis production to ensure that cannabis is not diverted for illegal purposes.

(m) The commission is authorized to impose penalties or rescind the license of a grower that does not meet the standards for licensure set by the commission.

(n) Notwithstanding any provision of law to the contrary, a qualifying patient is exempt from the provisions of this section and may grow and cultivate no more than two mature cannabis plants and two immature plants solely for his or her own use in accordance with the certification from a certifying physician. A qualifying patient remains subject to the prohibitions set forth in section four hundred one, article four, chapter sixty-A of this code

for delivery or distribution of any cannabis which is grown and possessed pursuant to this subsection.

§16-8A-8. Dispensaries.

(a) The Commission is hereby authorized to license dispensaries of medical cannabis. To be licensed as a dispensary, an applicant must submit to the commission an application fee in an amount to be determined by rule of the commission and make application for a license, in writing, that includes at a minimum:

(1) The legal name and physical address of the proposed dispensary;

(2) The name, address, and date of birth of each principal officer and each director, none of whom may have served as a principal officer or director for a dispensary that has had its license revoked; and

(3) Operating procedures that the dispensary will use, consistent with commission regulations for oversight, including storage of cannabis and products containing cannabis only in enclosed and locked facilities.

(b) The commission shall establish an application review process for granting dispensary licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the commission; and actively seek to achieve geographic diversity when licensing dispensaries.

(c) Upon initial issuance, a license to dispense medical cannabis shall be valid for four years. Upon renewal, a dispensary license shall be valid for two years.

(d) A dispensary licensed under this section or a dispensary agent registered under this article may not be prosecuted or penalized under state law for acquiring, possessing, processing, transferring, transporting, selling, distributing, or dispensing cannabis, products containing cannabis, related supplies, or educational materials for use by a qualifying patient or a caregiver in compliance with the provisions of this article.

(e) The commission shall establish requirements for security and product handling procedures that a dispensary must meet to obtain a license under this section, including a requirement for a product-tracking system.

(f) A dispensary licensed under this section shall allow the Commission and its agents to inspect licensed facilities at any time without the necessity of a warrant to ensure compliance with this article.

(g) The commission may impose penalties or rescind the license of a dispensary that does not meet the standards for licensure set by the commission.

(h) Each dispensary licensed under this section shall submit to the commission a quarterly report which shall include:

(1) The number of patients served;

(2) The county of residence of each patient served;

(3) The medical condition for which medical cannabis was recommended;

(4) The type and amount of medical cannabis dispensed; and

(5) If available, a summary of clinical outcomes, including adverse events and any cases of suspected diversion.

(i) The commission may issue licenses necessary to meet the need for medical cannabis by qualifying patients and caregivers by an affordable, accessible, secure and efficient manner.

(j) The quarterly report required by the provisions of subsection (i) of this section shall not include personal identifying information of qualifying patients.

(j) Dispensaries shall report all purchases by qualifying patients as set forth in this article to the Controlled Substances Monitoring Database as set forth in article nine, chapter sixty-A of this code.

(k) An individual who has been convicted of a felony drug offense or a conspiracy to commit such offense may not receive a license pursuant to this section.

(l) Notwithstanding any other provision of this article, receipt of processed medical cannabis by a patient or caregiver from a dispensary may not exceed a thirty day supply of individual doses. During the last seven days of any thirty day period during the term of the identification card, a patient may obtain and possess a thirty day supply for the subsequent thirty day period. Additional thirty day supplies may be provided in accordance for this section for the duration of authorized period of the identification card.

§16-8A-9. Dispensary agents.

(a) A dispensary agent shall be at least twenty-one years old and be registered with the commission before the agent may volunteer or work for a dispensary. Each dispensary agent shall submit to state and national criminal history records check in accordance with section twelve of this article.

(b) A dispensary shall apply to the commission for a registration card for each dispensary agent by submitting the name, address, and date of birth of the agent.

(c) Within one business day after a dispensary agent ceases to be associated with a dispensary, the dispensary shall:

(1) Notify the commission; and

(2) Return the dispensary agent's registration card to the commission.

(d) On receipt of a notice pursuant of this subsection, the commission shall immediately revoke the registration card of the dispensary agent, and if the registration card was not returned to the commission, notify the Superintendent of the West Virginia State Police.

§16-8A-10. Processors.

(a) The Commission is hereby authorized to license processors of medical cannabis. To be licensed as a processor, an applicant must submit to the commission:

(1) An application fee in an amount to be determined by the commission in accordance with this article; and

(2) An application that includes:

(A) The legal name and physical address of the proposed processor;

(B) The name, address, and date of birth of each principal officer and director, none of whom may have served as a principal officer or director for a licensee under this article that has had its license revoked; and

(C) Operating procedures that the processor will use, consistent with commission regulations for oversight, including storage of cannabis, extracts, and products containing cannabis only in enclosed and locked facilities.

(b) The commission shall establish an application review process for granting processor licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the commission. The commission shall determine the number of processor licenses to issue based on the need for the product.

(c) Upon initial issuance, a processor license shall be valid for four years. Upon renewal, a processor license shall be valid for two years.

(d) A processor licensed under this section or a processor agent registered pursuant to this article may not be prosecuted or penalized under state law for acquiring, possessing, processing, transferring, transporting, selling, distributing, or dispensing cannabis, products containing cannabis, related supplies, or educational materials for use by a licensee under this article or a

qualifying patient or a caregiver in compliance with the provisions of this article.

(e) The commission shall establish requirements for security and product handling procedures that a processor must meet to obtain a license under this section, including a requirement for a product-tracking system that include but are not limited to:

(1) Disclosing the THC content of each product;

(2) Restrictions on packaging to ensure it is not designed to appeal to minors; and

(3) Establishing the amount of THC that may be included in each serving of a marijuana product; and

(4) Health and safety rules and standards for the manufacture of marijuana products, including:

(A) Restrictions or prohibitions on additives to products that are toxic, designed to make the product more addictive, designed to make the product more appealing to children, or misleading to consumers; and

(B) Safety standards regulating the manufacture of marijuana extracts and concentrates.

(f) A processor licensed under this section shall allow the commission or its agents to inspect licensed facilities at any time without the necessity of a warrant to ensure compliance with this article.

(g) The commission may impose penalties or rescind the license of a processor that does not meet the standards for licensure set by the commission.

(h) An individual who has been convicted of a felony drug offense or a conspiracy to commit such offense may not receive a license pursuant to this section.

§16-8A-11. Processor Agents.

(a) A processor agent shall be at least twenty-one years old and be registered with the commission before the agent may volunteer or work for a processor. Each applicant shall be subject to state and national criminal history records check in accordance with this article.

(b) A processor agent shall apply to the commission for a registration card for each processor agent by submitting the name, address, and date of birth of the agent.

(c) Within one business day after a processor agent ceases to be associated with a processor, the processor shall notify the commission and return the processor agent's registration card to the commission. On receipt of this notice, the commission shall immediately revoke the registration card of the processor agent, and if the registration card was not returned to the commission, notify the Superintendent of the West Virginia State Police.

§16-8A-12. Independent Laboratories.

(a) The commission shall register a public criminal justice agency as the primary testing laboratory to test cannabis and products containing cannabis that are to be sold in the state.

(b) The commission may register additional public or private independent testing laboratories to test cannabis and products containing cannabis that are to be sold in the state.

(c) To be registered as a private independent testing laboratory, a laboratory shall:

(1) Meet the application requirements established by the commission;

(2) Pay any applicable fee required by the commission; and

(3) Meet the standards and requirements for accreditation, inspection, and testing established by the commission.

(d) The commission shall adopt regulations that establish:

(1) The standards and requirements to be met by an independent laboratory to obtain a registration;

(2) The standards of care to be followed by all testing laboratories;

(3) The initial and renewal terms for an independent laboratory registration and the renewal procedure; and

(4) The bases and processes for denial, revocation, and suspension of a registration of an independent testing laboratory.

(d) The commission may inspect any independent testing laboratory registered under this section to ensure compliance with this article.

§16-8A-13. Criminal records check.

(a) The commission and the State Police shall enter into a memorandum of understanding regarding criminal records checks that include, at a minimum, the following:

(1) Any applicant is required to submit to the State Police all information necessary to complete a nationwide background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index;

(2) The applicant is required to pay all fees associated with the background checks;

(3) The State Police shall complete the background checks promptly upon receipt of all necessary information and fees; and

(4) The State Police shall forward to the commission and to the applicant the criminal history record information of the applicant forthwith.

(b) Information obtained from the background checks required under this section shall be:

(1) Confidential and may not be disseminated other than as authorized in this section; and

(2) Used only for the registration purpose authorized by this article.

(c) The subject of a criminal history records check under this section may appeal the contents of the printed statement issued, as authorized by relevant criminal history database.

§16-8A-14. Offenses; Exempted behaviors.

(a) The following persons when acting in strict compliance with the provisions of this article are not subject to arrest, prosecution, civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for:

(1) A qualifying patient in possession of more than four ounces of cannabis or two immature and two mature cannabis plants grown by the patient.

(2) A grower licensed under section six of this article, or a grower agent registered under section six of this article;

(3) A certifying physician;

(4) A caregiver;

(5) A dispensary licensed or a dispensary agent registered pursuant to this article;

(6) A processor licensed or a processor agent registered pursuant to this article; or

(7) A hospital, medical facility, or hospice program where a qualifying patient is receiving treatment.

(b) Any person who knowingly distributes, possesses with intent to distribute or manufactures cannabis that has been diverted in violation of the provisions of this article from a qualifying patient, caregiver, licensed grower, or licensed dispensary, is guilty

of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not less than one nor more than five years, fined not more than \$10,000, or both fined and imprisoned.

(c) The offense set forth in this subsection is separate and distinct from other provisions of this code prohibiting the manufacture, possession, or distribution of marijuana under this code.

§16-8A-15. Conduct not protected.

(a) This article may not be construed to authorize any individual to engage in, and does not prohibit the imposition of any civil, criminal, or other penalties for, the following:

(1) Undertaking any task under the influence of marijuana or cannabis, when doing so would constitute negligence or professional malpractice;

(2) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or boat while under the influence of marijuana or cannabis;

(3) Smoking marijuana or cannabis in any public place;

(4) Consuming medical cannabis in any fashion while imprisoned in a state correctional facility or regional jail, or while the patient is on a parole or probation without prior authorization;

(5) Smoking medical cannabis on public or private school or university property;

(6) Smoking medical cannabis in a motor vehicle; or

(7) Except as provided in subsection (b) of this section, smoking or growing marijuana or cannabis on a private property that:

(A) Is rented from a landlord and subject to a contract that prohibits the smoking of marijuana or cannabis on the property; or

(B) Is subject to a policy that prohibits possessing marijuana or cannabis on the property of an attached multi-residence dwelling adopted by the council of unit owners, for entities regulated by chapter thirty-six-a of this code, or the executive board of a unit owner's association, for entities regulated by chapter thirty-six-b of this code.

(b) The provisions of subdivision (5), subsection (a) of this section do not apply to vaporizing cannabis.

(c) This article may not be construed to provide immunity or an affirmative defense to a person who violates the provisions of this article from criminal prosecution for a violation of any law prohibiting or regulating the use, possession, dispensing, distribution, or promotion of controlled dangerous substances, dangerous drugs, detrimental drugs, or harmful drugs, or any conspiracy or attempt to commit any of those offenses.

(d) This article may not be construed to require a hospital, medical facility, or hospice program to report to the commission any disciplinary action taken by the hospital, medical facility, or hospice program against a certifying physician, including the revocation of privileges, after the registration of the certifying physician by the commission.

§16-8A-16. State employee actions and federal law.

(a) Notwithstanding any provision of this code to the contrary, a state employee who incurs counsel fees in connection with a federal criminal investigation or prosecution solely related to the employee's good faith discharge of public responsibilities under this article is eligible for reimbursement of counsel fees.

(b) The Governor may suspend implementation of this article upon making a formal determination that there is a reasonable chance of federal prosecution of state employees for involvement with implementation of this article.

§16-8A-17. Effective dates; requirements to be met prior to implementation of article.

(a) The provisions of sections four, seven, eight, nine, ten, eleven, thirteen, fourteen, fifteen, sixteen and seventeen of this article shall be effective on July 1, 2019.

(b) The provisions of this article shall not be construed to make lawful or otherwise authorize the growing, manufacturing, distribution, dispensing or possession of cannabis until rules so authorizing in effect.

§16-8A-18. Enactment of Municipal Ordinances.

A municipality may enact an ordinance prohibiting or limiting the number and type of cannabis dispensaries that may be permitted within the municipality, and regulating the time, place, and manner of operation of a marijuana establishment which is permitted within the municipality. A municipality may enact an ordinance specifying the entity within the municipality that shall be responsible for reviewing applications submitted for a registration to operate a cannabis dispensary within the municipality. The entity designated by the municipality shall be responsible for indicating whether the application is in compliance with local ordinances.

§16-8A-19. Reporting requirements.

On or before January thirty-first of each year, the commission shall report to the Governor and the Joint Committee on Government and Finance the commission's activities over the course of the previous year."

Delegate Rowe was addressing the House when Delegate Zatezalo arose to a point of order regarding the content of the remarks of the Delegate.

The Speaker replied and reminded the Member to direct his remarks to the amendments before the House.

On the adoption of the strike and insert amendment offered by Delegates Shott and Zatezalo, the yeas and nays were demanded which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 329**), and there were—yeas 51, nays 48, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Byrd, Canestraro, Capito, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Hill, Hornbuckle, Iaquinta, Isner, Lane, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, McGeehan, Miley, R. Miller, Moore, Paynter, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Wagner, White and Williams.

Absent and Not Voting: Hanshaw.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

Delegate Nelson asked and obtained unanimous consent that Com. Sub. for S. B. 484 be recommitted to the Committee on Finance.

At 6:58 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 8:00 p.m.

Evening Session

The House of Delegates was called to order by The Honorable Tim Armstead, Speaker.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 484, Relating generally to taxation,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for S. B. 484) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. J. R. 6, Roads to Prosperity Amendment of 2017,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the resolution (Com. Sub. for S. J. R. 6) was referred to the Committee on the Judiciary.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for H. B. 2018, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution,

And reports back a committee substitute therefor, the same title, as follows:

Com. Sub. for H. B. 2018 – “A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution,”

With the recommendation that the committee substitute do pass.

Delegate Cowles moved that the bill be taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Cowles asked and obtained unanimous consent that his motion be withdrawn.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for H. B. 2018) was taken up for immediate consideration, read a first time and ordered to second reading with the right to amend on third reading.

The House then resumed consideration of **Com. Sub. for S. B. 386**.

Delegates Summers, Hollen and Cooper moved to amend the bill on page nineteen, section eight, line eleven, by inserting a new subdivision (6) to read as follows:

“(7) A warning that states ‘Any person who uses marijuana, regardless of whether his or her state has passed legislation authorizing marijuana use, is prohibited by Federal law from possessing firearms or ammunition.’”

And renumbering the remaining subdivisions accordingly.

On the adoption of the amendment to the amendment, Delegate Summers demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 330**), and there were—yeas 22, nays 75, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Arvon, Atkinson, Butler, Cooper, Criss, Ellington, Fast, G. Foster, N. Foster, Frich, Gearheart, Hollen,

Kessinger, Lewis, Martin, C. Miller, C. Romine, Sobonya, Summers, Sypolt, and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Hanshaw, Love and White.

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

Delegate Fast moved to amend the strike and insert amendment on page fifty-six, article sixteen, section one, line one, by deleting the section in its entirety and inserting in lieu thereof the following:

“Notwithstanding any other provision of this code to the contrary, this Act shall only become effective upon and to the extent the sale, wholesale, distribution and prescribing of cannabis becomes approved by the Food and Drug Administration and placed on a prescribable schedule by the Drug Enforcement Administration.”

On the adoption of the amendment to the amendment, Delegate Fast demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 331**), and there were—yeas 20, nays 77, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Arvon, Atkinson, Butler, Cooper, Cowles, Criss, Ellington, Fast, G. Foster, Frich, Gearheart, Hollen, Kessinger, Martin, C. Miller, O’Neal, Sobonya, Sypolt, Ward and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Hanshaw, Love and White.

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

Delegate Fast moved to amend the bill on page twenty, section ten, line twenty-eight, immediately following the word “employer”, by adding a comma and “or detrimental to the effective operation of the employer’s business while”.

The Speaker put the question on the adoption of the foregoing amendment to the amendment, and the same did not prevail.

Delegate Fast moved to amend the bill on page thirty-four, section one, line fifty-nine, immediately following the word “machinery”, by adding the words “or to competently discharge a firearm or operate any form of vehicle”.

On the adoption of the amendment to the amendment, Delegate Fast demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 332**), and there were—yeas 16, nays 81, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Arvon, Butler, Cooper, Cowles, Criss, Fast, G. Foster, N. Foster, Hollen, Kessinger, Martin, O’Neal, Summers, Sypolt and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Hanshaw, Love and White.

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

An amendment offered by Delegate Fast was reported by the Clerk on page forty-one, section one, line seventy, immediately following the word “meeting”, by inserting a colon and “*Provided*, That no recommended changes of rules under this act shall become effective unless approved by the legislature.”

Whereupon,

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

On motion of Delegate Folk, the strike and insert amendment was amended on page thirty-two, section six, line one, by striking out the words “or general law”.

An amendment to the strike and insert amendment, offered by Delegate Folk, was reported by the Clerk on page twenty-seven,

section thirteen, line three, following the word “growers”, by inserting the following proviso: “*Provided*, That each grower may license up to five additional locations for growing medical cannabis under their permit through a contractual agreement.”

Whereupon,

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

Delegates Eldridge and Lane moved to amend the strike and insert amendment on page one, section one, line one, following the word “chapter”, by inserting the words “is in honor of James William ‘Bill’ Flanigan and Lucile Gillespie and”.

On the adoption of the amendment to the amendment, Delegate Eldridge demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 333**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Barrett, Hanshaw, Kessinger, Love, Marcum and White.

So, a majority of the members present and voting having voted in the affirmative, the amendment to the amendment was adopted.

On motion of Delegate Eldridge, the strike and insert amendment was amended on page eleven, following section three, on line nineteen, by inserting a new section, to read as follows:

“§16A-3-5. Reciprocity for terminally ill cancer patients.

The bureau may enter into reciprocity agreements with any states that have comparable requirements for the use and lawful purchase of medical cannabis in a manner consistent with the provisions of this article to allow terminally ill cancer patients to purchase medical cannabis in another state.”

On motion of Delegates N. Foster and Rohrbach, the strike and insert amendment was amended on page thirty-eight, section one, line five, by striking out subdivision (3) and inserting in lieu thereof a new subdivision (3) to read as follows:

“(3) Four physicians licensed to practice in the state to be appointed by the State Medical Association with one from each of the following specialized medicine:

(A) Family Practice/Neurologist/General Practitioner

(B) Pain Management

(C) Oncologist/Palliative Care

(D) Psychiatrist”

And,

On page thirty-eight, section one, line seven, by striking out subdivision four and renumbering the remaining subdivisions accordingly.

On motion of Delegate Rohrbach, the strike and insert amendment was amended on page thirty-four, section one, line forty-nine, following the word “sealed”, by striking out the word “and” and inserting in lieu thereof a comma.

And,

On page thirty-four, section one, line forty-nine, following the word “labeled”, by inserting “and child-resistant”.

On motion of Delegate Rohrbach, the strike and insert amendment was amended on page four, section one, line sixty, by inserting a new subdivision (23) to read as follows:

“(23) ‘Physician’ means a doctor of allopathic or osteopathic medicine who is fully licensed pursuant to the provisions of either article three or article fourteen of chapter thirty of this code to practice medicine and surgery in this state.”

And,

By renumbering the remaining subdivisions thereafter.

On page six, section one, lines twenty-nine and thirty, by striking out the comma following the word “physician” and the words: “pharmacists, certified registered nurse practitioners and physician assistants”.

On page seven, section one, line thirty-five, by striking out the words “of Pharmacy” and inserting in lieu thereof the words “of Osteopathic Medicine”.

On page seven, section one, line thirty-six, by striking out paragraph (C) in its entirety.

On page eleven, section one, line nineteen, following the words “Medicine”, by inserting the words “and West Virginia Board of Osteopathic Medicine”.

And,

On page twelve, section two, line sixteen, following the word “Medicine”, by inserting the words “and West Virginia Board of Osteopathic Medicine”.

Delegate Pushkin moved to amend the amendment on page nine, section two, line thirty, following the period, by inserting the following:

“(9) Smoke medical cannabis.”

And,

On page nine, section three, by striking out “(1) Smoke medical cannabis” and the period and renumbering the subsequent subparagraphs accordingly.

On the adoption of the amendment to the amendment, Delegate Pushkin demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 334**), and there were—yeas 46, nays 51, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hamrick, Hartman, Hicks, Hill, Hornbuckle, Iaquina, Isner, Lane, Longstreth, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moore, Paynter, Pethtel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rowe, Sponaule, Storch, Thompson, Williams and Wilson.

Absent and Not Voting: Hanshaw, Love and White.

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

Delegate Sobonya moved to amend the strike and insert amendment on page thirty-eight, section six, line seven, by inserting a new subsection (c) to read as follows: “The commission shall, in consultation with the Secretary of the Department of Health and Human Resources and the Commissioner of Agriculture, promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to implement the provisions of this article and shall, in consultation with the Secretary of the Department of Health and Human Resources and the Commissioner of Agriculture, subsequently propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code” and a period and renumbering the remaining subsection.

And,

By adding the word “legislative” prior to the words “rule” or “rules” where appropriate throughout the bill.

On the adoption of the amendment to the strike and insert amendment, Delegate Sobonya demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 335**), and there were—yeas 50, nays 47, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Blair, Boggs, Brewer, Byrd, Canestraro, Capito, Caputo, Cooper, Dean, Diserio, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hicks, Hill, Hornbuckle, Iaquina, Isner, Longstreth, Lovejoy, Lynch, McGeehan, Miley, R. Miller, Moore, Moye, Nelson, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Storch, Thompson, Upson, Wagner, Walters, Westfall and Williams.

Absent and Not Voting: Hanshaw, Love and White.

So, a majority of the members present and voting having voted in the affirmative, the amendment to the amendment was adopted.

On motion of Delegate Wilson, the strike and insert amendment was amended on page twenty-four, section six, line one, by striking out the entirety of the section, and inserting in lieu thereof the following:

“The following apply:

(1) For a grower or processor:

(A) An initial application fee in the amount of \$5,000 shall be paid. The fee is nonrefundable.

(B) A fee for a permit as a grower/processor in the amount of \$50,000 shall be paid. The permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission of the application. The fee shall be returned if the permit is not granted.

(C) A renewal fee for the permit as a grower/processor in the amount of \$5,000 shall be paid and shall cover renewal for all locations. The renewal fee shall be returned if the renewal is not granted.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(2) For a dispensary:

(A) An initial application fee in the amount of \$2,500 shall be paid. The fee is nonrefundable.

(B) A permit fee for a dispensary shall be \$10,000 for each location. The period of the permit is one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted.

(C) A renewal fee for the permit as a dispensary in the amount of \$2,500 shall be paid. The fee shall be returned if the renewal is not granted and shall cover renewal for all locations.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(3) A fee of \$250 shall be required when amending the application to indicate relocation within this State or the addition or deletion of approved activities by the medical cannabis organization.

(4) Fees payable under this section shall be deposited into the fund.”

On motion of Delegate Wilson, the strike and insert amendment was amended on page twenty-seven, section thirteen, line three, by striking out the number “5” and inserting in lieu thereof “ten”.

On page twenty-seven, section thirteen, line three, following the word “growers”, by adding the following proviso:

“Provided, That each grower may have up to two locations per permit.”

On page twenty-seven, section thirteen, line four, by striking out the number “5” and inserting in lieu thereof the word “ten”.

And,

On page twenty-eight, section thirteen, line five, by striking out the number “15” and inserting in lieu thereof the word “thirty”.

On motion of Delegate Ellington, the strike and insert amendment was amended on page thirty-one, section five, line one, by striking out the words “Bureau of Revenue” and inserting in lieu thereof the words “Department of Revenue”.

On page thirty-one, section five, line three, by striking out the words “Bureau of Revenue” and inserting in lieu thereof the words “Department of Revenue”.

On page thirty-one, section five, line five, by striking out words “Bureau of Revenue” and inserting in lieu thereof the words “Department of Revenue”.

On page thirty-five, section one, line ten, by striking out the words “Bureau of Revenue” and inserting in lieu thereof the words “Department of Revenue”.

And,

On page thirty-six, section one, line sixteen, by striking out the words “Bureau of Revenue” and inserting in lieu thereof the words “Department of Revenue”.

The bill was ordered to third reading.

Delegate Cowles moved that the House adjourn, subject to announcements, until 11:00 a.m., Tuesday, April 4, 2017.

Delegate Cowles asked and obtained unanimous consent that his motion be withdrawn.

In accordance with House Rule 58, and having voted on the prevailing side, Delegate Shott moved that the House of Delegates reconsider the adoption of the amendment to the amendment offered by Delegate Sobonya.

The question before the House being the motion to reconsider the amendment to the amendment, the same was put and prevailed

Delegate Sobonya asked and obtained unanimous consent to reform her amendment to read as follows:

On page thirty-eight, section six, line seven, by inserting a new subsection (c) to read as follows: “The bureau shall, in consultation with the Secretary of the Department of Health and Human Resources and the Commissioner of Agriculture, promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to implement the provisions of this article and shall, in consultation with the Secretary of the Department of Health and Human Resources and the Commissioner of Agriculture, subsequently propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code” and a period and renumbering the remaining subsection.

And,

By adding the word “legislative” prior to the words “rule” or “rules” where appropriate throughout the bill.

The question being on the adoption of the amendment to the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 336**), and there were—yeas 43, nays 46, absent and not voting 11, with the yeas and absent and not voting being as follows:

Yeas: Ambler, Anderson, Arvon, Atkinson, Butler, Cooper, Cowles, Criss, Ellington, Espinosa, Fast, G. Foster, N. Foster, Frich, Gearheart, Hamrick, Harshbarger, Higginbotham, Hollen,

Householder, Kelly, Kessinger, Lane, Lewis, Martin, C. Miller, Nelson, O'Neal, Overington, Rohrbach, C. Romine, Rowan, Shott, Sobonya, Statler, Summers, Sypolt, Upson, Wagner, Ward, Wilson, Zatezalo and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Deem, Hanshaw, Hartman, Hicks, Howell, Love, Marcum, R. Romine, Sponaugle, Walters and White.

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

The bill was ordered to third reading.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Hanshaw.

Miscellaneous Business

Delegate Longstreth noted to the Clerk that she was absent on today when the votes were taken on Roll Nos. 308 and 309, and that had she been present, she would have voted "Yea" thereon.

Delegate Fast noted to the Clerk that had he been in his seat on Roll Nos. 316 and 317, he would have voted "Yea" thereon.

At 10:51 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, April 4, 2017.

Tuesday, April 4, 2017

FIFTY-SIXTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Monday, April 3, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Hanshaw, Chair of 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 3rd day of April, 2017, 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. 2506, Relating to the permit limit calculations and allowing overlapping mixing zones for calculating permit limits for drinking water criteria,

And,

H. B. 2774, Defining special aircraft property.

Delegate Westfall, Vice Chair of 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 3rd day of April, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed

by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 437, Discontinuing WV Greyhound Breeding Development Fund.

Delegate Westfall, Vice Chair of 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 3rd day of April, 2017, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 222, Relating to disqualification for unemployment benefits.

Delegate Westfall, Vice Chair of 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 4th day of April, 2017, 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. 2459, Relating to regulation of health care and the certificate of need process,

Com. Sub. for H. B. 2486, Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order,

H. B. 2878, Increasing amount of authorized Federal Grant Anticipation Notes for which Division of Highways may apply,

And,

H. B. 3106, Relating to increasing the number of limited video lottery terminals.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 219, Relating to conspiracy to commit crimes under Uniform Controlled Substances Act,

Com. Sub. for S. B. 454, Providing more efficient collection and submission of state moneys received from court transactions or court services,

Com. Sub. for S. B. 515, Relating to parole requirements for hearings and release,

S. B. 658, Establishing procedure for retitling mobile and manufactured homes,

And,

S. B. 691, Relating to off-road vehicles,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 202, Relating to pawnbrokers generally,

And,

Com. Sub. for S. B. 116, Authorizing MAPS promulgate legislative rules,

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

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 47, U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road,

H. C. R. 118, Craddock Brothers Bridge,

S. C. R. 14, U. S. Army PVT Oren J. "Junior" Johnson Memorial Bridge,

And,

S. C. R. 18, U. S. Marine CPL Walter Vincent Filipek Memorial Bridge,

And reports the same back with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (H. C. R. 47, H. C. R. 118, S. C. R. 14 and S. C. R. 18) were each referred to the Committee on Rules.

Chairman Shott, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 345, Allowing certain hunting and trapping on private lands on Sundays,

And,

Com. Sub. for S. B. 388, Relating to dangerous weapons,

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

At the respective requests of Delegate Cowles, and by unanimous consent, Com. Sub. for S. B. 345 was taken up for

immediate consideration, read a first time and ordered to second reading.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 53, US Army Corporal Jerry Lee Noble Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 53 - "Requesting the Division of Highways to name bridge number 04-5/6-7.33 (O4A193), (latitude 38.75026, longitude -80.74277), locally known as the Riffle Box Beam Bridge, carrying County Route 5/6 over Perkins Fork of Cedar Creek in Braxton County, as the 'U. S. Army CPL Jerry Lee Noble Memorial Bridge',"

H. C. R. 64, Gill Brothers World War II Veterans' Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 64 - "Requesting the Division of Highways to name bridge number 17-50-14.25 (17A195) (39.28950, -80.35136), locally known as the Adamston Bridge, carrying U. S. 50 over the West Fork River in Harrison County, the 'Gill Brothers World War II Veterans' Memorial Bridge',"

H. C. R. 65, Hobert G. 'Hobie' Underwood Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 65 - "Requesting the Division of Highways to name bridge no. 20-77-106.11 NB & SB (20A444,

20A445) (38.41306, -81.63047), locally known as I-77 Edens Fork Interchange Bridge, carrying Interstate 77 NB and SB over Kanawha Two Mile Creek and County Route 27 in Kanawha County, the “U. S. Army SSG Hobert G. ‘Hobie’ Underwood Memorial Bridge’,”

H. C. R. 84, U.S. Army Air Force S/SGT Harold ‘Dean’ Baker Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 84 - “Requesting the Division of Highways to name bridge number 17-9-5.09 (17A350) (39.3443, -80.4013) locally known as Gregory Run Bridge carrying County Route 9 over Ten Mile Creek, in Harrison County, the ‘U. S. Army Air Force S/SGT Harold ‘Dean’ Baker Memorial Bridge’,”

H. C. R. 93, Extending WV Route 93,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 93 – “Urging the Division of Highways to extend WV Route 93 from its current terminus at U. S. Route 50 near Claysville, West Virginia through the junction of WV Route 972 and U. S. Route 50 to create a new terminus at the junction of WV Route 972 and U. S. Route 220, and to erect signs reflecting this change,”

And,

H. C. R. 98, John H. Reed, Jr. Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 98 - “Requesting the Division of Highways to name bridge number 20-77-83.31 (20A612) (38.19472, -81.47715), carrying I-77 (West Virginia Turnpike)

over the CSX Railroad in Kanawha County, the ‘U. S. Army LTC John H. Reed, Jr., Memorial Bridge’,”

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for H. C. R. 53, Com. Sub. for H. C. R. 64, Com. Sub. for H. C. R. 65, Com. Sub. for H. C. R. 84, Com. Sub. for H. C. R. 93 and Com. Sub. for H. C. R. 98) were each referred to the Committee on Rules.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 27, Relating to microprocessor permit,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 523, Converting to biweekly pay cycle for state employees,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

S. B. 433, Permitting counties increase excise tax on privilege of transferring real property,

Com. Sub. for S. B. 461, Exempting WV State Police from state purchasing requirements,

Com. Sub. for S. B. 533, Relating to taxes on wine and intoxicating liquors,

Com. Sub. for S. B. 486, Relating to health care provider taxes,

And,

Com. Sub. for S. B. 535, Reorganizing Division of Tourism,

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2180, Authorizing the issuance of special “In God We Trust” motor vehicle registration plates.

On motion of Delegate Cowles, the House concurred in the following amendment of the bill by the Senate.

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §17A-3-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-14. Registration plates generally; description of plates; issuance of special numbers and plates; registration fees; special application fees; exemptions; commissioner to promulgate forms; suspension and nonrenewal.

(a) The division upon registering a vehicle shall issue to the owner one registration plate for a motorcycle, trailer, semitrailer or other motor vehicle.

(b) Registration plates issued by the division shall meet the following requirements:

(1) Every registration plate shall be of reflectorized material and have displayed upon it the registration number assigned to the vehicle for which it is issued; the name of this state, which may be abbreviated; and the year number for which it is issued or the date of expiration of the plate.

(2) Every registration plate and the required letters and numerals on the plate shall be of sufficient size to be plainly readable from a distance of one hundred feet during daylight: *Provided*, That the requirements of this subdivision shall not apply to the year number for which the plate is issued or the date of expiration.

(3) Registration numbering for registration plates shall begin with number two.

(c) The division may not issue, permit to be issued or distribute any special registration plates except as follows:

(1) The Governor shall be issued two registration plates, on one of which shall be imprinted the numeral one and on the other the word one.

(2) State officials and judges may be issued special registration plates as follows:

(A) Upon appropriate application, the division shall issue to the Secretary of State, State Superintendent of Schools, Auditor, Treasurer, Commissioner of Agriculture and the Attorney General, the members of both houses of the Legislature, including the elected officials of both houses of the Legislature, the justices of the Supreme Court of Appeals of West Virginia, the representatives and senators of the state in the Congress of the United States, the judges of the West Virginia circuit courts, active and retired on

senior status, the judges of the United States district courts for the State of West Virginia and the judges of the United States Court of Appeals for the fourth circuit, if any of the judges are residents of West Virginia, a special registration plate for a Class A motor vehicle and a special registration plate for a Class G motorcycle owned by the official or his or her spouse: *Provided*, That the division may issue a Class A special registration plate for each vehicle titled to the official and a Class G special registration plate for each motorcycle titled to the official.

(B) Each plate issued pursuant to this subdivision shall bear any combination of letters and numbers not to exceed an amount determined by the commissioner and a designation of the office. Each plate shall supersede the regular numbered plate assigned to the official or his or her spouse during the official's term of office and while the motor vehicle is owned by the official or his or her spouse.

(C) The division shall charge an annual fee of \$15 for every registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.

(3) The division may issue members of the National Guard forces special registration plates as follows:

(A) Upon receipt of an application on a form prescribed by the division and receipt of written evidence from the chief executive officer of the Army National Guard or Air National Guard, as appropriate, or the commanding officer of any United States Armed Forces reserve unit that the applicant is a member thereof, the division shall issue to any member of the National Guard of this state or a member of any reserve unit of the United States Armed Forces a special registration plate designed by the commissioner for any number of Class A motor vehicles owned by the member. Upon presentation of written evidence of retirement status, retired members of this state's Army or Air National Guard, or retired members of any reserve unit of the United States Armed Forces, are eligible to purchase the special registration plate issued pursuant to this subdivision.

(B) The division shall charge an initial application fee of \$10 for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter. Except as otherwise provided herein, effective July 1, 2007, all fees currently held in the special revolving fund used in the administration of this section and all fees collected by the division shall be deposited in the State Road Fund.

(C) A surviving spouse may continue to use his or her deceased spouse's National Guard forces license plate until the surviving spouse dies, remarries or does not renew the license plate.

(4) Specially arranged registration plates may be issued as follows:

(A) Upon appropriate application, any owner of a motor vehicle subject to Class A registration, or a motorcycle subject to Class G registration, as defined by this article, may request that the division issue a registration plate bearing specially arranged letters or numbers with the maximum number of letters or numbers to be determined by the commissioner. The division shall attempt to comply with the request wherever possible.

(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of chapter twenty-nine-a of this code regarding the orderly distribution of the plates: *Provided*, That for purposes of this subdivision, the registration plates requested and issued shall include all plates bearing the numbers two through two thousand.

(C) An annual fee of \$15 shall be charged for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.

(5) The division may issue honorably discharged veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of vehicles titled in the name of the qualified applicant with

an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee is to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration. All fees collected by the division shall be deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries or does not renew the license plate.

(6) The division may issue disabled veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any disabled veteran who is exempt from the payment of registration fees under the provisions of this chapter a registration plate for a vehicle titled in the name of the qualified applicant which bears the letters "DV" in red and also the regular identification numerals in red.

(B) A surviving spouse may continue to use his or her deceased spouse's disabled veterans license plate until the surviving spouse dies, remarries or does not renew the license plate.

(C) A qualified disabled veteran may obtain a second disabled veterans license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(7) The division may issue recipients of the distinguished Purple Heart medal special registration plates as follows:

(A) Upon appropriate application, there shall be issued to any armed service person holding the distinguished Purple Heart medal for persons wounded in combat a registration plate for a vehicle titled in the name of the qualified applicant bearing letters or numbers. The registration plate shall be designed by the Commissioner of Motor Vehicles and shall denote that those individuals who are granted this special registration plate are recipients of the Purple Heart. All letterings shall be in purple where practical.

(B) Registration plates issued pursuant to this subdivision are exempt from all registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's Purple Heart medal license plate until the surviving spouse dies, remarries or does not renew the license plate.

(D) A recipient of the Purple Heart medal may obtain a second Purple Heart medal license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(8) The division may issue survivors of the attack on Pearl Harbor special registration plates as follows:

(A) Upon appropriate application, the owner of a motor vehicle who was enlisted in any branch of the armed services that participated in and survived the attack on Pearl Harbor on December 7, 1941, the division shall issue a special registration plate for a vehicle titled in the name of the qualified applicant. The registration plate shall be designed by the Commissioner of Motor Vehicles.

(B) Registration plates issued pursuant to this subdivision are exempt from the payment of all registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's survivors of the attack on Pearl Harbor license plate until the surviving spouse dies, remarries or does not renew the license plate.

(D) A survivor of the attack on Pearl Harbor may obtain a second survivors of the attack on Pearl Harbor license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(9) The division may issue special registration plates to nonprofit charitable and educational organizations authorized under prior enactment of this subdivision as follows:

(A) Approved nonprofit charitable and educational organizations previously authorized under the prior enactment of this subdivision may accept and collect applications for special registration plates from owners of Class A motor vehicles together with a special annual fee of \$15, which is in addition to all other fees required by this chapter. The applications and fees shall be submitted to the Division of Motor Vehicles with the request that the division issue a registration plate bearing a combination of letters or numbers with the organizations' logo or emblem, with the maximum number of letters or numbers to be determined by the commissioner.

(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code regarding the procedures for and approval of special registration plates issued pursuant to this subdivision.

(C) The commissioner shall set an appropriate fee to defray the administrative costs associated with designing and manufacturing special registration plates for a nonprofit charitable or educational organization. The nonprofit charitable or educational organization shall collect this fee and forward it to the division for deposit in the

State Road Fund. The nonprofit charitable or educational organization may also collect a fee for marketing the special registration plates.

(10) The division may issue specified emergency or volunteer registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified paramedic or emergency medical technician, a member of a paid fire department, a member of the State Fire Commission, the State Fire Marshal, the State Fire Marshal's assistants, the State Fire Administrator and voluntary rescue squad members may apply for a special license plate for any number of Class A vehicles titled in the name of the qualified applicant which bears the insignia of the profession, group or commission. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subdivision shall bear the requested insignia in addition to the registration number issued to the applicant pursuant to the provisions of this article.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the fire chief or department head of the applicant stating that the applicant is justified in having a registration with the requested insignia; proof of compliance with all laws of this state regarding registration and licensure of motor vehicles; and payment of all required fees.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(11) The division may issue specified certified firefighter registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified firefighter may apply for a special license plate which bears the insignia of the profession, for any number of Class A vehicles titled in the name of the qualified

applicant. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subdivision shall bear the requested insignia pursuant to the provisions of this article. Upon presentation of written evidence of certification as a certified firefighter, certified firefighters are eligible to purchase the special registration plate issued pursuant to this subdivision.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit stating that the applicant is justified in having a registration with the requested insignia; proof of compliance with all laws of this state regarding registration and licensure of motor vehicles; and payment of all required fees. The firefighter certification department, section or division of the West Virginia University fire service extension shall notify the commissioner in writing immediately when a firefighter loses his or her certification. If a firefighter loses his or her certification, the commissioner may not issue him or her a license plate under this subsection.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(12) The division may issue special scenic registration plates as follows:

(A) Upon appropriate application, the commissioner shall issue a special registration plate displaying a scenic design of West Virginia which displays the words 'Wild Wonderful' as a slogan.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund.

(13) The division may issue honorably discharged Marine Corps league members special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged Marine Corps league member a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) The division may charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. This special fee is to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration and shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged Marine Corps league license plate until the surviving spouse dies, remarries or does not renew the license plate.

(14) The division may issue military organization registration plates as follows:

(A) The division may issue a special registration plate for the members of any military organization chartered by the United States Congress upon receipt of a guarantee from the organization of a minimum of one hundred applicants. The insignia on the plate shall be designed by the commissioner.

(B) Upon appropriate application, the division may issue members of the chartered organization in good standing, as determined by the governing body of the chartered organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.

(C) The division shall charge a special one-time initial application fee of \$10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road

Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(D) A surviving spouse may continue to use his or her deceased spouse's military organization registration plate until the surviving spouse dies, remarries or does not renew the special military organization registration plate.

(15) The division may issue special nongame wildlife registration plates and special wildlife registration plates as follows:

(A) Upon appropriate application, the division shall issue a special registration plate displaying a species of West Virginia wildlife which shall display a species of wildlife native to West Virginia as prescribed and designated by the commissioner and the Director of the Division of Natural Resources.

(B) The division shall charge an annual fee of \$15 for each special nongame wildlife registration plate and each special wildlife registration plate in addition to all other fees required by this chapter. All annual fees collected for nongame wildlife registration plates and wildlife registration plates shall be deposited in a special revenue account designated the Nongame Wildlife Fund and credited to the Division of Natural Resources.

(C) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited in the State Road Fund.

(16) The division may issue members of the Silver Haired Legislature special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any person who is a duly qualified member of the Silver Haired Legislature a specialized registration plate which bears recognition of the applicant as a member of the Silver Haired Legislature.

(B) A qualified member of the Silver Haired Legislature may obtain one registration plate described in this subdivision for use

on a passenger vehicle titled in the name of the qualified applicant. The division shall charge an annual fee of \$15, in addition to all other fees required by this chapter, for the plate. All annual fees collected by the division shall be deposited in the State Road Fund.

(17) Upon appropriate application, the commissioner shall issue to a classic motor vehicle or classic motorcycle as defined in section three-a, article ten of this chapter, a special registration plate designed by the commissioner. An annual fee of \$15, in addition to all other fees required by this chapter, shall be charged for each classic registration plate.

(18) Honorably discharged veterans may be issued special registration plates for motorcycles subject to Class G registration as follows:

(A) Upon appropriate application, there shall be issued to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of motorcycles subject to Class G registration titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee is to be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries or does not renew the license plate.

(19) Racing theme special registration plates:

(A) The division may issue a series of special registration plates displaying National Association for Stock Car Auto Racing themes.

(B) An annual fee of \$25 shall be charged for each special racing theme registration plate in addition to all other fees required by this chapter. All annual fees collected for each special racing theme registration plate shall be deposited into the State Road Fund.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(20) The division may issue recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star or Air Medal special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any recipient of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star or Air Medal, a registration plate for any number of vehicles titled in the name of the qualified applicant bearing letters or numbers. A separate registration plate shall be designed by the Commissioner of Motor Vehicles for each award that denotes that those individuals who are granted this special registration plate are recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star or Bronze Star, or Air Medal as applicable.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section exempts the applicant for a special registration plate under this subdivision from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star or Air

Medal special registration plate until the surviving spouse dies, remarries or does not renew the special registration plate.

(21) The division may issue honorably discharged veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States with verifiable service during World War II, the Korean War, the Vietnam War, the Persian Gulf War or the War Against Terrorism a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the commissioner denoting service in the applicable conflict.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing contained in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans registration plate until the surviving spouse dies, remarries or does not renew the special registration plate.

(22) The division may issue special volunteer firefighter registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of West Virginia and who is a volunteer firefighter may apply for a special license plate for any Class A vehicle titled in the name of the qualified applicant which bears the insignia of the profession in white letters on a red background. The insignia shall be designed by the commissioner and shall contain a fireman's helmet insignia on the left side of the license plate.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the applicant's fire chief, stating that the applicant is a volunteer firefighter and

justified in having a registration plate with the requested insignia. The applicant must comply with all other laws of this state regarding registration and licensure of motor vehicles and must pay all required fees.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special one-time initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All application fees shall be deposited into the State Road Fund.

(23) The division may issue special registration plates which reflect patriotic themes, including the display of any United States symbol, icon, phrase or expression which evokes patriotic pride or recognition. The division shall also issue registration plates with the words 'In God We Trust'.

(A) Upon appropriate application, the division shall issue to an applicant a registration plate of the applicant's choice, displaying a patriotic theme as provided in this subdivision, for a vehicle titled in the name of the applicant. A series of registration plates displaying patriotic themes shall be designed by the Commissioner of Motor Vehicles for distribution to applicants.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The provisions of subsection (d) of this section are not applicable for the issuance of the license plates designated by this subdivision.

(24) Special license plates bearing the American flag and the logo '9/11/01'.

(A) Upon appropriate application, the division shall issue special registration plates which shall display the American flag and the logo '9/11/01'.

(B) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(25) The division may issue a special registration plate celebrating the centennial of the 4-H youth development movement and honoring the Future Farmers of America organization as follows:

(A) Upon appropriate application, the division may issue a special registration plate depicting the symbol of the 4-H organization which represents the head, heart, hands and health as well as the symbol of the Future Farmers of America organization which represents a cross section of an ear of corn for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special 4-H Future Farmers of America registration plate in addition to all other fees required by this chapter.

(26) The division may issue special registration plates to educators in the state's elementary and secondary schools and in the state's institutions of higher education as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee

shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special educator registration plate in addition to all other fees required by this chapter.

(27) The division may issue special registration plates to members of the Nemesis Shrine as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in Nemesis Shrine.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) Notwithstanding the provisions of subsection (d) of this section, the time period for the Nemesis Shrine to comply with the minimum one hundred prepaid applications is hereby extended to January 15, 2005.

(28) The division may issue volunteers and employees of the American Red Cross special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any person who is a duly qualified volunteer or employee of the American Red Cross a specialized registration plate which bears recognition of the applicant as a volunteer or employee of the American Red Cross for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee

shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(29) The division shall issue special registration plates to individuals who have received either the Combat Infantry Badge or the Combat Medic Badge as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof that they have received either the Combat Infantry Badge or the Combat Medic Badge.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(30) The division may issue special registration plates to members of the Knights of Columbus as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Columbus.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) Notwithstanding the provisions of subsection (d) of this section, the time period for the Knights of Columbus to comply

with the minimum one hundred prepaid applications is hereby extended to January 15, 2007.

(31) The division may issue special registration plates to former members of the Legislature as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of former service as an elected or appointed member of the West Virginia House of Delegates or the West Virginia Senate.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund. The design of the plate shall indicate total years of service in the Legislature.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(32) Democratic state or county executive committee member special registration plates:

(A) The division shall design and issue special registration plates for use by democratic state or county executive committee members. The design of the plates shall include an insignia of a donkey and shall differentiate by wording on the plate between state and county executive committee members.

(B) An annual fee of \$25 shall be charged for each democratic state or county executive committee member registration plate in addition to all other fees required by this chapter. All annual fees collected for each special plate issued under this subdivision shall be deposited into the State Road Fund.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees

required by this chapter. All application fees shall be deposited into the State Road Fund.

(D) The division shall not begin production of a plate authorized under the provisions of this subdivision until the division receives at least one hundred completed applications from the state or county executive committee members, including all fees required pursuant to this subdivision.

(E) Notwithstanding the provisions of subsection (d) of this section, the time period for the democratic executive committee to comply with the minimum one hundred prepaid applications is hereby extended to January 15, 2005.

(33) The division may issue honorably discharged female veterans special registration plates as follows:

(A) Upon appropriate application, there shall be issued to any female honorably discharged veteran, of any branch of the armed services of the United States, a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a woman veteran.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries or does not renew the license plate.

(34) The division may issue special registration plates bearing the logo, symbol, insignia, letters or words demonstrating association with West Liberty State College to any resident owner of a motor vehicle. Resident owners may apply for the special license plate for any number of Class A vehicles titled in the name of the applicant. The special registration plates shall be designed

by the commissioner. Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$15, which is in addition to any other registration or license fee required by this chapter. The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(35) The division may issue special registration plates to members of the Harley Owners Group as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Harley Owners Group.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(36) The division may issue special registration plates for persons retired from any branch of the armed services of the United States as follows:

(A) Upon appropriate application, there shall be issued to any person who has retired after service in any branch of the armed services of the United States, a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as retired from the armed services of the United States.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund:

Provided, That nothing in this section may be construed to exempt any registrants from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's retired military license plate until the surviving spouse dies, remarries or does not renew the license plate.

(37) The division may issue special registration plates bearing the logo, symbol, insignia, letters or words demonstrating association with or support for Fairmont State College as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(38) The division may issue special registration plates honoring the farmers of West Virginia as follows:

(A) Any owner of a motor vehicle who is a resident of West Virginia may apply for a special license plate depicting a farming scene or other apt reference to farming, whether in pictures or words, at the discretion of the commissioner.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(39) The division shall issue special registration plates promoting education as follows:

(A) Upon appropriate application, the division shall issue a special registration plate displaying a children's education-related theme as prescribed and designated by the commissioner and the State Superintendent of Schools.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(40) The division may issue members of the 82nd Airborne Division Association special registration plates as follows:

(A) The division may issue a special registration plate for members of the 82nd Airborne Division Association upon receipt of a guarantee from the organization of a minimum of one hundred applicants. The insignia on the plate shall be designed by the commissioner.

(B) Upon appropriate application, the division may issue members of the 82nd Airborne Division Association in good standing, as determined by the governing body of the organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.

(C) The division shall charge a special one-time initial application fee of \$10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund: *Provided*, That nothing in this section may be construed to exempt the applicant from any other provision of this chapter.

(D) A surviving spouse may continue to use his or her deceased spouse's special 82nd Airborne Division Association registration plate until the surviving spouse dies, remarries or does not renew the special registration plate.

(41) The division may issue special registration plates to survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency.

(A) Upon appropriate application, the division shall issue to any member of a municipal police department, sheriff's department, the State Police or the law enforcement division of the Division of Natural Resources who has been wounded in the line of duty and awarded a Purple Heart in recognition thereof by the West Virginia Chiefs of Police Association, the West Virginia Sheriffs' Association, the West Virginia Troopers Association or the Division of Natural Resources a special registration plate for one vehicle titled in the name of the qualified applicant with an insignia appropriately designed by the commissioner.

(B) Registration plates issued pursuant to this subdivision are exempt from the registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's special registration plate until the surviving spouse dies, remarries or does not renew the plate.

(D) Survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency may obtain a license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(42) The division may issue a special registration plate for persons who are Native Americans and residents of this state.

(A) Upon appropriate application, the division shall issue to an applicant who is a Native American resident of West Virginia a registration plate for a vehicle titled in the name of the applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a Native American.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(43) The division may issue special registration plates commemorating the centennial anniversary of the creation of Davis and Elkins College as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to commemorate the centennial anniversary of Davis and Elkins College for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(44) The division may issue special registration plates recognizing and honoring breast cancer survivors.

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and honor breast cancer survivors, such plate to incorporate somewhere in the design the 'pink ribbon emblem', for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(45) The division may issue special registration plates to members of the Knights of Pythias or Pythian Sisters as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Pythias or Pythian Sisters.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(46) The commissioner may issue special registration plates for whitewater rafting enthusiasts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(47) The division may issue special registration plates to members of Lions International as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with Lions International for any number of vehicles titled in the name of the qualified applicant. Persons desiring the

special registration plate shall offer sufficient proof of membership in Lions International.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(48) The division may issue special registration plates supporting organ donation as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner which recognizes, supports and honors organ and tissue donors and includes the words 'Donate Life'.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(49) The division may issue special registration plates to members of the West Virginia Bar Association as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the West Virginia Bar Association for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the West Virginia Bar Association.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(50) The division may issue special registration plates bearing an appropriate logo, symbol or insignia combined with the words 'SHARE THE ROAD' designed to promote bicycling in the state as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(51) The division may issue special registration plates honoring coal miners and the coal industry as follows:

(A) Upon appropriate application, the division shall issue a special registration plate depicting and displaying coal miners in mining activities as prescribed and designated by the commissioner and the board of the National Coal Heritage Area Authority. The division may also issue registration plates with the words 'Friends of Coal'.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) The provisions of subsection (d) of this section are not applicable for the issuance of the license plates designated by this subdivision.

(52) The division may issue special registration plates to present and former Boy Scouts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of present or past membership in the Boy Scouts as either a member or a leader.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(53) The division may issue special registration plates to present and former Boy Scouts who have achieved Eagle Scout status as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of achievement of Eagle Scout status.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(54) The division may issue special registration plates recognizing and memorializing victims of domestic violence.

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and memorialize victims of domestic violence, such

plate to incorporate somewhere in the design the ‘purple ribbon emblem’, for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(55) The division may issue special registration plates bearing the logo, symbol, insignia, letters or words demonstrating association with or support for the University of Charleston as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(56) The division may issue special registration plates to members of the Sons of the American Revolution as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the Sons of the American Revolution for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Sons of the American Revolution.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(57) The commissioner may issue special registration plates for horse enthusiasts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(58) The commissioner may issue special registration plates to the next of kin of a member of any branch of the armed services of the United States killed in combat as follows:

(A) Upon appropriate application, the division shall issue a special registration plate for any number of vehicles titled in the name of a qualified applicant depicting the Gold Star awarded by the United States Department of Defense as prescribed and designated by the commissioner.

(B) The next of kin shall provide sufficient proof of receiving a Gold Star lapel button from the United States Department of Defense in accordance with Public Law 534, 89th Congress, and criteria established by the United States Department of Defense, including criteria to determine next of kin.

(C) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(D) The provisions of subsection (d) of this section are not applicable for the issuance of the special license plates designated by this subdivision.

(59) The commissioner may issue special registration plates for retired or former Justices of the Supreme Court of Appeals of West Virginia as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(D) The provisions of subsection (d) of this section are not applicable for the issuance of the special license plates designated by this subdivision.

(60) Upon approval by the commissioner of an appropriate application, and upon all requirements of this subdivision being satisfied, the division may issue special registration plates for class A and class G motor vehicles to members of an organization for which a special registration plate has not been issued pursuant to any other subdivision in this subsection prior to January 1, 2010, in accordance with the provisions of this subdivision.

(A) An organization desiring to create a special registration plate must comply with the following requirements to be eligible to apply for the creation and issuance of a special registration plate:

(i) The organization must be a nonprofit organization organized and existing under Section 501(c)(3) of Title 26 of the Internal Revenue Code and based, headquartered or have a chapter in West Virginia;

(ii) The organization may be organized for, but may not be restricted to, social, civic, higher education or entertainment purposes;

(iii) The organization may not be a political party and may not have been created or exist primarily to promote a specific political or social belief, as determined by the commissioner in his or her sole discretion;

(iv) The organization may not have as its primary purpose the promotion of any specific faith, religion, religious belief or antireligion;

(v) The name of the organization may not be the name of a special product or brand name, and may not be construed, as determined by the commissioner, as promoting a product or brand name; and

(vi) The organization's lettering, logo, image or message to be placed on the registration plate, if created, may not be obscene, offensive or objectionable as determined by the commissioner in his or her sole discretion.

(B) Beginning July 1, 2010, an organization requesting the creation and issuance of a special registration plate may make application with the division. The application shall include sufficient information, as determined by the commissioner, to determine whether the special registration plate requested and the organization making the application meet all of the requirements set forth in this subdivision (60). The application shall also include a proposed design, including lettering, logo, image or message to be placed on the registration plate. The commissioner shall notify the organization of the commissioner's approval or disapproval of the application.

(C)(i) The commissioner may not begin the design or production of any license plates authorized and approved pursuant to this subdivision (60), subsection (c) of this section until the organization which applied for the special registration plate has collected and submitted collectively to the division applications

completed by at least two hundred fifty persons and collectively deposited with the division all fees necessary to cover the first year's basic registration, one-time design and manufacturing costs and to cover the first year additional annual fee for all of the applications submitted.

(ii) If the organization fails to submit the required number of applications and fees within six months of the effective date of the approval of the application for the plate by the commissioner, the plate will not be produced until a new application is submitted and is approved by the commissioner: *Provided*, That an organization that is unsuccessful in obtaining the minimum number of applications may not make a new application for a special plate until at least two years have passed since the approval of the previous application of the organization.

(D) The division shall charge a special initial application fee of \$25 for each special license plate in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(E) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(F) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the organization for any number of vehicles titled in the name of a qualified registration plate applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the organization.

(G) The commissioner shall discontinue the issuance or renewal of the registration of any special plate issued pursuant to this subdivision (60) if:

(i) The number of valid registrations for the specialty plate falls below two hundred fifty plates for at least twelve consecutive months; or

(ii) The organization no longer exists or no longer meets the requirements of this subdivision.

(d) The minimum number of applications required prior to design and production of a special license plate shall be as follows:

(1) The commissioner may not begin the design or production of any license plates for which eligibility is based on membership or affiliation with a particular private organization until at least one hundred persons complete an application and deposit with the organization a check to cover the first year's basic registration, one-time design and manufacturing costs and to cover the first year additional annual fee. If the organization fails to submit the required number of applications with attached checks within six months of the effective date of the original authorizing legislation, the plate will not be produced and will require legislative reauthorization: *Provided*, That an organization or group that is unsuccessful in obtaining the minimum number of applications may not request reconsideration of a special plate until at least two years have passed since the effective date of the original authorization: *Provided, however*, That the provisions of this subdivision (1) are not applicable to the issuance of plates authorized pursuant to subdivision (60), subsection (c) of this section.

(2) The commissioner may not begin the design or production of any license plates authorized by this section for which membership or affiliation with a particular organization is not required until at least two hundred fifty registrants complete an application and deposit a fee with the division to cover the first year's basic registration fee, one-time design and manufacturing fee and additional annual fee if applicable. If the commissioner fails to receive the required number of applications within six months of the effective date of the original authorizing legislation, the plate will not be produced and will require legislative reauthorization: *Provided*, That if the minimum number of applications is not satisfied within the six months of the effective date of the original authorizing legislation, a person may not request reconsideration of a special plate until at least two years have passed since the effective date of the original authorization.

(e) (1) Nothing in this section requires a charge for a free prisoner of war license plate or a free recipient of the Congressional Medal of Honor license plate for a vehicle titled in the name of the qualified applicant as authorized by other provisions of this code.

(2) A surviving spouse may continue to use his or her deceased spouse's prisoner of war license plate or Congressional Medal of Honor license plate until the surviving spouse dies, remarries or does not renew the license plate.

(3) Qualified former prisoners of war and recipients of the Congressional Medal of Honor may obtain a second special registration plate for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second special plate.

(f) The division may issue special ten-year registration plates as follows:

(1) The commissioner may issue or renew for a period of no more than ten years any registration plate exempted from registration fees pursuant to any provision of this code or any restricted use antique motor vehicle license plate authorized by section three-a, article ten of this chapter: *Provided*, That the provisions of this subsection do not apply to any person who has had a special registration suspended for failure to maintain motor vehicle liability insurance as required by section three, article two-a, chapter seventeen-d of this code or failure to pay personal property taxes as required by section three-a of this article.

(2) An initial nonrefundable fee shall be charged for each special registration plate issued pursuant to this subsection, which is the total amount of fees required by section fifteen, article ten of this chapter, section three, article three of this chapter or section three-a, article ten of this chapter for the period requested.

(g) The provisions of this section may not be construed to exempt any registrant from maintaining motor vehicle liability insurance as required by section three, article two-a, chapter

seventeen-d of this code or from paying personal property taxes on any motor vehicle as required by section three-a of this article.

(h) The commissioner may, in his or her discretion, issue a registration plate of reflectorized material suitable for permanent use on motor vehicles, trailers and semitrailers, together with appropriate devices to be attached to the registration to indicate the year for which the vehicles have been properly registered or the date of expiration of the registration. The design and expiration of the plates shall be determined by the commissioner. The commissioner shall, whenever possible and cost effective, implement the latest technology in the design, production and issuance of registration plates, indices of registration renewal and vehicle ownership documents, including, but not limited to, offering Internet renewal of vehicle registration and the use of bar codes for instant identification of vehicles by scanning equipment to promote the efficient and effective coordination and communication of data for improving highway safety, aiding law enforcement and enhancing revenue collection.

(i) Any license plate issued or renewed pursuant to this chapter which is paid for by a check that is returned for nonsufficient funds is void without further notice to the applicant. The applicant may not reinstate the registration until the returned check is paid by the applicant in cash, money order or certified check and all applicable fees assessed as a result thereof have been paid.”

And,

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

Com. Sub. for H. B. 2180 – “A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to the issuance of ‘In God We Trust’ and ‘Friends of Coal’ motor vehicle registration plates.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 337**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hicks.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2180) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the House amendment to the Senate amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

Com. Sub. for H. B. 2447, Renaming the Court of Claims the State Claims Commission.

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

Senators Weld, Maynard and Jeffries.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Zatezalo, O'Neal and R. Miller.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for S. B. 151, Authorizing Department of Administration promulgate legislative rules.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for S. B. 151 – “A Bill to amend and reenact §64-2-1 and §64-2-2 of the Code of West Virginia, 1931, as amended, all relating generally to the promulgation of legislative rules by various executive or administrative agencies of the state; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Board of Risk and Insurance Management to promulgate a legislative rule relating to the Patient Injury Compensation Fund; authorizing the Board of Risk and Insurance Management to promulgate a legislative rule relating to mine subsidence insurance; and authorizing the Ethics Commission to promulgate a legislative rule relating to the use of office for private gain, including nepotism.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 338**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Frich and Sobonya.

Absent and Not Voting: Boggs.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 151) passed.

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

On this question, the yeas and nays were taken (**Roll No. 339**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Boggs.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 151) takes effect from its passage.

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

Special Calendar

Unfinished Business

Com. Sub. for H. C. R. 78, Almond Brothers and Family Veterans Bridge; coming up in regular order, as unfinished business, was reported by the Clerk.

On motion of Delegates Cowles and Moye, the resolution was amended on page one, line one, by striking out the remainder of the resolution and inserting in lieu thereof the following:

Com. Sub. for H. C. R. 78 - “Requesting the Division of Highways to name bridge number 41-16-16.34 (41A163) (37.76565, -81.20389), locally known as Mabscott Overhead Bridge, carrying WV 16 over WV 16 Ramps, CSX Railroad, City Street, Whitestick Creek in Raleigh County as the ‘Almond Brothers and Family Veterans Bridge’.”

Whereas, John William Almond, Levi Garfield “Al” Almond, Richard Ray Almond, Frederick Lee Almond, Robert Loren “Jack” Almond and Gerald Ross Almond were brothers from Raleigh County, the sons of Levi and Jennie Almond; and

Whereas, All six Almond brothers served in the Armed Forces of the United States; and

Whereas, John W. Almond served in the United States Navy from October 1943 through February 1946; and

Whereas, Levi G. Almond served in the United States Navy from July 1941 through October 1945; and

Whereas, Richard R. Almond served in the United States Army Air Corps and United States Air Force from February 1946 through December 1947; and

Whereas, Frederick L. Almond served in the United States Air Force from November 1947 through January 1959 and in the West Virginia National Guard from January 1959 through March 1986; and

Whereas, Robert L. Almond served in the United States Army from January 1949 through June 1952 during the Korean War and then reenlisted in the United States Navy from January 1955 through July 1972; and

Whereas, Gerald R. Almond served in the United States Air Force from June 1952 through February 1959 and was killed while piloting a jet; and

Whereas, Service to country is a family tradition for the Almond brothers, their three sons and other family members serving in various branches of the Armed Forces of the United States; and

Whereas, It is fitting to honor John William Almond, Levi Garfield "Al" Almond, Richard Ray Almond, Frederick Lee Almond, Robert Loren "Jack" Almond and Gerald Ross Almond for their service to their community, their state and their country by naming the bridge near MacArthur in Raleigh County on WV State Route 16 where it crosses Whitestick Creek as the "Almond Brothers and Family Veterans Bridge"; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name bridge number 41-16-16.34 (41A163) (37.76565, -81.20389),

locally known as Mabscott Overhead Bridge, carrying WV 16 over WV 16 Ramps, CSX Railroad, City Street, Whitestick Creek in Raleigh County as the “Almond Brothers and Family Veterans Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge, both east bound and west bound, as the “Almond Brothers and Family Veterans Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation.

The resolution was then adopted.

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

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

H. C. R. 96, U. S. Marine Corps CPL Mark Douglas Cool Memorial Bridge,

And,

H. C. R. 103, U. S. Army PFC Tracy Victor Rohrbaugh Memorial Bridge.

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

Third Reading

S. B. 28, Creating new system for certain contiguous counties to establish regional recreation authorities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 340**), and there were—yeas 90, nays 10, absent and not voting none, with the nays being as follows:

Nays: Dean, Eldridge, E. Evans, Marcum, Martin, Maynard, R. Miller, Paynter, Rodighiero and Thompson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 28) passed.

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

S. B. 169, Repealing article providing assistance to Korea and Vietnam veterans exposed to certain chemical defoliants; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 341**), and there were—yeas 60, nays 40, absent and not voting none, with the nays being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Fluharty, Folk, Frich, Hamilton, Hicks, Hollen, Hornbuckle, Isner, Kelly, Lewis, Longstreth, Lovejoy, Marcum, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, R. Romine, Rowe, Sponaule, Thompson, Wagner, Ward and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 169) passed.

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

S. B. 170, Repealing state hemophilia program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 342**), and there were—yeas 70, nays 30, absent and not voting none, with the nays being as follows:

Nays: Barrett, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Fleischauer, Fluharty, Hicks, Hornbuckle, Isner, Kelly, Longstreth, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Thompson, Ward and Williams.

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

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

S. B. 171, Repealing Programs of All-Inclusive Care for Elderly; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 343**), and there were—yeas 60, nays 40, absent and not voting none, with the nays being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hicks, Hornbuckle, Iaquina, Isner, Kelly, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, C. Miller, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Walters, Ward and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 171) passed.

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

Com. Sub. for S. B. 180, Relating to PSC jurisdiction over certain telephone company and internet services; on third reading, coming up in regular order, was read a third time.

Delegates Lewis and Espinosa requested to be excused from voting on the passage of Com. Sub. for S. B. 180 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 344**), and there were—yeas 65, nays 35, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Hicks, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Wagner and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 180) passed.

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

Com. Sub. for S. B. 186, Adjusting date when children become eligible for certain school programs and school attendance requirements; on third reading, coming up in regular order, was read a third time.

Speaker Pro Tempore Overington in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the passage of Com. Sub. for S. B. 186 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

Mr. Speaker, Mr. Armstead, in the Chair

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 345**), and there were—yeas 74, nays 26, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Blair, Brewer, Canestraro, Caputo, Diserio, Ferro, Fluharty, Higginbotham, Hornbuckle, Iaquina, Kelly, Kessinger, Longstreth, Love, Lynch, Martin, Miley, R. Miller, Pethtel, Pyles, Sobonya, Sponaule, Summers, Upson and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 186) passed.

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

S. B. 198, Expanding Health Sciences Program to allow certain medical practitioners in underserved areas; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 346**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Folk and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 198) passed.

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

Com. Sub. for S. B. 221, Relating to composition of PEIA Finance Board; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 347**), and there were—yeas 62, nays 37,

absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Thompson, Wagner and Williams.

Absent and Not Voting: Marcum.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 221) passed.

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

Com. Sub. for S. B. 239, Limiting use of wages by employers and labor organizations for political activities; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 280, Moving administration of Civil Air Patrol to Adjutant General; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 348**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 280) passed.

Delegate Cowles moved that the bill take effect July 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 349**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 280) takes effect July 1, 2017.

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

S. B. 321, Reporting requirements of employee information to CPRB; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 350**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 321) passed.

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

Com. Sub. for S. B. 344, Relating to application of payments on consumer credit sale and loans; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 351**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 344) passed.

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

Com. Sub. for S. B. 350, Allowing licensed professional counselors be issued temporary permit; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 352**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 350) passed.

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

Com. Sub. for S. B. 358, Relating generally to trustee sale of timeshare estates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 353**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Fast and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 358) passed.

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

Com. Sub. for S. B. 358 - “A Bill to amend and reenact §36-9-15 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §36-9-15a, all relating generally to the trustee sale of timeshare estates; providing that a managing entity may cause a trustee sale of the timeshare estate if the owner is delinquent to the managing entity for more than one year for assessments against the timeshare estate; clarifying that the statutory lien on the timeshare period is subordinate to any lien or security interest voluntarily granted upon

the timeshare period by the owner; requiring notice of a trustee sale be recorded; requiring that notice of a trustee sale be sent to the delinquent owner and to certain holders of liens or security interests encumbering the timeshare period; requiring notice of trustee sale by publication; providing for a trustee sale at public auction if the delinquency is not cured within thirty days of notice of trustee sale; providing that a trustee sale may include multiple timeshare estates; providing that a trustee sale is prohibited if timeshare instrument expressly mandates judicial foreclosure; requiring a trustee to cause trustee's deed and disclosure to be recorded with the clerk of the county commission; and providing for a statute of limitations."

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

On this question, the yeas and nays were taken (**Roll No. 354**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Fast.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 358) takes effect from its passage.

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

S. B. 364, Incorporating changes to Streamlined Sales and Use Tax Agreement; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 355**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Folk, Marcum and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 364) passed.

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

S. B. 365, Maintaining solvency of Unemployment Compensation Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 356**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Folk and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 365) passed.

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

Com. Sub. for S. B. 386, Creating WV Medical Cannabis Act; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Shott asked and obtained unanimous consent to amend the bill on third reading.

On motion of Delegates Shott and Miley, the bill was amended on page two, by striking out the enacting section and inserting in lieu thereof a new enacting section to read as follows:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new chapter, designated §16A-1-1, §16A-2-1, §16A-3-1, §16A-3-2, §16A-3-3, §16A-3-4, §16A-3-5, §16A-4-1, §16A-4-2, §16A-4-3, §16A-4-4, §16A-4-5, §16A-5-1, §16A-5-2, §16A-5-3, §16A-5-4, §16A-5-5, §16A-5-6, §16A-5-7, §16A-5-8, §16A-5-9, §16A-5-10, §16A-6-1, §16A-6-2, §16A-6-3, §16A-6-4, §16A-6-5, §16A-6-6, §16A-6-7, §16A-6-8, §16A-6-9, §16A-6-10, §16A-6-11, §16A-6-12, §16A-6-13, §16A-7-1, §16A-

7-2, §16A-7-3, §16A-7-4, §16A-7-5, §16A-7-6, §16A-8-1, §16A-8-2, §16A-8-3, §16A-9-1, §16A-9-2, §16A-10-1, §16A-10-2, §16A-10-3, §16A-10-4, §16A-10-5, §16A-10-6, §16A-11-1, §16A-11-2, §16A-12-1, §16A-12-2, §16A-12-3, §16A-12-4, §16A-12-5, §16A-12-6, §16A-12-7, §16A-12-8, §16A-12-9, §16A-13-1, §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, §16A-13-7, §16A-13-8, §16A-14-1, §16A-14-2, §16A-14-3, §16A-15-1, §16A-15-2, §16A-15-3, §16A-15-4, §16A-15-5, §16A-15-6, §16A-15-7, §16A-15-8, §16A-15-9 and §16A-16-1, all to read as follows” and a colon.

On page three, section one, line fifty, by inserting a new subsection to read as follows:

“(17) ‘Grower/processor’ means either a grower or a processor.”

And,

By renumbering the remaining subdivisions thereafter.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 357**), and there were—yeas 76, nays 24, absent and not voting none, with the nays being as follows:

Nays: Speaker Armstead, Arvon, Butler, Cooper, Criss, Deem, A. Evans, Fast, G. Foster, N. Foster, Frich, Gearheart, Hollen, Kessinger, Lewis, Martin, O’Neal, Rohrbach, C. Romine, R. Romine, Rowan, Sobonya, Summers and Sypolt.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 386) passed.

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

Com. Sub. for S. B. 386 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter,

designated §16A-1-1, §16A-2-1, §16A-3-1, §16A-3-2, §16A-3-3, §16A-3-4, §16A-3-5, §16A-4-1, §16A-4-2, §16A-4-3, §16A-4-4, §16A-4-5, §16A-5-1, §16A-5-2, §16A-5-3, §16A-5-4, §16A-5-5, §16A-5-6, §16A-5-7, §16A-5-8, §16A-5-9, §16A-5-10, §16A-6-1, §16A-6-2, §16A-6-3, §16A-6-4, §16A-6-5, §16A-6-6, §16A-6-7, §16A-6-8, §16A-6-9, §16A-6-10, §16A-6-11, §16A-6-12, §16A-6-13, §16A-7-1, §16A-7-2, §16A-7-3, §16A-7-4, §16A-7-5, §16A-7-6, §16A-8-1, §16A-8-2, §16A-8-3, §16A-9-1, §16A-9-2, §16A-10-1, §16A-10-2, §16A-10-3, §16A-10-4, §16A-10-5, §16A-10-6, §16A-11-1, §16A-11-2, §16A-12-1, §16A-12-2, §16A-12-3, §16A-12-4, §16A-12-5, §16A-12-6, §16A-12-7, §16A-12-8, §16A-12-9, §16A-13-1, §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, §16A-13-7, §16A-13-8, §16A-14-1, §16A-14-2, §16A-14-3, §16A-15-1, §16A-15-2, §16A-15-3, §16A-15-4, §16A-15-5, §16A-15-6, §16A-15-7, §16A-15-8, §16A-15-9 and §16A-16-1, all relating generally to creating a regulatory program for the lawful production and use of medical cannabis; providing for the regulation of all activities associated with the manufacture, processing, dispensing and consumption of medical cannabis for certain serious medical conditions; providing for state regulation of all activities; creating civil and criminal penalties for violations of law relating to production, processing, dispensing and consumption of medical cannabis; and setting an effective date.”

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

S. B. 392, Relating to Municipal Police Officers and Firefighters Retirement System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 358**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 392) passed.

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

Com. Sub. for S. B. 398, Creating Emergency Volunteer Health Practitioners Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 359**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Miley.

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 398) passed.

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

Com. Sub. for S. B. 398 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-30-1, §29-30-2, §29-30-3, §29-30-4, §29-30-5, §29-30-6, §29-30-7, §29-30-8, §29-30-9, §29-30-10 and §29-30-11, all relating to creating the Emergency Volunteer Health Practitioners Act; defining terms; providing for applicability of the article; regulating the practice of volunteer health practitioners during an emergency; creating a registration system; permitting volunteer health practitioners who are registered with a registration system and licensed and in good standing in the state upon which the practitioner’s registration is based to practice in this state to the extent authorized by the article as if the practitioner were licensed in this state while an emergency declaration is in effect; providing that the provisions of this article do not affect credentialing or privileging standards of a health facility and do not preclude a

health facility from waiving or modifying those standards while an emergency declaration is in effect; providing for sanctions; providing for relation to other laws; providing for limitation of liability; and providing for rulemaking by the Secretary of the Department of Health and Human Resources.”

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

S. B. 495, Relating to regulation of events by State Athletic Commission; on third reading, coming up in regular order, was read a third time.

Delegates Kelly and Marcum requested to be excused from voting on the passage of S. B. 495 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 360**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fast.

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 495) passed.

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

Com. Sub. for S. B. 505, Providing five-year reclamation period following completion of well pads for horizontal wells; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 361**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 505) passed.

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

S. B. 564, Relating to Statewide Independent Living Council; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 362**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 564) passed.

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

S. B. 564 - “A Bill to amend and reenact §18-10M-2, §18-10M-4, §18-10M-6, §18-10M-7 and §18-10M-8 of the Code of West Virginia, 1931, as amended, all relating to the Statewide Independent Living Council; making changes required by amendments to the federal Rehabilitation Act of 1973; updating definitions; modifying the functions and duties of the council; redesignating council relationships with centers for independent living and a designated state entity; providing for compensation and expense reimbursement for members engaged in official

duties; requiring signatures for acceptance and approval of state plan and making conforming amendments.”

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

S. B. 566, Claims against state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 363**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 566) passed.

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

On this question, the yeas and nays were taken (**Roll No. 364**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 566) takes effect from its passage.

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

Com. Sub. for S. B. 581, Relating generally to administration of trusts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 365**), and there were—yeas 99, nays none,

absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 581) passed.

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

Com. Sub. for S. B. 581 – “A Bill to amend and reenact §38-1-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §44D-1-103 of said code; to amend said code by adding thereto a new section, designated §44D-1-113; to amend and reenact §44D-4-405 and §44D-4-414 of said code; to amend and reenact §44D-5-503b and §44D-5-505 of said code; to amend and reenact §44D-6-604 of said code; and to amend and reenact §44D-8-813 and §44D-8-817 of said code, all relating generally to trusts and their administration; eliminating requirement to give notice to trustee of substitution under certain circumstances; modifying definitions; establishing insurable interest of a trustee; clarifying scope of provisions regarding trust established for charitable purposes; increasing amount of noncharitable trust property to terminate trust without court approval; requiring self-settled spendthrift trust have one independent qualified trustee; adding reference to exceptions for self-settled spendthrift trusts to provision allowing creditor or assignee to reach amount distributed for grantor’s benefit from irrevocable trust; removing reference to exceptions for self-settled spendthrift trusts to provisions allowing creditor or assignee to reach amount distributed for grantor’s benefit from revocable trusts; changing references from beneficiary to interested person in limitation on actions to contest validity of revocable trust; modifying duties of trustee to inform and report to beneficiaries; granting trustee authority and requiring trustee to wind up administration of trust upon its termination; and making technical changes.”

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

Com. Sub. for S. B. 588, Relating to reproduction, distribution and sale of tax maps; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 366**), and there were—yeas 82, nays 17, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Eldridge, E. Evans, Fleischauer, Fluharty, Folk, Gearheart, Hicks, Isner, Love, Marcum, McGeehan, C. Miller, Moye, Phillips, Sobonya, Thompson and Upson.

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 588) passed.

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

Com. Sub. for S. B. 671, Relating to WV Anatomical Board; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 367**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 671) passed.

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

Second Reading

Com. Sub. for S. B. 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §30-1-21; that §30-3-10a of said code be amended and reenacted; that §30-3E-14 of said code be amended and reenacted; that §30-4-15 of said code be amended and reenacted; that §30-5-17 of said code be amended and reenacted; that §30-7-6a of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §30-7-6b; that said code be amended by adding thereto a new section, designated §30-7A-6a; that §30-8-16 of said code be amended and reenacted; that §30-14-12b of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §30-16-7a; that §30-20-13 of said code be amended and reenacted; that §30-21-17 of said code be amended and reenacted; and that §30-28-8a of said code be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-21. Exemption from licensure for professional practice for a charitable function.

(a) A person holding an unrestricted license, certificate, registration or permit granted by another state or jurisdiction to practice a profession or occupation licensed under this chapter may serve as a volunteer without compensation for a charitable function

for a period not to exceed ten days, subject to the approval process described in this section: *Provided*, That a person who has received any completed disciplinary actions in which discipline was ordered in any of the three most recent years, or is the subject of any pending disciplinary actions is not eligible for this charitable exemption from licensure.

(b) The person shall notify the board of the nature of the volunteer charitable practice, the specific dates the person will participate in the charitable practice, and shall provide to the board a list of all professional and occupational licenses, registrations, permits or certificates held in each state or jurisdiction for the previous three years.

(c) Upon a review of the information required by this section, the board shall provide a temporary authorization to a qualified volunteer to participate in the volunteer activity for the duration not to exceed ten days. Each board shall keep a record of each authorization issued pursuant to his section.

(d) The board may not charge a fee to authorize this charitable practice.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-10a. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of medicine who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia Board of Medicine to physicians licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually.

The board shall develop application forms for the special license provided for in this subsection which shall contain the physician's acknowledgment that:

(1) The physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in West Virginia;

(2) The physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, but may donate to the clinic the proceeds of any reimbursement for any medical services rendered under the special volunteer medical license;

(3) The physician will supply any supporting documentation that the board may reasonably require; and

(4) The physician agrees to continue to participate in continuing medical education as required of physicians in active practice.

(b) Any person engaged in the active practice of medicine in this state whose license is in good standing may donate their expertise for the medical care and treatment of indigent and needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered under an arrangement may be performed in either the physician's office or the clinical setting.

~~(b)~~ (c) Any physician who renders any medical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer medical license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician's gross negligence or willful misconduct. In

order for the immunity under this subsection to apply, there must be a written agreement between the physician and the clinic pursuant to which the physician will provide voluntary noncompensated medical services under the control of the clinic to patients of the clinic before the rendering of any services by the physician at the clinic: *Provided*, That any clinic entering into such written agreement shall be required to maintain liability coverage of not less than \$1 million per occurrence.

~~(e)~~ (d) Notwithstanding the provisions of subsection (a) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge ~~shall~~ is not be relieved from imputed liability for the negligent acts of a physician rendering voluntary medical services at or for the clinic under a special volunteer medical license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, ‘otherwise eligible for licensure’ means the satisfaction of all the requirements for licensure as listed in section ten of this article and in the legislative rules promulgated hereunder, except the fee requirements of subsections (b) and (d) of said section and of the legislative rule promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer medical license to any physician whose medical license is or has been subject to any disciplinary action or to any physician who has surrendered a medical license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her medical license, or who has elected to place a medical license in inactive status in lieu of having a complaint initiated or other action taken against his or her medical license, or who have been denied a medical license.

~~(f)~~ (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physician covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company

issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician who holds a special volunteer medical license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section: *Provided*, That this subsection shall not apply to a terminated policy, terminated contract of liability insurance or extended reporting endorsement attached thereto that provides Atail insurance@ as defined by section two, article twenty-d, chapter thirty-three of this code: *Provided, however*, That nothing within this subsection shall be construed to extend coverage under a terminated policy or terminated contract of liability insurance or any extended reporting endorsement attached thereto to: (1) Alter or amend the effective policy period of any policy, contract of liability insurance or extended reporting endorsement; or (2) cover the treatment of indigent and needy patients by a physician who holds a special volunteer medical license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-14. Special volunteer physician assistant license.

(a) A special volunteer physician assistant license may be issued to a physician assistant who:

(1) Is retired or is retiring from the active practice of medicine; and

(2) Wishes to donate his or her expertise for the medical care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge.

(b) The special volunteer physician assistant license shall be issued by the appropriate licensing board:

(1) To a physician assistant licensed or otherwise eligible for licensure under this article;

(2) Without the payment of any fee; and

(3) The initial license shall be issued for the remainder of the licensing period.

(c) The special volunteer physician assistant license shall be renewed consistent with the appropriate licensing board's other licensing requirements.

(d) The appropriate licensing board shall develop application forms for the special volunteer physician assistant license which shall contain the physician assistant's acknowledgment that:

(1) The physician assistant's practice under the special volunteer physician assistant license shall be exclusively devoted to providing medical care to needy and indigent persons in West Virginia;

(2) The physician assistant will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any medical services rendered under the special volunteer physician assistant license;

(3) The physician assistant shall supply any supporting documentation that the appropriate licensing board may reasonably require; and

(4) The physician assistant agrees to continue to participate in continuing education as required by the appropriate licensing board for the special volunteer physician assistant license.

(e) A physician assistant and his or her collaborating physician who ~~renders~~ render medical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge, under a special volunteer physician assistant license, without payment or compensation or the expectation or promise of payment or compensation, ~~is~~ are immune from liability for any civil action arising out of any act or omission

resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician assistant's and his or her collaborating physician's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there shall be a written agreement between the physician assistant and the clinic pursuant to which the physician assistant shall provide voluntary uncompensated medical services under the control of the clinic to patients of the clinic before the rendering of any services by the physician assistant at the clinic. Any clinic entering into a written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

(f) Notwithstanding the provisions of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a physician assistant rendering voluntary medical services at or for the clinic under a special volunteer physician assistant license.

(g) For purposes of this section, 'otherwise eligible for licensure' means the satisfaction of all the requirements for licensure under this article, except the fee requirements.

(h) Nothing in this section may be construed as requiring the appropriate licensing board to issue a special volunteer physician assistant license to any physician assistant whose license is or has been subject to any disciplinary action or to any physician assistant who has surrendered a physician assistant license or caused his or her license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a physician assistant license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a physician assistant license.

(i) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physician assistant covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing the policy waives or agrees not to assert as a

defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of the policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician assistant who holds a special volunteer physician assistant license.

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-15. Special volunteer dentist or dental hygienist license; civil immunity for voluntary services rendered to indigents.

(a) There is continued a special volunteer dentist and dental hygienist license for dentist and dental hygienists retired or retiring from the active practice of dentistry and dental hygiene who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer dentist or dental hygienist license shall be issued by the board to dentist or dental hygienists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the dental hygienist's acknowledgment that:

(1) The dentist or dental hygienist's practice under the special volunteer dentist or dental hygienist license will be exclusively devoted to providing dentistry or dental hygiene care to needy and indigent persons in West Virginia;

(2) The dentist or dental hygienist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any dentistry or dental hygiene services rendered under the special volunteer dentist or dental hygienist license;

(3) The dentist or dental hygienist will supply any supporting documentation that the board may reasonably require; and

(4) The dentist or dental hygienist agrees to continue to participate in continuing professional education as required by the board for the special volunteer dentist or dental hygienist.

(b) Any person engaged in the active practice of dentistry and dental hygiene in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the dentist or dental hygienist or the clinical setting.

~~(b)~~ (c) Any dentist or dental hygienist who renders any dentistry or dental hygiene service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer dentist or dental hygienist license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the dental hygiene service at the clinic unless the act or omission was the result of the dentist's or dental hygienist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there shall be a written agreement between the dentist or dental hygienist and the clinic pursuant to which the dentist or dental hygienist will provide voluntary uncompensated dental hygiene services under the control of the clinic to patients of the clinic before the rendering of any services by the dentist or dental hygienist at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(c)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of

health care services without charge is not relieved from imputed liability for the negligent acts of a dentist or dental hygienist rendering voluntary dental hygiene services at or for the clinic under a special volunteer dentist or dental hygienist license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, Aotherwise eligible for licensure@ means the satisfaction of all the requirements for licensure as listed in section eight of this article and in the legislative rules promulgated thereunder, except the fee requirements of subdivision (6) of said section and of the legislative rules promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer dentist or dental hygienist license to any dentist or dental hygienist whose license is or has been subject to any disciplinary action or to any dentist or dental hygienist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her dentist or dental hygienist license, or who has elected to place a dentist or dental hygienist license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a dentist or dental hygienist license.

~~(f)~~ (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any dentist or dental hygienist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a dentist or dental hygienist who holds a special volunteer dentist or dental hygienist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

**ARTICLE 5. PHARMACISTS, PHARMACY
TECHNICIANS, PHARMACY INTERNS AND
PHARMACIES.**

**§30-5-17. Special volunteer pharmacist license; civil immunity
for voluntary services rendered to indigents.**

(a) There is a special volunteer pharmacist license for pharmacists retired or retiring from the active practice of pharmacist care who wish to donate their expertise for the pharmacist care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer pharmacist license shall be issued by the board to pharmacists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the pharmacist's acknowledgment that:

(1) The pharmacist's practice under the special volunteer pharmacist license shall be exclusively devoted to providing pharmacist care to needy and indigent persons in West Virginia;

(2) The pharmacist may not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, but may donate to the clinic the proceeds of any reimbursement for any pharmacist care rendered under the special volunteer pharmacist license;

(3) The pharmacist will supply any supporting documentation that the board may reasonably require; and

(4) The pharmacist agrees to continue to participate in continuing professional education as required by the board for the special volunteer pharmacist license.

(b) Any person engaged in the active practice of pharmacist care in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the pharmacist's office or the clinical setting.

~~(b)~~ (c) Any pharmacist who renders any pharmacist care to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer pharmacist license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the pharmacist care at the clinic unless the act or omission was the result of the pharmacist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there shall be a written agreement between the pharmacist and the clinic pursuant to which the pharmacist provides voluntary uncompensated pharmacist care under the control of the clinic to patients of the clinic before the rendering of any services by the pharmacist at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(c)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a pharmacist rendering voluntary pharmacist care at or for the clinic under a special volunteer pharmacist license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, 'otherwise eligible for licensure' means the satisfaction of all the requirements for licensure as listed in section nine of this article and in the legislative

rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer pharmacist license to any pharmacist whose license is or has been subject to any disciplinary action or to any pharmacist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a pharmacist license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a pharmacist license.

~~(f)~~ (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any pharmacist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a pharmacist who holds a special volunteer pharmacist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-6a. Special volunteer registered professional nurse license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for registered professional nurses retired or retiring from the active practice of nursing who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer registered professional nurse license shall be issued by the West Virginia

Board of Examiners for registered professional nurses to registered professional nurses licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the registered professional nurse's acknowledgment that:

(1) The registered professional nurse's practice under the special volunteer registered professional nurse license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The registered professional nurse will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any nursing services rendered under the special volunteer registered professional nurse license;

(3) The registered professional nurse will supply any supporting documentation that the board may reasonably require; and

(4) The registered professional nurse agrees to continue to participate in continuing education as required by the board for the special volunteer registered professional nurse license.

(b) Any person engaged in the active practice of nursing in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the registered professional nurse or the clinical setting.

~~(b)~~ (c) Any registered professional nurse who renders nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer registered professional nurse license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the nursing service at the clinic unless the act or omission was the result of the registered professional nurse's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the registered professional nurse and the clinic pursuant to which the registered professional nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the registered professional nurse at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(e)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a registered professional nurse rendering voluntary nursing services at or for the clinic under a special volunteer registered professional nurse license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, Aotherwise eligible for licensure@ means the satisfaction of all the requirements for licensure as listed in section six of this article and in the legislative rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

(e) (f) Nothing in this section may be construed as requiring the board to issue a special volunteer registered professional nurse license to any registered professional nurse whose license is or has been subject to any disciplinary action or to any registered professional nurse who has surrendered his or her license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a registered professional nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a registered professional nurse license.

(f) (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any registered professional nurse covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a registered professional nurse who holds a special volunteer registered professional nurse license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

§30-7-6b. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for advanced practice registered nurses retired or retiring from the active practice of nursing who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer advanced practice registered nurse license shall be issued by the West Virginia Board of Examiners for Registered professional nurses to advanced practice registered nurses licensed or otherwise eligible for licensure pursuant to this article and the rules promulgated hereunder without the payment of an application fee, license fee or

renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the advanced practice registered nurse's acknowledgment that:

(1) The advanced practice registered nurse's practice pursuant to the special volunteer advanced practice registered nurses license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The advanced practice registered nurse will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any nursing services rendered pursuant to the special volunteer advanced practice registered nurse license;

(3) The advanced practice registered nurse will supply any supporting documentation that the board may reasonably require; and

(4) The advanced practice registered nurse agrees to continue to participate in continuing education as required by the board for the special volunteer advanced practice registered nurse license.

(b) Any person licensed as an advanced practice registered nurse in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the advanced practice registered nurses or the clinical setting.

(c) A advanced practice registered nurse and his or her collaborating physician who render nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge pursuant to a special volunteer advanced practice registered nurse license authorized

pursuant to subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the nursing service at the clinic unless the act or omission was the result of the advanced practice registered nurse's and his or her collaborating physician's gross negligence or willful misconduct. For the immunity pursuant to this subsection to apply, there must be a written agreement between the licensed practical nurse and the clinic pursuant to which the advanced practice registered nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the advanced practice registered nurse at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a advanced practice registered nurse rendering voluntary nursing services at or for the clinic pursuant to a special volunteer advanced practice registered nurse license authorized pursuant to subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, 'otherwise eligible for licensure' means the satisfaction of all the requirements for licensure as listed in section six of this article and in the rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer advanced practice registered nurse license to any advanced practice registered nurse whose license is or has been subject to any disciplinary action or to any advanced practice registered nurse who has surrendered his or her

license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a advanced practice registered nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a advanced practice registered nurse license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any advanced practice registered nurse covered pursuant to the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a advanced practice registered nurse who holds a special volunteer advanced practice registered nurse license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 7A. LICENSED PRACTICAL NURSES.

§30-7A-6a. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for licensed practical nurses retired or retiring from the active practice of nursing who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer licensed practical nurse license shall be issued by the West Virginia Board of Examiners for licensed practical nurses to licensed practical nurses licensed or otherwise eligible for licensure pursuant to this article and the rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop

application forms for the special license provided in this subsection which shall contain the licensed practical nurse's acknowledgment that:

(1) The licensed practical nurse's practice pursuant to the special volunteer licensed practical nurse license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The licensed practical nurse will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any nursing services rendered pursuant to the special volunteer licensed practical nurse license;

(3) The licensed practical nurse will supply any supporting documentation that the board may reasonably require; and

(4) The licensed practical nurse agrees to continue to participate in continuing education as required by the board for the special volunteer licensed practical nurse license.

(b) Any person licensed as a licensed practical nurse in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the registered professional nurse or the clinical setting.

(c) Any licensed practical nurse who renders nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge pursuant to a special volunteer licensed practical nurse license authorized pursuant to subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission

resulting from the rendering of the nursing service at the clinic unless the act or omission was the result of the licensed practical nurse's gross negligence or willful misconduct. For the immunity pursuant to this subsection to apply, there must be a written agreement between the licensed practical nurse and the clinic pursuant to which the licensed practical nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the licensed practical nurse at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a licensed practical nurse rendering voluntary nursing services at or for the clinic pursuant to a special volunteer licensed practical nurse license authorized pursuant to subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, 'otherwise eligible for licensure' means the satisfaction of all the requirements for licensure as listed in section six of this article and in the rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer licensed practical nurse license to any licensed practical nurse whose license is or has been subject to any disciplinary action or to any licensed practical nurse who has surrendered his or her license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a licensed practical nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a licensed practical nurse license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any licensed practical nurse covered pursuant to the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a licensed practical nurse who holds a special volunteer licensed practical nurse license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 8. OPTOMETRISTS.

§30-8-16. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for optometrists who are retired or are retiring from the active practice of optometry and wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge.

(b) The special volunteer license shall be issued by the board to optometrists licensed or otherwise eligible for licensure under this article without the payment of an application fee, license fee or renewal fee, and shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements.

(c) The board shall develop application forms for the special volunteer license provided in this section which shall contain the optometrist's acknowledgment that:

(1) The optometrist's practice under the special volunteer license will be exclusively devoted to providing optometrical care to needy and indigent persons in West Virginia;

(2) The optometrist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any optometrical services rendered under the special volunteer license;

(3) The optometrist will supply any supporting documentation that the board may reasonably require; and

(4) The optometrist agrees to continue to participate in continuing education as required by the board for a special volunteer license.

(d) Any person engaged in the active practice of optometry in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the optometrist or the clinical setting.

~~(d)~~ (e) Any optometrist who renders any optometrical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge, under a special volunteer license authorized under this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the optometrical service at the clinic unless the act or omission was the result of the optometrist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, before the rendering of any services by the optometrist at the clinic, there must be a written agreement between the optometrist and the clinic stating that the optometrist will provide voluntary uncompensated optometrical services under the control of the clinic to patients of the clinic before the rendering of any services by the optometrist at the clinic: *Provided*, That any

clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(e)~~ (f) Notwithstanding the provisions of subsection (d) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an optometrist rendering voluntary optometrical services at or for the clinic under a special volunteer license under this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section.

~~(f)~~ (g) For purposes of this section, Aotherwise eligible for licensure@ means the satisfaction of all the requirements for licensure in this article except the fee requirements.

~~(g)~~ (h) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any optometrist whose license is or has been subject to any disciplinary action or to any optometrist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a license.

~~(h)~~ (i) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any optometrist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an optometrist who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.**§30-14-12b. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.**

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of osteopathy who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia Board of Osteopathic Medicine to physicians licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually. The board shall develop application forms for the special license provided for in this subsection which shall contain the physician's acknowledgment that: (1) The physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in West Virginia; (2) the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any medical services rendered under the special volunteer medical license; (3) the physician will supply any supporting documentation that the board may reasonably require; and (4) the physician agrees to continue to participate in continuing medical education as required of physicians in active practice.

(b) Any person engaged in the active practice of osteopathy in this state whose license is in good standing may donate their expertise for the medical care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the physician's office or the clinical setting.

~~(b)~~ (c) Any physician who renders any medical service to indigent and needy patients of clinics organized, in whole or in part, for the delivery of health care services without charge under a special volunteer medical license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the physician and the clinic pursuant to which the physician will provide voluntary noncompensated medical services under the control of the clinic to patients of the clinic before the rendering of any services by the physician at the clinic: *Provided*, That any clinic entering into such written agreement shall be required to maintain liability coverage of not less than \$1 million per occurrence.

~~(e)~~ (d) Notwithstanding the provisions of subsection (a) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge shall not be relieved from imputed liability for the negligent acts of a physician rendering voluntary medical services at or for the clinic under a special volunteer medical license authorized under subsection (a) of this section or who renders such services pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, 'otherwise eligible for licensure' means the satisfaction of all the requirements for licensure as listed in section ten of this article and in the legislative rules promulgated hereunder, except the fee requirements of subsections (b) and (d) of said section and of the legislative rule promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer medical license to any physician whose medical license is or has been subject to any disciplinary action or to any physician who has surrendered a medical license

or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her medical license, or who has elected to place a medical license in inactive status in lieu of having a complaint initiated or other action taken against his or her medical license, or who have been denied a medical license.

(f) (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physician covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician who holds a special volunteer medical license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 16. CHIROPRACTORS.

§30-16-7a. Special volunteer chiropractor license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for chiropractors retired or retiring from active practice who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer license provided by this section shall be issued by the West Virginia Board of Chiropractic to chiropractors licensed or otherwise eligible for licensure pursuant to this article and the rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special volunteer license provided in this section which shall contain the applicant's acknowledgment that:

(1) The applicant's practice pursuant to the special volunteer license will be exclusively devoted to providing chiropractic care to needy and indigent persons in West Virginia;

(2) The applicant may not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement for any chiropractic services rendered pursuant to the special volunteer license;

(3) The applicant shall supply any supporting documentation that the board may reasonably require; and

(4) The applicant shall continue to participate in continuing education as required by the board for special volunteer chiropractor's licenses.

(b) Any person engaged in the active practice of chiropractic in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the chiropractor's office or the clinical setting.

(c) Any chiropractor who renders any chiropractic service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge pursuant to a special volunteer license authorized pursuant to subsection (a) of this section or an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the chiropractic service at the clinic unless the act or omission was the result of gross negligence or willful misconduct on the part of the chiropractor. For the immunity pursuant to this subsection to apply, there must be a written agreement between the chiropractor and the clinic stating that the chiropractor will provide voluntary uncompensated chiropractic services under the control of the clinic

to patients of the clinic before the rendering of any services by the chiropractor at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a chiropractor rendering voluntary chiropractic services at or for the clinic pursuant to a special volunteer license authorized pursuant to this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, ‘otherwise eligible for licensure’ means the satisfaction of all the requirements for licensure for a chiropractor except the fee requirements.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any chiropractor whose license is or has been subject to any disciplinary action or to any chiropractor who has surrendered a license or caused a license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license or who has been denied a license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any chiropractor covered pursuant to the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policy holder or any beneficiary there of the policy, to any claim covered by the terms of the policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a chiropractor who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 20. PHYSICAL THERAPISTS.**§30-20-13. Special volunteer physical therapist license, physical therapist assistant license; civil immunity for voluntary services rendered to indigents.**

(a) There is established a special volunteer license for physical therapists or physical therapist assistants, as the case may be, retired or retiring from active practice who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer license provided by this section shall be issued by the West Virginia Board of Physical Therapy to physical therapists or physical therapist assistants licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the board's other licensing requirements. The board shall develop application forms for the special volunteer license provided in this section which shall contain the applicant's acknowledgment that:

(1) The applicant's practice under the special volunteer license will be exclusively devoted to providing physical therapy care to needy and indigent persons in West Virginia;

(2) The applicant may not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement for any physical therapy services rendered under the special volunteer license;

(3) The applicant shall supply any supporting documentation that the board may reasonably require; and

(4) The applicant shall continue to participate in continuing education as required by the board for special volunteer physical therapists or physical therapist assistants license, as the case may be.

(b) Any person engaged in the active practice of physical therapy in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the physical therapist's office or the clinical setting.

~~(b)~~ (c) Any physical therapist or physical therapist assistant who renders any physical therapy service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the physical therapy service at the clinic unless the act or omission was the result of gross negligence or willful misconduct on the part of the physical therapist or physical therapist assistant. In order for the immunity under this subsection to apply, there must be a written agreement between the physical therapist or physical therapist assistant and the clinic stating that the physical therapist or physical therapist assistant will provide voluntary uncompensated physical therapy services under the control of the clinic to patients of the clinic before the rendering of any services by the physical therapist or physical therapist assistant at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(c)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a physical therapist or physical therapist assistant rendering voluntary physical therapy services at or for the clinic under a special volunteer license authorized under this section or who renders such care and treatment pursuant to an

arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, Aotherwise eligible for licensure@ means the satisfaction of all the requirements for licensure for a physical therapist or physical therapist assistant, as the case may be, except the fee requirements.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any physical therapist or physical therapist assistant whose license is or has been subject to any disciplinary action or to any physical therapist or physical therapist assistant who has surrendered a license or caused a license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license or who has been denied a license.

~~(f)~~ (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physical therapist or physical therapist assistant covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policy holder or any beneficiary thereof the policy, to any claim covered by the terms of the policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physical therapist or physical therapist assistant who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-17. Special volunteer psychologists license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer psychologists license for psychologists retired or retiring from the active practice of psychology who wish to donate their expertise for the psychological care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer psychologist license shall be issued by the West Virginia Board of Examiners of Psychologists to psychologists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the psychologist's acknowledgment that:

(1) The psychologist's practice under the special volunteer psychologists license will be exclusively devoted to providing psychological care to needy and indigent persons in West Virginia;

(2) The psychologist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any psychological services rendered under the special volunteer psychological license;

(3) The psychologist will supply any supporting documentation that the board may reasonably require; and

(4) The psychologist agrees to continue to participate in continuing education as required by the board for a special volunteer psychologists license.

(b) Any person engaged in the active practice of psychology in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the

patient. Services rendered pursuant to an arrangement may be performed in either the psychologist's office or the clinical setting.

~~(b)~~ (c) Any psychologist who renders any psychological service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer psychologist license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation, is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the psychological service at the clinic unless the act or omission was the result of the psychologist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the psychologist and the clinic pursuant to which the psychologist will provide voluntary uncompensated psychological services under the control of the clinic to patients of the clinic before the rendering of any services by the psychologists at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(e)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a psychologist rendering voluntary psychological services at or for the clinic under a special volunteer psychological license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, Aotherwise eligible for licensure@ means the satisfaction of all the requirements for licensure as listed in section seven of this article and in the legislative rules promulgated thereunder, except the fee requirements of subsection (d) of that section and of the legislative rules promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer psychologist license to any psychologist whose license is or has been subject to any disciplinary action or to any psychologist who has surrendered a psychologist license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a psychologist license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a psychologist license.

~~(f)~~ (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any psychologist covered under the provisions of this article, shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a psychologist who holds a special volunteer psychologist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 28. WEST VIRGINIA OCCUPATIONAL THERAPY PRACTICE ACT.

§30-28-8a. Special volunteer occupational therapist license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer occupational therapist license for occupational therapists retired or retiring from the active practice of occupational therapy who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer occupational therapist license shall be issued by the West Virginia Board of Occupational Therapy to occupational therapists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of

an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the occupational therapist's acknowledgment that:

(1) The occupational therapist's practice under the special volunteer occupational therapist license will be exclusively devoted to providing occupational therapy care to needy and indigent persons in West Virginia;

(2) The occupational therapist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any occupational therapy services rendered under the special volunteer occupational therapist license;

(3) The occupational therapist will supply any supporting documentation that the board may reasonably require; and

(4) The occupational therapist agrees to continue to participate in continuing education as required by the board for a special volunteer occupational therapists license.

(b) Any person engaged in the active practice of occupational therapy in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the occupational therapist's office or the clinical setting.

~~(b)~~ (c) Any occupational therapist who renders any occupational therapy service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer occupational therapist license authorized under subsection (a) of this section or

pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the occupational therapy service at the clinic unless the act or omission was the result of the occupational therapist's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the occupational therapist and the clinic pursuant to which the occupational therapist will provide voluntary uncompensated occupational therapy services under the control of the clinic to patients of the clinic before the rendering of any services by the occupational therapist at the clinic: *Provided*, That any clinic entering into such written agreement is required to maintain liability coverage of not less than \$1 million per occurrence.

~~(e)~~ (d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an occupational therapist rendering voluntary occupational therapy services at or for the clinic under a special volunteer occupational therapist license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

~~(d)~~ (e) For purposes of this section, 'otherwise eligible for licensure' means the satisfaction of all the requirements for licensure as listed in section eight of this article and in the legislative rules promulgated thereunder, excepting the fee requirements of subsection (a), section eleven of this article and of the legislative rules promulgated by the board relating to fees.

~~(e)~~ (f) Nothing in this section may be construed as requiring the board to issue a special volunteer occupational therapist license to any occupational therapist whose occupational therapist license is or has been subject to any disciplinary action or to any occupational therapist who has surrendered an occupational therapist license or caused such license to lapse, expire and become invalid in lieu of

having a complaint initiated or other action taken against his or her occupational therapist license, or who has elected to place an occupational therapist license in inactive status in lieu of having a complaint initiated or other action taken against his or her occupational therapist license, or who has been denied an occupational therapist license.

(f) (g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any occupational therapist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an occupational therapist who holds a special volunteer occupational therapist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.”

On motion of Delegate Shott, the Judiciary Committee amendment was amended on page eighteen, section six-a, beginning on line four, by striking out “licensed practical nurse license” and inserting in lieu thereof “license provided by this section”.

On page nineteen, section six-a, line eight, by adding “and the initial license” before the word “shall”.

On page nineteen, section six-a, line twenty-three, by striking out “licensed as a licensed practical nurse” and inserting in lieu thereof “engaged in the active practice of licensed practical nursing”.

On page nineteen, section six-a, line twenty-seven, by striking out “registered professional” and inserting in lieu thereof “licensed practical nurse”.

On page twenty, section six-a, line forty-two, by striking out “(b)” and inserting in lieu thereof “(c)”.

And,

On page twenty-seven, section seven-a, line thirty-nine, by striking out “(b)” and inserting in lieu thereof “(c)”.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 300, Supplemental appropriation from unappropriated balance in Treasury to Division of Personnel; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 303, Supplemental appropriation of public moneys from Treasury to DHHR; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 305, Supplemental appropriation of public moneys from Treasury to Fire Commission; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 337, Hiring correctional officers without regard to placement on correctional officer register; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 412, Relating to WV Jobs Act reporting requirements; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for S. B. 484, Relating generally to taxation; on second reading, coming up in regular order, was read a second time.

Delegate Cowles asked unanimous consent that the bill be advanced to third reading, with amendments pending and further

right to amend by Delegates Boggs and Nelson, which consent was not given, objection being heard.

Delegate Cowles asked and obtained unanimous consent that the bill be placed at the foot of all bills on the calendar.

S. B. 493, Providing increase in compensation for conservation officers; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance Committee, was reported by the Clerk and adopted, amending the bill on page one, immediately after the article heading, by striking out §20-7-1a in its entirety.

On page four, section one-c, line fifty-three, at the end of the line, by inserting the amount “\$66,000”.

On page four, section one-c, line fifty-four, immediately after the words “July 1, 2017”, by striking out the following:

“and continuing thereafter, Natural Resources Police Officers shall be paid the minimum annual salaries based on the following schedule: *Provided*, That the director may increase the base pay for all ranks within the law-enforcement section:

ANNUAL SALARY SCHEDULE (BASE PAY) SUPERVISORY AND NONSUPERVISORY RANKS

Natural Resources Police Officer (In 1-6 months).....\$33,994

Natural Resources Police Officer
(After Academy Through First Year)\$41,258

Natural Resources Police Officer Second Year\$42,266

Natural Resources Police Officer Third Year\$42,649

Senior Natural Resources Police Officer (4th - 5th Year)\$43,048

Natural Resources Police Officer First Class
(6th - 9th Year)\$43,654

<u>Corporal (10+ years)</u>	<u>\$44,260</u>
<u>Sergeant</u>	<u>\$48,561</u>
<u>First Sergeant</u>	<u>\$50,712</u>
<u>Lieutenant</u>	<u>\$55,013</u>
<u>Captain</u>	<u>\$57,164</u>
<u>Major</u>	<u>\$59,314</u>
<u>Lieutenant Colonel</u>	<u>\$61,465</u>
<u>Colonel</u>	<u>\$70,000</u>

Each Natural Resources Police Officer whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in subsection one-a of this article.” and inserting in lieu thereof the following:

“The director may set additional annual compensation for Natural Resources Police Officers based on rank and length of service in addition to the minimum annual salaries provided in this section in an amount payable solely from the Law Enforcement Program Fund and the Special Revenue License Fund. Each Natural Resource Police Officer whose minimum salary is fixed and specified in the Annual Salary Schedule in this section is entitled to the length of service increases set forth in section one-a of this article.”

And,

By striking out the enacting clause in its entirety, and inserting in lieu thereof the following:

“That §20-7-1c of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows” and a colon.

The bill was ordered to third reading.

Com. Sub. for S. B. 499, Creating Debt Resolution Services Division in Auditor's office; on second reading, coming up in regular order, was, on motion of Delegate Cowles postponed one day.

Com. Sub. for S. B. 563, Relating to Consumer Credit and Protection Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 621, Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the bill was postponed one day.

Com. Sub. for H. B. 2018, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on second reading, coming up in regular order, was read a second time.

The Speaker reminded the Members that pursuant to the unanimous consent request on yesterday, the bill would be advanced to third reading with the right to amend on that reading.

The bill was then advanced to third reading with the right to amend on that reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 134, Authorizing Bureau of Commerce to promulgate legislative rules,

Com. Sub. for S. B. 240, Creating crime of nonconsensual distribution of sexual images,

Com. Sub. for S. B. 255, Relating generally to filling vacancies in elected office,

Com. Sub. for S. B. 299, Supplementing, amending, decreasing and increasing items of appropriations from State Road Fund to DOH,

S. B. 339, Creating Legislative Coalition on Chronic Pain Management,

S. B. 360, Creating Legislative Coalition on Diabetes Management,

Com. Sub. for S. B. 402, Relating to covenants not to compete between physicians and hospitals,

Com. Sub. for S. B. 441, Establishing Municipal Home Rule Pilot Program,

S. B. 490, Clarifying standard of liability for officers of corporation,

S. B. 578, Relating generally to copies of health care records furnished to patients,

Com. Sub. for S. B. 602, Creating uniform system of recording and indexing fictitious names used by sole proprietors,

Com. Sub. for S. B. 606, Relating to minimum wage and maximum hours for employees,

Com. Sub. for S. B. 631, Prosecuting violations of municipal building code,

Com. Sub. for S. B. 636, Authorizing State Fire Commission establish program to address problems facing VFDs,

And,

S. B. 690, Authorizing WV State Police impose and collect fees for agencies and entities using their facilities.

At 2:04 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 7:00 p.m.

Evening Session

The House of Delegates was called to order by The Honorable Tim Armstead, Speaker.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 2188, Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 2518, Creating a legislative rule to permit a pharmacist or pharmacy intern to administer certain immunizations.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2519, Medicaid program compact.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for H. B. 2519 – “A Bill to amend the Code of West Virginia 1931, as amended, by adding thereto a new section, designated §9-5-25, relating to requiring Secretary of the Department of Health and Human Resources contact surrounding states to establish a Medicaid compact; required reporting; and setting forth purpose of the compact.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 368**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2519) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, a bill of the House of Delegates, as follows:

H. B. 2522, Nurse licensure compact.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate title amendment:

H. B. 2522 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-7F-1, §30-7F-2, §30-7F-3, §30-7F-4, §30-7F-5, §30-7F-6, §30-7F-7, §30-7F-8, §30-7F-9, §30-7F-10 and §30-7F-11, all relating to the establishment and operation of an interstate compact for licensure of nurses; setting forth findings; setting forth the purposes for the compact; defining terms; establishing jurisdiction of the compact; providing eligibility requirements; requiring a nurse to designate a state of principal license; providing licensure requirements; establishing a licensure process; establishing application process; providing for fees; providing requirements for renewal of a license; providing for joint investigation of nurses by member boards; establishing the effect of disciplinary actions; creating the commission to administer the compact; setting forth commission composition; establishing the authority of the commission; providing immunity; establishing commission rule

making authority; establishing licensure information system; providing for compact administrators; providing for judicial review; providing for state enforcement; providing the commission may intervene in proceedings; providing for legal enforcement of compact rules and provisions; providing for termination or withdrawal of a member state; providing for compact oversight and dispute resolution; setting forth provisions for resolution of disputes; establishing provisions for state eligibility; setting forth the circumstances under which the compact will become effective; providing for amending the compact; setting forth procedures for states to withdraw from the compact; providing process to amend the compact; and establishing provisions related to severability.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 369**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2522) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 2586, Relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 2653, Extending the Multi State Real-Time Tracking System.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 2706, Authorizing legislative rules regarding higher education.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 2796, Relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical services.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate title amendment:

H. B. 2796 – “A Bill to amend and reenact §15-1J-2 and §15-1J-4 of the Code of West Virginia, 1931, as amended, all relating to authorizing the West Virginia Military Authority to contract on behalf of the West Virginia National Guard with the federal government, certain other entities and individuals for specialized technical services to support specific activities related to national security, homeland security and other military-related programs.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 370**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2796) passed.

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

On this question, the yeas and nays were taken (**Roll No. 371**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Blair.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2796) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, a bill of the House of Delegates, as follows:

H. B. 2856, Declaring public policy and legislative intent for improving the marketing, quality and frequency of passenger rail service of the Cardinal Passenger Train.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate title amendment:

H. B. 2856 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-9a, relating to declaring it the public policy of the State and the Legislature’s intent to improve the marketing, quality and frequency of passenger rail service of the Cardinal Passenger Train operated by the National Railroad Passenger Corporation, doing business as AMTRAK, along the route crossing the south-central region of the state from Huntington eastward to White Sulphur Springs; establishing the powers and duties of the Commissioner of the Division of Tourism and the Tourism Commission to achieve

such policy; directing the West Virginia Department of Transportation and the West Virginia State Rail Authority to cooperate with the Tourism Commission to achieve such policy; authorizing the Commissioner of Tourism to cooperate with other states and the National Railroad Passenger Corporation to achieve such policy; authorizing the Commissioner of Tourism to participate in an interstate body to achieve such policy; and creating a special revenue account, the Cardinal Passenger Train Enhancement Fund, for receipt of certain gifts, grants, bequests, transfers, appropriations or other donations which may be received.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 372**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk, Howell and Wilson.

Absent and Not Voting: Blair.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2856) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with title amendment, and the passage, as amended, to take effect from passage, of

Com. Sub. for S. B. 125, Authorizing DHHR promulgate legislative rules.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for S. B. 125 – “A Bill to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, all relating generally to promulgation of legislative rules by the Department of Health and Human Resources and the Health Care Authority; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with amendments recommended by the Legislature; authorizing the Health Care Authority to promulgate a legislative rule relating to the Hospital Assistance Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to exemption from certificate of need; authorizing the Health Care Authority to promulgate a legislative rule relating to Rural Health Systems Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to certificate of need; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to expedited partner therapy; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clinical laboratory technician and technologist licensure and certification; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clandestine drug laboratory remediation; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—opioid treatment programs; and authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—office-based, medication-assisted treatment.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 373**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 125) passed.

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

On this question, the yeas and nays were taken (**Roll No. 374**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Howell and Walters.

Absent and Not Voting: Blair.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 125) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 173, Relating generally to autocycles.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 230, Relating to certain WV officials carrying concealed firearm nationwide.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 304 - “A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2017, in the amount of \$2,700,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701, and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2017, organization 0506, and the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2017, organization 0511 by supplementing and amending the appropriations for the fiscal year ending June 30, 2017”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 522, Relating to pharmacy audits.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 575, Limiting nuisance actions against shooting ranges for noise.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 694 - “A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2017, in the amount of \$3,300,000 from the Department of Revenue, Office of the Secretary – Revenue

Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701, and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Administration, Division of Finance, fund 0203, fiscal year 2017, organization 0209, by supplementing and amending the appropriations for the fiscal year ending June 30, 2017"; which was referred to the Committee on Finance.

Second Reading

Com. Sub. for S. B. 484, Relating generally to taxation; on second reading, having been read a second time and placed at the foot of the calendar in earlier proceedings, was reported by the Clerk.

An amendment, recommended by the Committee on Finance, was reported by the Clerk on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §11-15-3, §11-15-8, §11-15-8a and §11-15-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §11-15-3d; and that §11-15A-2 of said code be amended and reenacted, all to read as follows:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-3. Amount of tax; allocation of tax and transfers.

(a) *Vendor to collect.* — For the privilege of selling tangible personal property or custom software and for the privilege of furnishing certain selected services defined in sections two and eight of this article, the vendor shall collect from the purchaser the tax as provided under this article and article fifteen-b of this chapter, and shall pay the amount of tax to the Tax Commissioner in accordance with the provisions of this article or article fifteen-b of this chapter.

(b)(1) *Amount of tax.* — The general consumer sales and service tax imposed by this article shall be at the rate of 6¢ on the dollar of sales or services, excluding gasoline and special fuel sales, which remain taxable at the rate of 5¢ on the dollar of sales. Beginning July 1, 2018, and thereafter, the general consumer sales and service tax imposed by this article shall be at the rate of 5.5¢ on the dollar of sales or services, excluding gasoline and special fuel sales, which remain taxable at the rate of 5¢ on the dollar of sales. Beginning July 1, 2019, and thereafter, the general consumer sales and service tax imposed by this article shall be at the rate of 5.25¢ on the dollar of sales or services, excluding gasoline and special fuel sales, which remain taxable at the rate of 5¢ on the dollar of sales.

(2) On August 1, 2020 and each August 1 thereafter through August 1, 2028, the Tax Commissioner shall determine the following:

(A) The ‘general consumer sales tax base’ by dividing the total general consumer sales taxes collected in the prior fiscal year by the rate of tax in effect on July 1 of that fiscal year;

(B) The ‘prospective tax rate’ by subtracting 0.25¢ from the current tax rate;

(C) The ‘prospective tax revenue’ by multiplying the general consumer sales tax base by the prospective tax rate;

(D) The ‘fiscal year 2017 benchmark tax revenue’ by increasing the general consumer sales tax revenue collected during the fiscal year ending June 30, 2017, by the percentage increase in the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor between June 30, 2017, and June 30 of the current year; and

(E) The ‘difference’ by subtracting the Fiscal Year 2017 benchmark tax revenue from the prospective tax revenue.

(3)(A) If the difference as determined in subdivision (2) of this subsection is greater than zero, then the rate of the general consumer sales and service tax imposed by this article on the dollar

of sales or services then in effect shall be reduced by twenty-five hundredths of a cent, effective on and after January 1 of the next calendar year.

(B) In the event a rate reduction is required by operation of this subdivision, the Tax Commissioner shall give notification of the reduced rate of this tax imposed by this article at least one hundred twenty days in advance of the January 1 upon which the reduced rate will become effective by filing notice of the same in the State Register and by other means as the Tax Commissioner considers reasonable.

(C) In no event may the operation of this subdivision reduce the general rate below 4.75¢ on the dollar of sales or services.

(D) In no event may the rate be reduced by operation of this subdivision after January 1, 2029: *Provided*, That a reduced rate in effect on January 1, 2029, pursuant to this subdivision, shall remain in effect after that date.

(E) Any rate of the general consumer sales and service tax established by operation of this subdivision is excluding gasoline and special fuel sales, which remain taxable at the rate of 5¢ on the dollar of sales.

(c) Calculation tax on fractional parts of a dollar until January 1, 2004. — There shall be no tax on sales where the monetary consideration is 5¢ or less. The amount of the tax shall be computed as follows:

(1) On each sale, where the monetary consideration is from 6¢ to 16¢, both inclusive, 1¢.

(2) On each sale, where the monetary consideration is from 17¢ to 33¢, both inclusive, 2¢.

(3) On each sale, where the monetary consideration is from 34¢ to 50¢, both inclusive, 3¢.

(4) On each sale, where the monetary consideration is from 51¢ to 67¢, both inclusive, 4¢.

(5) On each sale, where the monetary consideration is from 68¢ to 84¢, both inclusive, 5¢.

(6) On each sale, where the monetary consideration is from 85¢ to \$1, both inclusive, 6¢.

(7) If the sale price is in excess of \$1, 6¢ on each whole dollar of sale price, and upon any fractional part of a dollar in excess of whole dollars as follows: 1¢ on the fractional part of the dollar if less than 17¢; 2¢ on the fractional part of the dollar if in excess of 16¢ but less than 34¢; 3¢ on the fractional part of the dollar if in excess of 33¢ but less than 51¢; 4¢ on the fractional part of the dollar if in excess of 50¢ but less than 68¢; 5¢ on the fractional part of the dollar if in excess of 67¢ but less than 85¢; and 6¢ on the fractional part of the dollar if in excess of 84¢. For example, the tax on sales from \$1.01 to \$1.16, both inclusive, 7¢; on sales from \$1.17 to \$1.33, both inclusive, 8¢; on sales from \$1.34 to \$1.50, both inclusive, 9¢; on sales from \$1.51 to \$1.67, both inclusive, 10¢; on sales from \$1.68 to \$1.84, both inclusive, 11¢ and on sales from \$1.85 to \$2, both inclusive, 12¢: *Provided*, That beginning January 1, 2004, tax due under this article shall be calculated as provided in subsection (d) of this subsection and this subsection (c) does not apply to sales made after December 31, 2003.

(d) *Calculation of tax on fractional parts of a dollar after December 31, 2003.* — Beginning January 1, 2004, the tax computation under subsection (b) of this section shall be carried to the third decimal place, and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(e) *No aggregation of separate sales transactions, exception for coin-operated devices.* — Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of computation of the tax even though the sales are aggregated in the billing or payment therefor. Notwithstanding any other provision

of this article, coin-operated amusement and vending machine sales shall be aggregated for the purpose of computation of this tax.

(f) *Rate of tax on certain mobile homes.* — Notwithstanding any provision of this article to the contrary, after December 31, 2003, the tax levied on sales of mobile homes to be used by the owner thereof as his or her principal year-round residence and dwelling shall be an amount equal to six percent of fifty percent of the sales price.

(g) *Construction; custom software.* — After December 31, 2003, whenever the words ‘tangible personal property’ or ‘property’ appear in this article, the same shall also include the words ‘custom software’.

(h) *Computation of tax on sales of gasoline and special fuel.* — The method of computation of tax provided in this section does not apply to sales of gasoline and special fuel.

(i) For purposes of this article and articles fifteen-a and fifteen-b of this chapter, the term ‘general rate’ refers to the current rate of the consumer sales and service tax as provided in subsection (b) of this article.

§11-15-3d. Imposition of consumers sales tax on telecommunications service and ancillary services.

(a) Notwithstanding the provisions of section eight of this article or any other provision of this code to the contrary, on and after July 1, 2017, telecommunications service and ancillary services, as defined in article fifteen-b of this chapter, shall be subject to the consumers sales and service tax imposed by this article, and the use tax imposed by article fifteen-a of this chapter: *Provided*, That payment of the tax imposed under this article or under article fifteen-a of this chapter on prepaid wireless services is sufficient to fulfill the mandate of this section, and prepaid wireless services shall not be subjected to double taxation under this article: *Provided, however*, That this section shall not be interpreted to prevent imposition of any other lawfully imposed municipal tax or fee or any other tax or fee lawfully imposed under

any state or federal law, or the laws of any subdivision thereof on such prepaid wireless services.

(b) The tax imposed by this section shall be in addition to any municipal utilities tax, municipal consumers sales and service tax and use tax, or other tax lawfully imposed on telephone service, telecommunications service and ancillary services.

(c) The sale of telecommunications service and ancillary services on which tax is imposed by this section shall be subject to sourcing rules of the Streamlined Sales Tax Agreement as defined in article fifteen-b of this chapter.

§11-15-8. Furnishing of services included; exceptions.

(a) The provisions of this article apply not only to selling tangible personal property and custom software, but also to the furnishing of all services, except professional and personal services, and except those services furnished by businesses subject to the control of the Public Service Commission when the service or the manner in which it is delivered is subject to regulation by the Public Service Commission.

(b) Notwithstanding any provision of subsection (a) of this section to the contrary, beginning July 1, 2017, the following personal services done to or performed on the person of an individual that are directly from one person to another are subject to the tax imposed under this article: Barbering, massaging, manicuring, hair setting, hair washing and dyeing, shoe-shining while the shoes are worn by the customer, and non-medical personal care services.

§11-15-8a. Contractors.

(a) The provisions of this article shall not apply to contracting services: *Provided*, That except for purchases by a contractor of tangible personal property or taxable services for use or consumption in the providing of a contracting service, beginning on July 1, 2017, the provisions of this article shall apply to the first \$40,000 of consideration paid for contracting services pursuant to a contract entered into on or after July 1, 2017: *Provided, however*,

~~That However,~~ purchases by a contractor of tangible personal property or taxable services for use or consumption in the providing of a contracting service shall be taxable beginning March 1, 1989, except as otherwise provided in this article.

~~(b) Transition rules.—The exemption from payment of tax on purchases of tangible personal property or taxable services directly used or consumed in the activity of contracting, as defined in section two of this article, which expires as of March 1, 1989, shall nevertheless remain in effect with respect to:~~

~~(1) Tangible personal property or taxable services purchased by a contractor on or after said first day of March in fulfillment of a written contract for contracting, as defined in section two of this article, that was executed and legally binding on the parties thereto on or before February 15, 1989; or in fulfillment of a written contract entered into after February 15 pursuant to a written bid for contracting that was made on or before February 15 that was binding on the contractor, but only to the extent that the bid is subsequently incorporated into a written contract; or~~

~~(2) Tangible personal property or taxable services purchased by a contractor on or after March 1 pursuant to a written contract executed on or before February 15, 1989, to purchase in specified quantities identified tangible personal property or specified taxable services; or~~

~~(3) Tangible personal property or taxable services purchased by a contractor for consumption or use in fulfillment of a written contract entered into before September 1, 1989, when such contract is for the construction of a new improvement to real property the construction or operation of which was approved by a federal or state regulatory body prior to February 1, 1989, or pursuant to a federal grant awarded prior to such first day of February.~~

(c) Renewals and extensions. — A renewal of any contract shall constitute a new contract for purposes of this section, and the date of entry into a contract renewal by the parties, the date or dates of tender of consideration and the time of performance of any contractual obligations under a renewed contract shall be treated as

the dates for determining application of this section to the renewed contract. Extensions of time granted or agreed upon by the parties to a contract for performance of the contract or for tender of consideration under the contract shall not be treated as contract renewals. Contracts to which such extensions apply shall be treated under these transition rules as if the original contractual provisions for performance and tender of consideration remain in effect.

(d) *Definitions.* — For purposes of this section:

(1) The term ‘contract’ or ‘contracts’ means written agreements reciting or setting forth a fixed price consideration or a consideration based upon cost plus a stated percentage or a stated monetary increment. This term shall not mean or include ongoing sales contracts, contracts whereby any element of the consideration or the property or services sold or to be rendered in performance of the contract are undefined, or determined, as to either nature or quantity, subsequent to the making of the contract, or any open-ended contract.

(2) The term ‘contract renewal’ or ‘renewal’ means a covenant or agreement entered into or assumed by parties which have a current contractual relation or which have had a past contractual relation, whereby the parties agree to incur obligations beyond those which they were, or would have been, required, at the minimum, to carry out under their current or past contractual relation.

§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 board of Trustees of the University System of West Virginia or the board of directors for 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 section four, article three, chapter seventeen-a 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 article twelve of this chapter, 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;

(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 article three, chapter twenty-nine-a 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. The amendment to this subdivision shall apply to sales made after December 31, 2003;

(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 twelve-month period and ‘limited duration’ means no more than eighty-four consecutive hours: *Provided*, That sales for volunteer fire departments and volunteer school support groups, with duration of events being no more than eighty-four consecutive hours at a time, which are held no more than eighteen times in a twelve-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 board of Trustees of the University System of West Virginia or the board of Directors of the state College System 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;

(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 article twenty-two, chapter twenty-nine of this code;

(17) Leases of motor vehicles titled pursuant to the provisions of article three, chapter seventeen-a of this code to lessees for a period of thirty or more consecutive days;

(18) Notwithstanding the provisions of section eighteen or eighteen-b of this article 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 twenty-nine-a 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 beginning on October 1, 2017, sales of electronic data processing services and related software to an ultimate consumer are subject to the tax imposed by this article: *Provided, however,* 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) 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. 'Control' means ownership, directly or indirectly, of stock, equity interests or membership interests possessing fifty 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 fifty percent or more of the value of the corporation, partnership or limited liability company;

(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 twelve 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 article fifteen-a of this chapter 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 certificated 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 certificated 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 certificated 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: Provided, That beginning on October 1, 2017, charges for memberships or services provided by health and fitness organizations relating to personalized fitness programs shall be subject to the tax imposed by this article;

(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)(A) Sales of primary opinion research services when:

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

~~(B)~~ (ii) 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)~~ (iii) The transfer of the results of the service activities is an indispensable part of the overall service.

(B) Beginning on October 1, 2017, all sales of primary opinion research services to an ultimate consumer shall be subject to the tax imposed by this article.

(C) 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 article three, chapter twenty-nine-a 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 after December 1, 1997, 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 section nine-d of this article, 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: *Provided*, That beginning on October 1, 2017, all sales of services, machinery, supplies and materials directly used or consumed in the business activities of transportation, other than for transportation of coal, or communication shall be subject to the tax imposed by this article.

(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. ~~and~~

~~(6) Sales of construction and maintenance materials acquired by a second party for use in the construction or maintenance of a highway project: *Provided*, That in lieu of any refund or credit to the person that paid the tax imposed by this article, the Tax Commissioner shall pay to the Division of Highways for deposit into the state Road Fund of the state reimbursement for the tax in the amount estimated under the provisions of this subdivision. *Provided, however*, That by June 15 of each fiscal year, the division shall provide to the Tax Department an itemized listing of highways projects with the amount of funds expended for highway construction and maintenance. The Commissioner of Highways shall request reimbursement of the tax based on an estimate that forty percent of the total gross funds expended by the agency during the fiscal period were for the acquisition of materials used for highway construction and maintenance. The amount of the reimbursement shall be calculated at six percent of the forty percent.~~

(c) *Effective date.* – The amendment to subsection (b) of this section enacted in 2017 shall take effect May 1, 2017, and shall be construed to prohibit all future transfers to the State Road Fund established in the State Treasury pursuant to section fifty-two, article six of the Constitution, under this section of taxes imposed by this article and article fifteen-a of this chapter.

ARTICLE 15A. USE TAX.**§11-15A-2. Imposition of tax; six percent tax rate; inclusion of services as taxable; transition rules; allocation of tax and transfers.**

(a) (1) An excise tax is hereby levied and imposed on the use in this state of tangible personal property, custom software or taxable services, to be collected and paid as provided in this article or article fifteen-b of this chapter, at the rate of six percent of the purchase price of the property or taxable services, except as otherwise provided in this article. Beginning on January 1, 2018, the tax imposed by this section shall be at the rate of the consumers sales and service tax, as provided in section three, article fifteen of this chapter: *Provided*, That any reductions to the consumers sales and service tax pursuant to section three, article fifteen shall also apply to the tax imposed by this section.

(b) *Calculation of tax on fractional parts of a dollar.* — The tax computation under subsection (a) of this section shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(c) ‘Taxable services’, for the purposes of this article, means services of the nature that are subject to the tax imposed by article fifteen of this chapter. In this article, wherever the words ‘tangible personal property’ or ‘property’ appear, the same shall include the words ‘or taxable services’, where the context so requires.

(d) Use tax is hereby imposed upon every person using tangible personal property, custom software or taxable service within this state. That person’s liability is not extinguished until the tax has been paid. A receipt with the tax separately stated thereon issued by a retailer engaged in business in this state, or by a foreign retailer who is authorized by the Tax Commissioner to collect the tax

imposed by this article, relieves the purchaser from further liability for the tax to which the receipt refers.

(e) Purchases of tangible personal property or taxable services made for the government of the United States or any of its agencies by ultimate consumers is subject to the tax imposed by this section. Industrial materials and equipment owned by the federal government within the State of West Virginia of a character not ordinarily readily obtainable within the state, is not subject to use tax when sold, if the industrial materials and equipment would not be subject to use taxes if sold outside of the state for use in West Virginia.

(f) This article does not apply to purchases made by counties or municipal corporations.”

On the adoption of the amendment, Delegate Sponaugle demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 375**), and there were—yeas 53, nays 46, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Butler, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Gearheart, Hartman, Hicks, Hill, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, McGeehan, Miley, R. Miller, Moye, Paynter, Pethel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Upson, Williams and Wilson.

Absent and Not Voting: Blair.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

The bill was ordered to third reading.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 656, Relating to Student Data Accessibility, Transparency and Accountability Act,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 686, Exempting facilities governed by DHHR that provide direct patient care,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

S. B. 667, Limiting authority of Attorney General to disclose certain information provided by Tax Commissioner,

And,

S. B. 608, Clarifying lawful business structures are unaffected by enactment of prohibitory legislation,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

S. B. 174, Exempting transportation of household goods from PSC jurisdiction,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. J. R. 6, Roads to Prosperity Amendment of 2017,

And reports the same back with amendment and with the recommendation that it be adopted, as amended.

Delegate Anderson, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

S. B. 687, Relating generally to coal mining, safety and environmental protection,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 25, Creating farm-to-food bank tax credit,

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

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 235, Relating to motorcycle registration renewal,

Com. Sub. for S. B. 238, Increasing tax credits allowed for rehabilitation of certified historic structures,

Com. Sub. for S. B. 440, Relating to use of Regional Jail and Correctional Facility Authority funds,

S. B. 444, Establishing Court Advanced Technology Subscription Fund,

S. B. 547, Modifying fees paid to Secretary of State,

And,

Com. Sub. for S. B. 622, Relating generally to tax procedures and administration,

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

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 40, Requiring inclusion of protocols for response to after-school emergencies in school crisis response plans,

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

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 630, Establishing Accessibility and Equity in Public Education Enhancement Act,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 333, Requiring all DHHR-licensed facilities access WV Controlled Substances Monitoring Program Database,

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

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 187, Providing for confidentiality of patients' medical records,

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

Miscellaneous Business

Delegate Caputo asked and obtained unanimous consent that all the remarks regarding the amendments offered to and the passage of Com. Sub. for S. B. 386 be printed in the Appendix to the Journal.

At 9:13 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, April 5, 2017.

Wednesday, April 5, 2017

FIFTY-SEVENTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Tuesday, April 4, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on April 4, 2017, he approved **Com. Sub. for H. B. 2811**.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 5, U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the title and inserting in lieu thereof the following:

“Whereas, Frederick Burdett Warder was born on March 19, 1904, in Grafton, Taylor County, West Virginia, the son of Hugh and Anna (Moran) Warder; and

Whereas, The Warder family was one of the first families to settle the Upper Monongahela region in the latter 1700s, and Hugh Warder was a prominent attorney in Grafton and counsel for the B&O Railroad; and

Whereas, Frederick Burdett Warder was the first of eight children born to Anna and Hugh Warder; and

Whereas, Frederick Burdett Warder graduated from Grafton High School, Class of 1921, as Salutatorian; and

Whereas, Frederick Burdett Warder graduated from the U. S. Naval Academy, Class of 1925, and married Mary Brydon of Grafton in January of 1926 in New York City; and

Whereas, Frederick Burdett Warder was a U. S. Naval Officer, Submarine Service, and early hero in World War II, commanding the USS Seawolf (SS 197); and

Whereas, Fred Warder Day was celebrated in Grafton, April 1942; and

Whereas, Frederick Burdett Warder achieved the rank of Rear Admiral in 1952, was assistant chief of naval operations for undersea warfare in 1955, commanded the Submarine Force Atlantic Fleet in 1957, and retired in 1962 after two years as commandant of the 8th Naval District in New Orleans; and

Whereas, Frederick Burdett Warder received numerous military decorations that included a Navy Cross for action during WW II, a Gold Star in lieu of a second Navy Cross for extraordinary heroism, the Legion of Merit with three Gold Stars, and Bronze Star; and

Whereas, Frederick Burdett Warder, throughout his active years in the Navy, kept 706 Maple Avenue, Grafton, as his permanent address and returned to Grafton whenever he was ashore to visit family and to attend class reunions at Grafton High School until 1984; and

Whereas, Frederick Burdett Warder was named an honorary Colonel of West Virginia; and

Whereas, Frederick Burdett Warder died on February 1, 2000, in Ocala, Florida and was buried in Arlington National Cemetery with full honors on March 28, 2000; and

Whereas, Frederick Burdett Warder was predeceased by his wife Mary, his daughter Mary and son Frederick Jr., and his survivors include two daughters, Grace Warder Harde and Susan Warder Savard, ten grandchildren and nine great-grandchildren; and

Whereas, Naming Bridge Number 46-9-0.03 (46A094) (39.33990, -80.01680), locally known as New Bridge Street Bridge, carrying County Route 9 over Three Fork Creek and CSX Railroad in Grafton, Taylor County, the ‘U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge’ is an appropriate recognition of the contributions to his country, state, community and Taylor County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 46-9-0.03 (46A094) (39.33990, -80.01680), locally known as New Bridge Street Bridge, carrying County Route 9 over Three Fork Creek and CSX Railroad in Grafton, Taylor County, the ‘U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge’; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation.”

And,

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

H. C. R. 5 – “Requesting the Division of Highways to name bridge number 46-9-0.03 (46A094) (39.33990, -80.01680), locally known as New Bridge Street Bridge, carrying County Route 9 over Three Fork Creek and CSX Railroad in Grafton, Taylor County, the ‘U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge’.”

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendments, a resolution of the House of Delegates, as follows:

H. C. R. 8, Dr. Roy and Marian Eshenaur Bridge.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate amendments:

On page two, in the first *Further Resolved* clause, after the word “Eshenaur”, by inserting the word “Memorial”.

And,

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

H. C. R. 8 – “Requesting the Division of Highways to name bridge number 27-35-17.37 (27A117) (38.83117, -82.14255), locally known as US 35-WV 2 Overpass Bridge, carrying U. S. 35 over WV Route 2 in Mason County, the ‘Dr. Roy and Marian Eshenaur Memorial Bridge’.”

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendments, a resolution of the House of Delegates, as follows:

H. C. R. 10, John Cameron Brown Bridge.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate amendments:

On page two, in the *Resolved* clause, by striking out the word “Howards” and inserting in lieu thereof the word “Howard”.

On page two, in the *Resolved* clause, after the word “Brown”, by inserting the word “Memorial”.

On page two, in the first *Further Resolved* clause, after the word “Brown”, by inserting the word “Memorial”.

And,

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

H. C. R. 10 – “Requesting the Commissioner of the Division of Highways to rename bridge number 13-60-39.43, locally known as Airport Bridge, carrying United States Route 60 over Howard Creek, the ‘John Cameron Brown Memorial Bridge’.”

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 13, U. S. Army SSG Brian Curtis Rogers Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 20, U. S. Army PVT James Earl Pelfrey Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 22, U. S. Air Force MSgt Johnny Baxter Clark and U.S. Air Force MSgt Carl Richard (Dick) Clark Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendments, a resolution of the House of Delegates, as follows:

H. C. R. 24, SGT. Eugene E. Arbogast Memorial Bridge.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate amendments:

On page one, in the sixth *Whereas* clause, by striking out “SGT.”.

On page one, in the *Resolved* clause, by striking out “SGT.” and inserting in lieu thereof the words “U. S. Army SGT”.

On page two, in the first *Further Resolved* clause, by striking out “SGT.” and inserting in lieu thereof the words “U. S. Army SGT”.

On page two, in the second *Further Resolved* clause, by striking out the words “SGT. Eugene” and inserting in lieu thereof the words “U. S. Army SGT Eugene E.”.

And,

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

H. C. R. 24 – “Requesting the Division of Highways to name bridge number: 49-9-11.77 (49A133) (38.85693, -80.13636), locally known as Queens Spread Box Beam Bridge, carrying County Route 9 over Right Fork of Middle Fork River in Upshur County the ‘U.S. Army SGT Eugene E. Arbogast Memorial Bridge’.”

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendments, a resolution of the House of Delegates, as follows:

H. C. R. 27, U.S. Army 1LT Patricia Simon Bridge.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate amendments:

On page one, in the *Resolved* clause, after the word “Simon”, by inserting the word “Memorial”.

On page one, in the first *Further Resolved* clause, after the word “Simon”, by inserting the word “Memorial”.

And,

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

H. C. R. 27 - “Requesting the Division of Highways to name the bridge on West Virginia Route 10 over Buffalo Creek in Logan County, bridge number 23-10-25.88 (23A041), latitude 37.89636, longitude -81.99435, locally known as the Chief Logan Box Culvert, the ‘U.S. Army 1LT Patricia Simon Memorial Bridge’.”

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 36, U.S. Army PFC John Ira Pinkerman Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 49, U.S. Army PFC Donald Ray Cochran Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 51, Toby Runyon Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 54, U.S. Army PVT Preston D. Vanscoy Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 60, William "Bill" R. VanGilder Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 82, U.S. Marine Sergeant David Paul McCord Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 33 – “Requesting the Division of Highways to name bridge number 20-77-90.32 (20A627), (38.25068, -81.57285), locally known as the Marmet Bridge over 85th Street, carrying West Virginia Turnpike I-77 over 85th Street, Marmet, in Kanawha County, as the ‘U. S. Army Ranger SGT Richard E. Arden Memorial Bridge’.”

Whereas, U. S. Army Ranger Sergeant Richard Elton Arden was born on October 26, 1949, in Charleston, to Richard and Imogene Arden of Marmet; and

Whereas, Sergeant Arden grew up in Marmet, as the oldest of eight children, with four brothers and three sisters. He graduated from East Bank High School in 1967. Sergeant Arden went to work for C&P Telephone Company (later Lucent/AT&T), where he started as a janitor, became a cable splicer and then went into management as a Communications Representative. Eventually, Sergeant Arden became a manager of Technical Sales and Engineering for Lucent/AT&T, and was later transferred to Washington, D. C. and Columbus. He retired in 2007 with 35 years of service; and

Whereas, Sergeant Arden was a decorated veteran of the United States Army. He was a Team Leader, Company H Rangers, 75th in Airborne with the 1st Cavalry Division, serving two tours of duty in Vietnam from 1968 to 1970. A true hero, Sergeant Arden

received medals of commendation for bravery and heroism, including a Silver Star for Gallantry in Action, two Bronze Stars for Heroism, three Commendations for Heroism and two Purple Hearts; and

Whereas, Sergeant Arden was a devoted and loving husband, father, son, brother, son-in-law, brother-in-law, uncle, cousin and friend survived by his loving wife Janelle (Poling) Arden, whom he described to others as the love of his life, his mother, Imogene C. (Asbury) Arden, currently of Hurricane, with whom he had a special bond and loved dearly. He is also survived by his children and grandchildren whom he loved dearly and was extremely proud of: Brian Arden (Janey Kent) of Cincinnati, Ohio, Tim (Kara) Arden and granddaughter Emma of Charleston, and Paige (John) Ricci and granddaughter Emma of Charleston, and Paige (John) Ricci and granddaughter Nola of Jacksonville, Florida; and

Whereas, Sergeant Arden gained a second family when he married Janelle, and he loved them dearly as well. His father and mother-in-law Calvin and Marilou Poling, sister-in-law Janene (Poling) Addonizio, her husband Jim and his children, Erica and Christopher. He was also loved by Janelle's aunts, uncles and cousins; and

Whereas, Sergeant Arden was a member of Peace Lutheran Church in Canal Winchester, Ohio. His hobbies were woodworking, golf and spending time with his many friends; and

Whereas, Sergeant Arden passed from this life to the next life on Wednesday, April 20, 2016, in his home, surrounded by his loving wife Janelle, sons Brian and Tim, and other close family members; and

Whereas, It is fitting and proper, to honor the life of Sergeant Arden for his dedicated service to his community, state and country by naming this bridge in his memory; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-77-90.32 (20A627), (38.25068, -81.57285),

locally known as the Marmet Bridge over 85th Street, carrying West Virginia Turnpike I-77 over 85th Street, Marmet, in Kanawha County, as the “U. S. Army Ranger SGT Richard E. Arden Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army Ranger SGT Richard E. Arden Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways; to his wife Janelle Arden and his mother Imogene C. Arden.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 42 – “Requesting the Division of Highways to name bridge number 12-48-1.74, EB-WB (12A120,12A121), (39.21219, -79.26886), locally known as US 48 over Stony River Bridge, carrying US 48 over the Stony River in Grant County, the ‘Five Champ Brothers Bridge’.”

Whereas, The five sons of Quinten and Bessie Champ, were born in Medley, Grant County and each served in the armed forces of the United States. Carl E. Champ, P.O. Box 62, Old Fields, West Virginia, 26845, Date of Service: 1964 to 10/16/1968, Discharge Rank E4. Awards: Combat Infantry Badge, Parachute Badge, Bronze Star Vietnam: 1 Tour. Gary Dean Champ, Purgisville, West Virginia, Date of Service: 2/18/65 to 1/23/67, 5 years Active Reserves, Discharge Date 2/10/71 from Reserves, Discharge Rank: E5. Roger D. Champ, P.O. Box 395, Moorefield, West Virginia, 26836, Date of Service: 3/12/64 to 2/25/66 and 8/23/68 to 1971, Vietnam, served two tours, 1969 to 1971. Awards: Silver Star for Gallantry in Action and Bronze Star Wounded in Vietnam. John Champ, Purgisville, West Virginia, Dates of Service: 9/21/67 to

7/05/68 Medical Discharge, Discharge Rank: E5O; and Charles E. Champ, Old Fields, West Virginia, Date of Service: 7/1961 to 10/1964, Stations: Fort Knox, Kentucky; Fort Riley, Kansas; and Germany, Rank: E4; and

Whereas, Naming this bridge is an appropriate recognition of the five Champ brothers and their service to their country and state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 12-48-1.74, EB-WB (12A120,12A121), (39.21219, -79.26886), locally known as US 48 over Stony River Bridge, carrying US 48 over the Stony River in Grant County, the “Five Champ Brothers Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “Five Champ Brothers Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 49 – “Requesting the Division of Highways to erect a sign along each side of US Route 60, at the St. Albans bridge near Amandaville in Kanawha County, proclaiming ‘Home of Ralph Maddox - 1980 NHPA Hall of Fame Inductee’.”

Whereas, Ralph Eugen Maddox was born October 23, 1922; and

Whereas, Ralph Maddox won his first Horseshoe Pitching Virginia State Championship in 1934 at the age of twelve years. He is the youngest player to win a state championship ever; and

Whereas, Ralph Maddox was hired at Union Carbide because of his superior fast-pitching softball arm. He, however, pursued his horseshoe career; and

Whereas, Ralph Maddox went on to win 36 state championships and was a member of the Horseshoe Pitchers Association for 69 years. Ralph qualified for the Men's World Tournament Championship Class 21 times, winning 411 games and a career average of 77.57% ringers. His high finish was in 1961, he placed 3rd on a 30-5 record and an 80.9% ringers average. Ralph was one of the 13 famed 80% pitchers in the 1964 World Tournament, placed 9th on 25-10 record while pitching 83.5% ringers; and

Whereas, Sadly, Ralph Maddox passed away on November 13, 2007 following a lengthy illness; and

Whereas, Ralph Maddox having won numerous state and world tournament championships, was inducted into the Horseshoe Hall of Fame in April 1980 and was known as "Mr. Horseshoe"; and

Whereas, It is most fitting that the West Virginia Legislature pay tribute to the accomplishments of Ralph Maddox; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to erect a sign along each side of US Route 60 at the St. Albans bridge near Amandaville, in Kanawha County proclaiming, "Home of Ralph Maddox - 1980 NHSPA Hall of Fame Inductee"; and, be it

Further Resolved, that the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 239, on Third Reading, Special Calendar, to the House Calendar, and Com. Sub. for S. B. 412, on Second Reading, to the House Calendar.

Special Calendar

Third Reading

Com. Sub. for S. B. 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 376**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 4) passed.

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

Com. Sub. for S. B. 4 - “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §30-1-21; to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3E-14; to amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code; to amend and reenact §30-7-6a of said code; to amend said code by adding thereto a new section, designated §30-7A-6b; to amend and reenact §30-8-16 of said code; to amend and reenact §30-14-12b of said code; to amend said code by adding thereto a new section, designated §30-16-7a; to amend and reenact §30-20-13 of said code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-8a of said code, all relating to allowing professionals to donate time to the care of indigent and needy; permitting persons who hold an unrestricted license, certificate, registration or permit granted by

another state or jurisdiction to serve as a volunteer without compensation for a charitable function for a period not to exceed ten days; permitting specific professionals who are actively practicing and whose license is in good standing to donate their expertise for the care and treatment of indigent and needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient and providing that such services may be performed in either the professional's office or in the clinical setting; and providing for special volunteer license for licensed practical nurses and chiropractors.”

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

Com. Sub. for S. B. 300, Supplemental appropriation from unappropriated balance in Treasury to Division of Personnel; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 377**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 300) passed.

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

On this question, the yeas and nays were taken (**Roll No. 378**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 300) takes effect from its passage.

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

Com. Sub. for S. B. 303, Supplemental appropriation of public moneys from Treasury to DHHR; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 379**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 303) passed.

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

On this question, the yeas and nays were taken (**Roll No. 380**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 303) takes effect from its passage.

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

Com. Sub. for S. B. 305, Supplemental appropriation of public moneys from Treasury to Fire Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 381**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 305) passed.

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

On this question, the yeas and nays were taken (**Roll No. 382**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 305) takes effect from its passage.

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

Com. Sub. for S. B. 337, Hiring correctional officers without regard to placement on correctional officer register; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 383**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 337) passed.

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

On this question, the yeas and nays were taken (**Roll No. 384**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 337) takes effect from its passage.

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

Com. Sub. for S. B. 484, Relating generally to taxation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 385**), and there were—yeas 52, nays 48, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Gearheart, Hartman, Hicks, Hill,

Hornbuckle, Iaquinta, Isner, Kessinger, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Upson, Williams and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 484) passed.

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

Com. Sub. for S. B. 484 - “A Bill to amend and reenact §11-15-3, §11-15-8, §11-15-8a and §11-15-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-15-3d; and to amend and reenact §11-15A-2 of said code, all relating to the taxes generally; reducing the general rate of consumers sales and service taxes and use taxation; imposing a reduced rate of taxation on sales, purchases and uses of food and food ingredients intended for human consumption and expiration date; imposing tax on sales of telecommunications services and ancillary services; eliminating exemption for sales of certain personal services; imposing tax on portion of consideration paid for contracting services; removing outdated language from the code regarding an obsolete exemption related to contracting services; eliminating exemption for sales of electronic data processing services and related software when purchased by an ultimate consumer; eliminating exemption for sales of membership or services provided by health and fitness organizations and related programs; eliminating exemption for sales of primary opinion research when purchased by an ultimate consumer; eliminating exemption for all sales of services, machinery, supplies and materials directly used or consumed in the business activities of transportation, other than for transportation of coal, or communication; eliminating exemption for sales of construction and maintenance materials acquired by a second party for use in the construction or maintenance of a highway project; and prohibiting future transfers of certain tax collections to the State Road Fund.”

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

S. B. 493, Providing increase in compensation for conservation officers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 386**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: McGeehan and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 493) passed.

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

S. B. 493 - “A Bill to amend and reenact §20-7-1c of the Code of West Virginia, 1931, as amended, relating to compensation for Natural Resources Police Officers”.

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

Com. Sub. S. B. 563, Relating to Consumer Credit and Protection Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 387**), and there were—yeas 72, nays 28, absent and not voting none, with the nays being as follows:

Nays: Barrett, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hornbuckle, Isner, Longstreth, Love, Lynch, Marcum, McGeehan, Miley, R. Miller, Pushkin,

Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Wagner and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 563) passed.

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

At 1:57 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 3:30 p.m.

* * * * *

Afternoon Session

* * * * *

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

Special Calendar

Third Reading

-continued-

Com. Sub. for H. B. 2018, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Delegate Gearheart moved to amend the bill on page seven, line twelve, by striking out “The appropriations for the Senate for the fiscal year 2017 are to remain in full force and effect and are hereby reappropriated to June 30, 2018. Any balances so reappropriated may be transferred and credited to the fiscal year 2017 accounts.”

On page nine, line eight, by striking out “The appropriations for the House of Delegates for the fiscal year 2017 are to remain in

full force and effect and are hereby reappropriated to June 30, 2018. Any balances so reappropriated may be transferred and credited to the fiscal year 2017 accounts.”

On page ten, line seven, by striking out “The appropriations for the Joint Expenses for the fiscal year 2017 are to remain in full force and effect and are hereby reappropriated to June 30, 2018. Any balances reappropriated may be transferred and credited to the fiscal year 2017 accounts.”

On page twelve, line nine, by striking out “Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), Current Expenses (fund 0101, appropriation 13000), and JOBS Fund (fund 0101, appropriation 66500) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page thirteen, line five, by striking out “Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0102, fiscal year 2017, appropriation 13000 7 (\$20,000) which shall expire June 30, 2017.”

On page thirteen, line one, by striking out “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), and Natural Disasters – Surplus (fund 0105, appropriation 76400) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year.”

On page fourteen, line five, by striking out “Any unexpended balance remaining in the appropriation for Current Expenses (fund

0116, appropriation 13000) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page fifteen, line eight, by striking out “Any unexpended balances remaining in the appropriation for Current Expenses (fund 0126, appropriation 1300) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page sixteen, line twenty-four, by striking out “Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0131, appropriation 09700), Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0131, fiscal year 2017, appropriation 11900 (\$18,859), fund 0131, fiscal year 2017, appropriation 13000 (\$19,343), and fund 0131, fiscal year 2017, appropriation 47000 (\$3,600) which shall expire on June 30, 2017.”

On page seventeen, line eight, by striking out “Any unexpended balances remaining in the appropriations for Unclassified (fund 0132, appropriation 09900), Soil Conservation Projects (fund 0132, appropriation 12000), and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0132, fiscal year, appropriation 12000 (\$157,439) which shall expire on June 30, 2017.”

On page nineteen, line ten, by striking out “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 2017 are hereby reappropriated

for expenditure during the fiscal year 2018, with the exception of fund 0150, fiscal year 2017, appropriation 09900 (\$20,000), and fund 0150, fiscal year 2017, appropriation 26000 (\$69,575) which shall expire on June 30, 2017.”

On page twenty, line six, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0155, fiscal year 2017, appropriation 13000 (\$19,613) which shall expire on June 30, 2017.”

On page twenty-one, line twelve, by striking out “Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0186, fiscal year 2017, appropriation 30400 (\$73,000) which shall expire on June 30, 2017.”

On page twenty-two, line ten, by striking out “Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page twenty-three, line fifteen, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page twenty-four, line nine, by striking out “Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page twenty-five, line eight, by striking out “Any unexpended balance remaining in the above appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page twenty-six, line four, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page twenty-seven, line eight, by striking out “Any unexpended balance remaining in the appropriation for Equipment (fund 0250, appropriation 07000) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page twenty-eight, line eight, by striking out “Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0253, fiscal year 2017, appropriation 20700 (\$57,599) which shall expire on June 30, 2017.”

On page twenty-nine, line thirteen, by striking out “Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000), Small Business Development (fund 0256, appropriation 70300), Local Economic Development Assistance (fund 0256, appropriation 81900), and 4-H Camp Improvements (fund 0256, appropriation 94100) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page thirty-one, line fourteen, by striking out “Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page thirty-two, line fourteen, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page thirty-seven, line forty-two, by striking out “Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), National Teacher Certification (fund 0313, appropriation 16100), Buildings (fund 0313, appropriation 25800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), Land (fund 0313, appropriation 73000), School Based Truancy Prevention (fund 0313, appropriation 78101), and 21st 46 Century Learners (fund 0313, appropriation 88600) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page thirty-nine, line seven, by striking out “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 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page forty, line thirteen, by striking out “Any unexpended balances remaining in the appropriations for GED Testing (fund

0390, 14 appropriation 33900) and High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page forty-one, line ten, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page forty-two, line fourteen, by striking out “Any unexpended balances remaining in the appropriations for Center for Professional Development (fund 0294, appropriation 11500), Benedum Professional Development Collaborative (fund 0294, appropriation 42700), Governor’s Honors Academy (fund 0294, appropriation 47800), and S.T.E.M. Education and Grant Program (fund 0294, appropriation 71900) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0294, fiscal year 2017, appropriation 42700 (\$66,416) which shall expire on June 30, 2017.”

On page forty-three, line fourteen, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page forty-four, line eight, by striking out “Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page forty-seven, line seven, by striking out “Any unexpended balance remaining in the appropriation for the Women’s Commission (fund 0400, appropriation 19100) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page forty-eight, line thirty-one, by striking out “Any unexpended balances remaining in the appropriations for Safe Drinking Water Program (fund 0407, appropriation 18700), Statewide EMS Program Support (fund 0407, appropriation 38300), 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), Assistance to Primary Health Care Centers Community Health Foundation (fund 0407, appropriation 84500), and Tobacco Education Program (fund 0407, appropriation 90600) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page forty-nine, line eleven, by striking out “Any unexpended balances remaining in the appropriations for Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), Capital Outlay (fund 0525, appropriation 51100), Behavioral Health Program – Surplus (fund 0525, appropriation 63100), Institutional Facilities Operations – Surplus (fund 0525, appropriation 63200), Substance Abuse Continuum of Care – Surplus (fund 0525, appropriation 72200), and Capital Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page fifty-three, line thirty-seven, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page fifty-five, line thirteen, by striking out “Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Substance Abuse Program – Surplus (fund 0430, appropriation 69600), 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 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0430, fiscal year 2017, appropriation 93900 (\$50,000) which shall expire on June 30, 2017.”

On page fifty-six, line seven, by striking out “Any unexpended balance remaining in the appropriations for Unclassified (fund 0433, appropriation 09900) and Military Authority (fund 0433, appropriation 74800) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page fifty-seven, line thirteen, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0443, fiscal year 2017, appropriation 87700 (\$9,500) which shall expire on June 30, 2017.”

On page fifty-nine, line thirty-two, by striking out “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 Operating Expenses – Surplus (fund 0450, appropriation 77900) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0450, fiscal year 2017, appropriation 09000 (\$100,000) which shall expire on June 30, 2017.”

On page sixty-one, line fourteen, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page sixty-two, line twelve, by striking out “Any unexpended balances remaining in the appropriations for Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), and Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0546, fiscal year 2017, appropriation 56100 (\$172,000), and fund 0546, fiscal year 2017, appropriation 76200 (\$29,878) shall expire on June 30, 2017.”

On page sixty-three, line seventeen, by striking out “Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page sixty-four, line eight, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page sixty-four, line eight, by striking out “Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, 9 appropriation 09600) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page sixty-five, line twelve, by striking out “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 GIS Development Project (fund 0470, appropriation 56200) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page sixty-five, line four, by striking out “Any unexpended balance remaining in the appropriation for Unclassified (fund 0595, appropriation 09900) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page sixty-six, line six, by striking out “Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page sixty-six, line six, by striking out “Any unexpended balance remaining in the appropriation for Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0506, fiscal year 2017, appropriation 69000 (\$32,483) which shall expire on June 30, 2017.”

On sixty-seven, line four, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0510, fiscal year 2017, appropriation 07000 (\$22,203), fund 0510, fiscal year

2017, appropriation 25800 (\$5,281), and fund 0510, fiscal year 2017, appropriation 69000 (\$5,000) which shall expire on June 30, 2017.”

On page sixty-seven, line seven, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page sixty-eight, line seventeen, by striking out “Any unexpended balances remaining in the appropriations for Veterans’ Nursing Home (fund 18 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 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0456, fiscal year 2017, appropriation 28600 (\$8,794), fund 0456, fiscal year 2017, appropriation 32900 (\$1,702), and fund 0456, fiscal year 2017, appropriation 34200 (\$29,000) which shall expire on June 30, 2017.”

On page seventy, line ten, by striking out “Any unexpended balances remaining in the appropriations for West Virginia Council for Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements – 11 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 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0596, fiscal year 2017, appropriation 39200 (\$14,000), fund 0596, fiscal year 2017, appropriation 89300 (\$69,244), and fund 0596, fiscal year 2017, appropriation 89400 (\$45,964) which shall expire on June 30, 2017.”

On page seventy-three, line twelve, by striking out “Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0589, appropriation 09700), Tuition Contract Program (fund 0589, appropriation 16500), Capital Improvements – Surplus (fund 0589, appropriation 66100), Capital Outlay and Maintenance (fund 0589, appropriation 75500), and HEAPS Grant Program (fund 0589, appropriation 86700) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0589, fiscal year 2017, appropriation 16500 (\$24,991) which shall expire on June 30, 2017.”

On page seventy-five, line seven, by striking out “Any unexpended balance remaining in the appropriation for Rural Health Outreach Program (fund 0347, appropriation 37700) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0347, fiscal year 2017, appropriation 37700 (\$3,352) which shall expire on June 30, 2017.”

On page seventy-six, line eight, by striking out “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 fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0348, fiscal year 2017, appropriation 51900 (\$4,982), fund 0348, fiscal year 2017, appropriation 53100 (\$6,687), fund 0348, fiscal year 2017, appropriation 80700 (\$415), and fund 0348, fiscal year 2017, appropriation 93200 (\$35,906) which shall expire on June 30, 2017.”

On page seventy-seven, line seven, by striking out “Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0336, fiscal

year 2017, appropriation 37700 (\$3,367) which shall expire on June 30, 2017.”

On page ninety-four, line eight, by striking out “Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.” And inserting in lieu thereof, “Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2017 shall expire on June 30, 2017.”

On page one hundred, line eight, by striking out “Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred seventeen, line five, by striking out “Any unexpended balances remaining in the appropriations for Unclassified (fund 5094, appropriation 09900) and Current Expenses (fund 5094, appropriation 13000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred twenty, line two, by striking out “Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 6295, appropriation 09600) at the close of fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred thirty-six, line one, by striking out “Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred thirty-six, line one, by striking out “Any unexpended balance remaining in the appropriation for Capital

Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred forty-five, line 5, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred forty-five, line seven, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred forty-six line seven, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred fifty-six, line two hundred thirty-five, by striking out “Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), Archeological Curation/Capital Improvements (fund 3534, appropriation 25600), 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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred fifty-seven, line seven, by striking out “Any unexpended balance remaining in the appropriation for Libraries – Special Projects (fund 3559, appropriation 62500) at the close of fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred fifty-eight, line seventeen, by striking out “Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred fifty-nine, line thirteen, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred fifty-nine, line two, by striking out “Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, appropriation 84700) at the close of fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred sixty, line nine, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred sixty, line six, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred sixty-three, line seven, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred sixty-five, line one, by striking out one “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 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred sixty-five, line one, by striking out “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 2017 are hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred sixty-five, line one, by striking out “Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On page one hundred sixty-six, line one, by striking out “Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.”

On the adoption of the amendment, Delegate Gearheart demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 388**), and there were—yeas 32, nays 67, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Brewer, Butler, Canestraro, Caputo, Diserio, Eldridge, Ellington, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Gearheart, Iaquina, Isner, Longstreth, Marcum, Martin, McGeehan, Miley, R. Miller, Paynter, Pyles, Rodighiero, Rowe, Sponaugle, Storch, Thompson, Williams and Wilson.

Absent and Not Voting: Deem.

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

Delegate Gearheart moved to amend the bill on page 47, line 1, by striking out “12,048,586” and inserting in lieu thereof “9,048,586”.

On page forty-eight, line thirty, by striking out “67,502,349” and inserting in lieu thereof “64,502,349”.

On page fifty-one, line one, by striking out “43,080,825” and inserting in lieu thereof “36,080,825”.

On page fifty-three, line thirty-six, by striking out “936,595,912” and inserting in lieu thereof “929,595,912”.

The Speaker put the question on the adoption of the foregoing amendment, and the same did not prevail.

Delegate Gearheart moved to amend the bill on page one hundred forty-seven, line three, by striking out “1,346,814” and inserting in lieu thereof “0”.

And,

On page one hundred forty-eight, line nineteen, by striking out “3,474,632” and inserting in lieu thereof “2,127,818”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 389**), and there were—yeas 13, nays 85, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Blair, Butler, Folk, N. Foster, Gearheart, Hamrick, Hill, Kessinger, Martin, McGeehan, Paynter, Sobonya and Wilson.

Absent and Not Voting: Deem and Fleischauer.

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

Delegates Gearheart moved to amend the bill on page one hundred forty-seven, line one, by striking out “59,058” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line two, by striking out “466,921” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line four, by striking out “30,074” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line five, by striking out “294,742” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line six, by striking out “120,019” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line seven, by striking out “99,543” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line eight, by striking out “90,000” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line nine, by striking out “36,005” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line ten, by striking out “580,800” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line eleven, by striking out “31,241” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line twelve, by striking out “24,000” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line thirteen, by striking out “57,281” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line fourteen, by striking out “27,277” and inserting in lieu thereof “0”.

On page one hundred forty-seven, line fifteenth, by striking out “38,187” and inserting in lieu thereof “0”.

On page one hundred forty-eight, line sixteenth, by striking out “59,058” and inserting in lieu thereof “0”.

On page one hundred forty-eight, line seventeenth, by striking out “59,058” and inserting in lieu thereof “0”.

On page one hundred forty-eight, line eighteenth, by striking out “54,554” and inserting in lieu thereof “0”.

On page one hundred forty-eight, line nineteenth, by striking out “3,474,632” and inserting in lieu thereof “1,346,814”.

On page one hundred forty-eight through page one hundred fifty-six, by striking out line twenty through line two hundred thirty-four.

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

The yeas and nays having been ordered, they were taken (**Roll No. 390**), and there were—yeas 12, nays 87, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Blair, Butler, Folk, N. Foster, Gearheart, Hill, Householder, Kessinger, Martin, McGeehan, Paynter and Wilson.

Absent and Not Voting: Deem.

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

Delegate Gearheart moved to amend the bill on page seven, Fund 0165, line one, by striking out “1,010,000” and inserting in lieu thereof “0”.

On page seven, Fund 0165, line three, by striking out “4,011,332” and inserting in lieu thereof “0”.

On page seven, Fund 0165, line four, by striking out “276,392” and inserting in lieu thereof “780,318”.

On page seven, Fund 0165, line five, by striking out “50,000” and inserting in lieu thereof “100”.

On page seven, Fund 0165, line six, by striking out “20,000” and inserting in lieu thereof “100”.

On page seven, Fund 0165, line seven, by striking out “60,000” and inserting in lieu thereof “100”.

On page seven, Fund 0165, line eight, by striking out “125,000” and inserting in lieu thereof “100”.

On page seven, Fund 0165, line nine, by striking out “370,000” and inserting in lieu thereof “100”.

On page seven, Fund 0165, line ten, by striking out “29,482” and inserting in lieu thereof “0”.

On page seven, Fund 0165, line eleven, by striking out “5,952,206 and inserting in lieu thereof “780,818”.

On page nine, Fund 0170, line four, by striking out “3,929,031” and inserting in lieu thereof “1,929,031”.

On page nine, Fund 0170, line seven, by striking out “8,904,031” and inserting in lieu thereof “6,904,031”.

On page ten, Fund 0175, line one, by striking out “5,725,138” and inserting in lieu thereof “5,758,015”.

On page ten, Fund 0175, line four, by striking out “1,447,500” and inserting in lieu thereof “902,500”.

On page ten, Fund 0175, line five, by striking out “60,569” and inserting in lieu thereof “27,692”.

On page ten, Fund 0175, line six, by striking out “8,140,457” and inserting in lieu thereof “7,595,457”.

The Speaker put the question on the adoption of the foregoing amendment, and the same did not prevail.

Delegates Rowe, Williams, Lovejoy, Pyles and Fleischauer moved to amend the bill on page seventy-two, by striking out the provisions relating to and beginning with “The Higher Education Policy Commission” through page seventy-eight, ending on page seventy-eight before the words “Total TITLE II, Section 1 – General Revenue” and inserting in lieu thereof the following:

“HIGHER EDUCATION POLICY COMMISSION

1 - Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2018 Org 0441

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,538,511
3	Current Expenses	13000	65,653
4	Higher Education Grant Program	16400	39,019,864
5	Tuition Contract Program (R).....	16500	1,249,555
6	Underwood-Smith Scholarship		
7	Program-Student Awards.....	16700	328,349
8	Facilities Planning and Administration (R).....	38600	1,833,577
9	PROMISE Scholarship – Transfer.....	80000	18,500,000
10	HEAPS Grant Program (R).....	86700	5,007,764
11	Higher Education Operating Expenses	#####	
12	BRIM Premium.....	9130	<u>16,965</u>
13	Total.....		\$ 68,560,238

14 Any unexpended balances remaining in the appropriations for
15 Unclassified – Surplus (fund 0589, appropriation 09700), Tuition
16 Contract Program (fund 0589, appropriation 16500), Capital
17 Improvements – Surplus (fund 0589, appropriation 66100), Capital
18 Outlay and Maintenance (fund 0589, appropriation 75500), and
19 HEAPS Grant Program (fund 0589, appropriation 86700) at the
20 close of the fiscal year 2017 are hereby reappropriated for
21 expenditure during the fiscal year 2018, with the exception of fund
22 0589, fiscal year 2017, appropriation 16500 (\$24,991) which shall
23 expire on June 30, 2017.

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

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

32 The above appropriation for Underwood-Smith Scholarship
33 Program-Student Awards (fund 0589, appropriation 16700) shall
34 be transferred to the Underwood-Smith Teacher Scholarship and
35 Loan Assistance Fund (fund 4922, org 0441) established by W.Va.
36 Code §18C-4-1.

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

2- *West Virginia University –*

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2018 Org 0463

1	WVU School of Health		
2	Science – Eastern.....	05600	\$ 2,149,539
3	WVU – School of Health.....	17400	14,833,144
4	WVU – School of Health		
5	Sciences – Charleston.....	17500	2,210,767
6	Rural Health Outreach	37700	162,639
7	West Virginia University		
8	School of Medicine		
9	BRIM.....	46000	1,203,087
10	Total.....		\$ 20,559,176

11 The above appropriation for Rural Health Outreach Programs
 12 (fund 0343, appropriation 37700) includes rural health activities
 13 and programs; rural residency development and education; and
 14 rural outreach activities.

15 The above appropriation for West Virginia University School of
 16 Medicine BRIM Subsidy (fund 0343, appropriation 46000) shall be
 17 paid to the Board of Risk and Insurance Management as a general
 18 revenue subsidy against the ‘Total Premium Billed’ to the institution
 19 as part of the full cost of their malpractice insurance coverage.

3 - *West Virginia University –*

General Administrative Fund

(WV Code Chapter 18B)

Fund 0344 FY 2018 Org 0463

1	West Virginia.....	45900	\$	93,511,253
2	Jackson’s Mill.....	46100		228,967
3	West Virginia University Institute of			
4	Technology.....	47900		7,636,347
5	State Priorities – Brownfield Professional			
6	Development.....	53100		322,653
7	West Virginia University –			
8	Potomac State.....	99400		<u>3,748,943</u>
9	Total.....		\$	105,448,163

4 - Marshall University –

School of Medicine

(WV Code Chapter 18B)

Fund 0347 FY 2018 Org 0471

1	Marshall Medical School.....	17300	\$	11,643,369
2	Rural Health Outreach			
3	Programs (R).....	37700		160,241
4	Forensic Lab.....	37701		230,815
5	Center for Rural Health.....	37702		153,119
6	Marshall University Medical School			
7	BRIM Subsidy.....	44900		<u>872,612</u>
8	Total.....		\$	13,060,156

9 Any unexpended balance remaining in the appropriation for
10 Rural Health Outreach Program (fund 0347, appropriation 37700)
11 at the close of the fiscal year 2017 is hereby reappropriated for
12 expenditure during the fiscal year 2018, with the exception of fund
13 0347, fiscal year 2017, appropriation 37700 (\$3,352) which shall
14 expire on June 30, 2017.

15 The above appropriation for Rural Health Outreach Programs
16 (fund 0347, appropriation 37700) includes rural health activities

17 and programs; rural residency development and education; and
18 rural outreach activities.

19 The above appropriation for Marshall University Medical
20 School BRIM Subsidy (fund 0347, appropriation 44900) shall be
21 paid to the Board of Risk and Insurance Management as a general
22 revenue subsidy against the ‘Total Premium Billed’ to the
23 institution as part of the full cost of their malpractice insurance
24 coverage.

5 - Marshall University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0348 FY 2018 Org 0471

1	Marshall University	44800	\$	43,905,329
2	Luke Lee Listening Language and			
3	Learning Lab.....	44801		97,585
4	Vista E-Learning (R).....	51900		238,129
5	State Priorities – Brownfield			
6	Professional Development (R).....	53100		319,652
7	Marshall University Graduate			
8	College Writing Project (R).....	80700		19,825
9	WV Autism Training Center (R)	93200		1,716,307
10	Total.....		\$	46,296,827

11 Any unexpended balances remaining in the appropriations for
12 Vista E-Learning (fund 0348, appropriation 51900), State Priorities
13 – Brownfield Professional Development (fund 0348, appropriation
14 53100), Marshall University Graduate College Writing Project
15 (fund 0348, appropriation 80700), and WV Autism Training
16 Center (fund 0348, appropriation 93200) at the close of fiscal year
17 2017 are hereby reappropriated for expenditure during the fiscal
18 year 2018, with the exception of fund 0348, fiscal year 2017,
19 appropriation 51900 (\$4,982), fund 0348, fiscal year 2017,
20 appropriation 53100 (\$6,687), fund 0348, fiscal year 2017,
21 appropriation 80700 (\$415), and fund 0348, fiscal year 2017,

22 appropriation 93200 (\$35,906) which shall expire on June 30,
23 2017.

6 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2018 Org 0476

1	West Virginia School of Osteopathic		
2	Medicine	17200	\$ 6,798,239
3	Rural Health Outreach Programs (R).....	37700	168,354
4	West Virginia School of		
5	Osteopathic Medicine		
6	BRIM Subsidy	40300	156,299
7	Rural Health Initiative – Medical		
8	Schools Support	58100	404,968
9	Total.....		\$ 7,527,860

10 Any unexpended balance remaining in the appropriation for
11 Rural Health Outreach Programs (fund 0336, appropriation 37700)
12 at the close of fiscal year 2017 is hereby reappropriated for
13 expenditure during the fiscal year 2018, with the exception of fund
14 0336, fiscal year 2017, appropriation 37700 (\$3,367) which shall
15 expire on June 30, 2017.

16 The above appropriation for Rural Health Outreach Programs
17 (fund 0336, appropriation 37700) includes rural health activities
18 and programs; rural residency development and education; and
19 rural outreach activities.

20 The above appropriation for West Virginia School of
21 Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation
22 40300) shall be paid to the Board of Risk and Insurance
23 Management as a general revenue subsidy against the ‘Total
24 Premium Billed’ to the institution as part of the full cost of their
25 malpractice insurance coverage.

7 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2018 Org 0482

1 Bluefield State College40800 \$ 5,636,862

8 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2018 Org 0483

1 Concord University41000 \$ 8,674,596

9 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2018 Org 0484

1 Fairmont State University41400 \$ 15,277,769

10 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2018 Org 0485

1 Glenville State College42800 \$ 5,891,397

11 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2018 Org 0486

1 Shepherd University43200 \$ 9,551,994

12 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2018 Org 0488

1 West Liberty University43900 \$ 7,956,371

13 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2018 Org 0490

1	West Virginia State University	44100	\$	10,003,071
2	West Virginia State University			
3	Land Grant Match.....	95600		<u>1,584,947</u>
4	Total.....		\$	11,588,018”

And,

On page 162, relating to distribution of lottery proceeds, following the words “in accordance with W.Va Code §-22-18a.” by inserting the following: “Of the above appropriation, \$16,480,030.00 shall be transferred from the General Revenue Fund to be deposited into Higher Education Operating Expense Fund 0589, for fiscal year 2018, for Org 0441, and proportionately distributed to each institution by budget percent distributed for fiscal year 2018 in order to fund the eleven institution accounts listed in the Higher Education Policy Commission Budget.”

The Speaker put the question on the adoption of the foregoing amendment, and the same did not prevail.

Delegates Robinson and Maynard moved to amend Committee Substitute for H. B. 2018 beginning on page 69, following line 7, by striking out the provisions beginning with “West Virginia Council for Community and Technical College” through line 12 on page 73, stopping before the words “Sec. 2. Appropriations from the state road fund.”, and inserting in lieu thereof, the following:

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

14 - West Virginia Council for

Community and Technical College Education –

Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2018 Org 0420

1	West Virginia Council for Community		
2	and Technical Education (R)	39200	\$ 756,900
3	Transit Training Partnership	78300	40,217
4	Community College		
5	Workforce Development (R)	87800	806,048
6	College Transition Program	88700	292,718
7	West Virginia Advance		
8	Workforce Development (R)	89300	3,269,964
9	Technical Program Development (R)	89400	<u>1,895,214</u>
10	Total		\$ 7,061,061

11 Any unexpended balances remaining in the appropriations for
 12 West Virginia Council for Community and Technical Education
 13 (fund 0596, appropriation 39200), Capital Improvements – Surplus
 14 (fund 0596, appropriation 66100), Community College Workforce
 15 Development (fund 0596, appropriation 87800), West Virginia
 16 Advance Workforce Development (fund 0596, appropriation
 17 89300), and Technical Program Development (fund 0596,
 18 appropriation 89400) at the close of the fiscal year 2017 are hereby
 19 reappropriated for expenditure during the fiscal year 2018, with the
 20 exception of fund 0596, fiscal year 2017, appropriation 39200
 21 (\$14,000), fund 0596, fiscal year 2017, appropriation 89300
 22 (\$69,244), and fund 0596, fiscal year 2017, appropriation 89400
 23 (\$45,964) which shall expire on June 30, 2017.

24 From the above appropriation for the Community College
 25 Workforce Development (fund 0596, appropriation 87800),
 26 \$200,000 shall be expended on the Mine Training Program in
 27 Southern West Virginia.

28 Included in the above appropriation for West Virginia Advance
 29 Workforce Development (fund 0596, appropriation 89300) is
 30 \$200,000 to be used exclusively for advanced manufacturing and
 31 energy industry specific training programs.

15 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2018 Org 0444

1 Mountwest Community and Technical.....48700 \$ 5,569,533

16 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2018 Org 0445

1 New River Community and Technical.....35800 \$ 5,499,133

17 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2018 Org 0446

1 Pierpont Community and Technical93000 \$ 7,323,810

18 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2018 Org 0447

1 Blue Ridge Community and Technical.....88500 \$ 4,980,111

19 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2018 Org 0464

1 West Virginia University – Parkersburg....47100 \$ 9,521,771

20 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2018 Org 0487

- 1 Southern West Virginia
- 2 Community and Technical.....44600 \$ 7,991,778

21 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2018 Org 0489

- 1 West Virginia Northern
- 2 Community and Technical.....44700 \$ 6,898,459

22 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2018 Org 0492

- 1 Eastern West Virginia
- 2 Community and Technical.....41200 \$ 1,835,300

23 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2018 Org 0493

- 1 BridgeValley Community and Technical ..71700 \$ 7,500,925

HIGHER EDUCATION POLICY COMMISSION

24- Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2018 Org 0441

- 1 Personal Services and Employee00100 \$ 2,538,511

2	Current Expenses	13000	65,653
3	Higher Education Grant Program	16400	39,019,864
4	Tuition Contract Program (R)	16500	1,249,555
5	Underwood-Smith Scholarship		
6	Program-Student Award	16700	328,349
7	Facilities Planning		
8	and Administration (R)	38600	1,833,577
9	PROMISE Scholarship – Transfer	80000	18,500,000
10	HEAPS Grant Program (R)	86700	5,007,764
11	Community and Technical Community		
12	Operating Expenses	#####	
13	BRIM Premium	9130	<u>16,965</u>
14	Total		\$ 68,560,238”

And,

On page one hundred sixty-two, relating to distribution of lottery proceeds, following the words “in accordance with W.Va Code §-22-18a.” by inserting the following: “Of the above appropriation, \$3,232,291 shall be transferred from the General Revenue Fund to be deposited into Higher Education Operating Expense Fund 0596, for fiscal year 2018, for Org 0441, and proportionately distributed to the 9 Community and Technical college institutions herein listed by budget percent distributed for fiscal year 2018 in order to fund the institution accounts listed in the Higher Education Policy Commission Budget.”

The Speaker put the question on the adoption of the foregoing amendment, and the same did not prevail.

Delegate Gearheart moved to amend the bill on page thirty-five, Fund 0300, line one, by striking out “3,245,141” and inserting in lieu thereof “0”.

On page thirty-five, Fund 0300, line two, by striking out “20,146” and inserting in lieu thereof “0”.

On page thirty-five, Fund 0300, line three, by striking out “300,000” and inserting in lieu thereof “0”.

On page thirty-five, Fund 0300, line four, by striking out “10,000” and inserting in lieu thereof “0”.

On page thirty-five, Fund 0300, line five, by striking out “45,283” and inserting in lieu thereof “0”.

On page thirty-five, Fund 0300, line six, by striking out “3,620,570” and inserting in lieu thereof “0”.

On the adoption of the amendment, Delegate Gearheart demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 391**), and there were—yeas 10, nays 88, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Blair, Butler, Ellington, Folk, N. Foster, Gearheart, Hill, Kessinger, McGeehan and Wilson.

Absent and Not Voting: Deem and Eldridge.

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

On motion of Delegate Nelson and Mr. Speaker, Mr. Armstead, the bill was amended on page seven, in Senate, Fund 0165, line three, by striking out “\$4,011,332” and inserting in lieu thereof “\$3,011,332”.

On page seven, in Senate, Fund 0165, line eleven, by striking out “\$5,952,206” and inserting in lieu thereof “\$4,952,206”.

On page nine, in House of Delegates, Fund 0170, line four, by striking out “\$3,929,031” and inserting in lieu thereof “\$2,929,031”.

On page nine, in House of Delegates, Fund 0170, line seven, by striking out “\$8,904,031” and inserting in lieu thereof “\$7,904,031”.

On page fourteen, in Auditor's Office-General Administration, Fund 0116, following line two, by inserting a new line item to read as follows:

“3 Volunteer Fire Department Workers' Compensation Subsidy . . 83200 \$2,000,000”, and by renumbering the line numbers accordingly.

And,

On page fourteen, line four, by striking out “\$2,737,395” and inserting in lieu thereof “\$4,737,395”.

The bill was read a third time.

Speaker Pro Tempore Overington in the Chair

Delegate Byrd moved that the bill be recommitted to the Committee on Finance.

Mr. Speaker, Mr. Armstead, in the Chair

On this question, the yeas and nays were taken (**Roll No. 392**), and there were—yeas 36, nays 63, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Bates, Boggs, Brewer, Byrd, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson and Williams.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the motion to recommit the bill to the Committee on Finance was rejected.

Speaker Pro Tempore Overington in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the passage of Com. Sub. for H. B. 2018 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on the Delegate would be as a class of persons possibly to be affected by the passage of the bill and refused to excuse him from voting.

Mr. Speaker, Mr. Armstead, in the Chair

Delegates Byrd, Ferro, Rowe, Hollen, Pushkin, Diserio, Isner, Marcum, Moye, Hornbuckle, Eldridge, Boggs, E. Evans, Brewer, Pyles, Lynch, Anderson, R. Miller, Thompson, Wagner, Westfall, Frich, Espinosa, Rohrbach, Fast, Martin, Hill, Lewis, Shott, Nelson, Ambler, Cowles, Overington, Queen, McGeehan, Hamrick, Summers, Hollen, Arvon and Kessinger requested to be excused from voting on the passage of Com. Sub. for H. B. 2018 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 393**), and there were, including 2 paired—yeas 58, nays 42, absent and not voting none, with the paired and nays being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Deem

Nay: Gearheart

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan,

Miley, R. Miller, Moye, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Upson, Williams, Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2018) passed.

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

On this question, the yeas and nays were taken (**Roll No. 394**), and there were—yeas 60, nays 39, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Williams and Wilson.

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the Speaker declared the motion rejected.

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

At 8:21 p.m., on motion of Delegate Cowles, the House of Delegates recessed for fifteen minutes.

Second Reading

Com. Sub. for S. B. 134, Authorizing Bureau of Commerce to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill

on page one, section one, line one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §64-10-1, §64-10-2 and §64-10-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 10. AUTHORIZATION FOR BUREAU OF
COMMERCE TO PROMULGATE LEGISLATIVE
RULES.**

§64-10-1. Division of Natural Resources.

(a) The legislative rule filed in the State Register on August 29, 2016, authorized under the authority of section seven, article one, chapter twenty of this code, relating to the Division of Natural Resources (point system for the revocation of hunting - repeal, 58 CSR 24), is authorized.

(b) The legislative rule filed in the State Register on August 29, 2016, authorized under the authority of section seven, article one, chapter twenty of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2017, relating to the Division of Natural Resources (revocation of hunting and fishing licenses, 58 CSR 23), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section seven, article one, chapter twenty of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2017, relating to the Division of Natural Resources (special waterfowl hunting, 58 CSR 58), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section eleven, article two, chapter twenty of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3,

2017, relating to the Division of Natural Resources (commercial sale of wildlife, 58 CSR 63), is authorized.

(e) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section seven, article one, chapter twenty of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2017, relating to the Division of Natural Resources (miscellaneous permits and licenses, 58 CSR 64), is authorized.

(f) The legislative rule effective on April 14, 2000, authorized under the authority of section 1 twenty-five, article seven, chapter twenty of this code, relating to the Division of Natural Resources (litter control grant program, 58 CSR 6), is repealed.

§64-10-2. Office of Miners' Health, Safety and Training.

The legislative rule filed in the State Register on July 6, 2016, authorized under the authority of section six-c, article four-c, chapter sixteen of this code, modified by the Office of Miners' Health, Safety and Training to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 6, 2016, relating to the Office of Miners' Health, Safety and Training (certification, recertification and training of EMT-Miners and the certification of EMT-M instructors, 56 CSR 22), is authorized.

§64-10-3. Board of Coal Mine Health and Safety.

The legislative rule effective on July 1, 2014, authorized under the authority of section four, article six, chapter twenty-two-a of this code, relating to the Board of Coal Mine Health and Safety (rules governing proximity detection systems and haulage safety generally, 36 CSR 57), is authorized, with the amendment set forth below:"

And,

On page two, subsection 4.3, by striking out the date "July 1, 2017" and inserting in lieu thereof "the timeframe set forth in the federal rule relating to proximity detection systems."

The bill was ordered to third reading.

Com. Sub. for S. B. 240, Creating crime of nonconsensual distribution of sexual images; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause, and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-8-28a, to read as follows:

**ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY
AND DECENCY.**

**§61-8-28a. Nonconsensual disclosure of private intimate
images; definitions; and penalties.**

(a) As used in this section:

(1) ‘Disclose’ means to publish, publicly display, distribute, deliver, circulate or disseminate by any means, including, but not limited to, electronic transmission.

(2) ‘Image’ means a photograph, videotape, motion picture film, digital recording or any product of any mechanical or electronic recording process or device that can preserve, for later viewing, a visual image.

(3) ‘Intimate parts’ means a person’s genitalia, pubic area, anus or female post-pubescent breasts.

(4) To ‘publicly disclose’ means to disclose an image to one or more persons other than those persons whom the person depicted understood would view the image at the time it was captured.

(b) No person may knowingly and intentionally disclose, cause to be disclosed or threaten to disclose, with the intent to harass, intimidate, threaten, humiliate, embarrass, coerce, or profit

from, an image of another which shows the intimate parts of the depicted person or shows the depicted person engaged in sexually explicit conduct which was captured under circumstances where the person depicted had a reasonable expectation that the image would not be publicly disclosed.

(c) (1) A person convicted of a violation of subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year, fined not less than \$1,000 nor more than \$5,000, or both confined and fined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a person convicted of a second or subsequent violation of subsection (b) of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not more than three years, fined not less than \$2,500 nor more than \$10,000, or both imprisoned and fined.

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

(1) Images disclosed with the prior written consent of the person depicted;

(2) Images depicting the person voluntarily exposing himself or herself in a public or commercial setting; or

(3) Disclosures made through the reporting of illegal conduct or the lawful and common practices of law enforcement, criminal reporting, legal proceeding or medical treatment.

(e) Nothing in this section shall be construed to impose liability on the provider of an interactive computer service as defined by 47 U. S. C. §230(f)(2), an information service as defined by 47 U. S. C. §153(24), or telecommunications service as defined by 47 U. S. C. §153(53), for content provided by another person.”

The bill was ordered to third reading.

Com. Sub. for S. B. 255, Relating generally to filling vacancies in elected office; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §3-10-3, §3-10-5 and §3-10-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 10. FILLING VACANCIES.

§3-10-3. Vacancies in offices of state officials, United States senators, justices, judges and magistrates.

(a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of Agriculture, or in any office created or made elective to be filled by the voters of the entire state, is filled by the Governor of the state by appointment and subsequent election to fill the remainder of the term, if required by section one of this article. The Governor shall make the appointment from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of qualified persons to fill the vacancy shall be submitted to the Governor within fifteen days after the vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the fifteen-day period, the Governor shall appoint within five days thereafter a legally qualified person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred.

(b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of a circuit court or judge of a family court is filled by the Governor of the state by appointment and, if the unexpired term be for a period of more than two years,

by a subsequent election to fill the remainder of the term, as required by subsection (d) of this section. If an election is required under subsection (d) of this section, the Governor, circuit court or the chief judge thereof in vacation, is responsible for the proper proclamation by order and notice required by section one of this article.

(c) Any vacancy in the office of magistrate is appointed according to the provisions of section six, article one, chapter fifty of this code, and, if the unexpired term be for a period of more than two years, by a subsequent election to fill the remainder of the term, as required by subsection (d) of this section.

(d) (1) When the vacancy in the office of Justice of the Supreme Court of Appeals, judge of the circuit court, judge of a family court or magistrate occurs after the eighty-fourth day before a general election, and the affected term of office ends on the thirty-first day of December following the succeeding general election two years later, the person appointed to fill the vacancy shall continue in office until the completion of the term.

(2) When the vacancy occurs before the close of the candidate filing period for the primary election and, if the unexpired term be for a period of greater than two years, the vacancy shall be filled by election in the nonpartisan judicial election held concurrently with the primary election and the appointment shall continue until a successor is elected and certified.

(3) When the vacancy occurs after the close of candidate filing for the primary election and not later than eighty-four days before the general election and, if the unexpired term be for a period of greater than two years, the vacancy shall be filled by election in a nonpartisan judicial election held concurrently with the general election and the appointment shall continue until a successor is elected and certified.

(e) When an election to fill a vacancy is required to be held at the general election according to the provisions of subsection (d) of this section, a special candidate filing period shall be established. Candidates seeking election to any unexpired term for Justice of

the Supreme Court of Appeals, judge of a circuit court, judge of the family court or magistrate shall file a certificate of announcement and pay the filing fee no earlier than the first Monday in August and no later than seventy-seven days before the general election.

§3-10-5. Vacancies in State Legislature.

(a) Any vacancy in the office of state senator or member of the House of Delegates shall be filled by appointment by the Governor, from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of qualified persons to fill the vacancy shall be submitted to the Governor within fifteen days after the vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the fifteen-day period, the Governor shall appoint within five days thereafter a legally qualified person of the same political party as ~~the person vacating the office~~ with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred.

(b) In the case of a member of the House of Delegates, the list shall be submitted by the party executive committee of the delegate district in which the vacating member resided at the time of his or her election or appointment. The appointment to fill a vacancy in the House of Delegates is for the unexpired term.

(c) In the case of a state senator, the list shall be submitted by the party executive committee of the state senatorial district in which the vacating senator resided at the time of his or her election or appointment. The appointment to fill a vacancy in the state Senate is for the unexpired term, unless section one of this article requires a subsequent election to fill the remainder of the term, which shall follow the procedure set forth in said section.

§3-10-7. Vacancies in offices of county commissioner and clerk of county commission.

(a) Any vacancy in the office of county commissioner or clerk of county commission shall be filled by ~~the county commission of the county, unless the number of vacancies in a county commission deprive that body of a quorum, in which case the Governor of the state shall fill any vacancy in the county commission necessary to create a quorum thereof. Persons appointed shall be of the same political party as the officeholder vacating the office for the period stated by section one of this article. If a quorum of the county commission cannot agree upon a person to fill a vacancy in the office of county commissioner within thirty days of the date the vacancy first occurred, the county executive committee of the vacating county commissioner's political party shall select and name a person to fill the vacancy from the membership of the vacating county commissioner's political party. The clerk shall be appointed within thirty days of the vacancy~~ appointment by the county commission of the county by a person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred: *Provided*, That any such person appointed must have been a member of that political party for at least sixty days prior to the occurrence of the vacancy.

(b) If a quorum of the county commission fails to appoint within thirty days, then the county executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred shall submit a list of three legally qualified persons to fill the vacancy. Upon receipt, the county commission shall make the appointment to fill the vacancy from the submitted list within fifteen days after the list is received. If the county commission fails to make the appointment within the specified time, then the county commissioner with the longest tenure shall eliminate one name from the submitted list, followed by the county commissioner with the second-longest tenure then eliminating one name from the submitted list. The name remaining after those names have been eliminated shall be deemed to be appointed by the county commission to fill the vacancy.

(c) If the number of vacancies in a county commission deprive that body of a quorum, the Governor shall fill any vacancy in the county commission necessary to create a quorum, from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The Governor shall make any appointments necessary, beginning with the vacancy first created, to create a quorum in accordance with the same procedures applicable to county commissions by subsection (a) of this section. Once a quorum of the county commission is reestablished by gubernatorial appointment, the authority to fill the remaining vacancies shall be filled in the manner prescribed in said section.

(d) An appointment made pursuant to this section is for the period stated by section one of this article.

~~(b)~~ (e) Notwithstanding any code provision to the contrary, a county commission may appoint a temporary successor to the office of clerk of the county commission until the requirements of this section have been met. The temporary successor may serve no more than thirty days from the date of the vacancy.

~~(e)~~ (f) If an election is necessary under section one of this article, the county commission, or the president thereof in vacation, shall be responsible for the proper proclamation, by order, and notice required by section one of this article.

~~(d)~~ (g) Section one of this article shall be followed with respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be nominated by the county executive committee in the manner provided in section nineteen, article five of this chapter, as in the case of filling vacancies in nominations, and the names of the persons, so nominated and certified to the clerk of the county commission of the county shall be placed upon the ballot to be voted at the next general election.

(e) (h) If the election for an unexpired term is held at the same time as the election for a full term for county commissioner, the full term shall be counted first and the unexpired term shall be counted second. If the candidate with the highest number of votes for the unexpired term resides in the same magisterial district as the candidate with the highest number of votes for the full term, the candidate for the full term shall be seated. The candidate with the next highest number of votes for the unexpired term residing in a different magisterial district shall be seated for the unexpired term.”

The bill was ordered to third reading.

Com. Sub. for S. B. 299, Supplementing, amending, decreasing and increasing items of appropriations from State Road Fund to DOH; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 339, Creating Legislative Coalition on Chronic Pain Management; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk on page one, by striking out the enacting section and inserting a new enacting section to read as follows:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-5Z-1, §16-5Z-2, §16-5Z-3, §16-5Z-4, §16-5Z-5, all to read as follows” and a colon.

On page four, by inserting a new subdivision (4) to read as follows, “(4) Consult with a quality improvement organization” and a semicolon.

And renumbering the remaining subdivisions.

And,

On page five, by striking out section 5, and renumbering the remaining sections accordingly.

Whereupon,

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

The bill was then amended on motion of Delegates Ellington and Bates on page one, by striking out the enacting section and inserting a new enacting section to read as follows:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-52-1, §16-52-2, §16-52-3, §16-52-4 and §16-52-5, all to read as follows” and a colon.

On page three, line nineteen, after the word “code”, by removing the period and inserting “who is appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.”

On page three, line twenty, by inserting a new subdivision (7) to read as follows “(7) A Physical Therapist, licensed under Chapter 30, experienced in the area management of Chronic Pain by physical, behavioral and other non pharmacological means who is appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.”

On page four, by inserting a new subdivision (4) to read as follows, “(4) Consult with a quality improvement organization” and a semicolon.

And renumbering the remaining subdivisions.

And,

On page five, by striking out section five, and renumbering the remaining sections accordingly.

The bill was ordered to third reading.

S. B. 345, Allowing certain hunting and trapping on private lands on Sundays; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, after the enacting clause by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §20-2-19a of the Code of West Virginia, 1931, as amended, be repealed; that §20-2-5, §20-2-42g and §20-2-42h of said code be amended and reenacted, all to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts; Sunday hunting.

(a) Except as authorized by the director or by law, it is unlawful at any time for any person to:

(1) Shoot at any wild bird or wild animal unless it is plainly visible;

(2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge;

(3) Use or attempt to use any artificial light or any night vision technology, including image intensification, thermal imaging or active illumination, while hunting, locating, attracting, taking, trapping or killing any wild bird or wild animal: *Provided*, That it is lawful to hunt or take coyote, fox, raccoon, opossum or skunk by the use of artificial light or night vision technology;

Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500, and shall be confined in jail for not less than ten days nor more than one hundred days;

(4) Hunt, take, kill, wound or shoot at wild animals or wild birds from an airplane or other airborne conveyance, a drone or other unmanned aircraft, an automobile or other land conveyance, or from a motor-driven water conveyance;

(5) Use a drone or other unmanned aircraft to hunt, take or kill a wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the purposes of hunting, trapping or killing;

(6) Take any beaver or muskrat by any means other than a trap;

(7) Catch, capture, take, hunt or kill by seine, net, bait, trap or snare or like device a bear, wild turkey, ruffed grouse, pheasant or quail;

(8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in his or her possession the nest or eggs;

(9) Carry an uncased or loaded firearm in the woods of this state with the following permissible exceptions:

(A) A person in possession of a valid license or permit during open firearms hunting season for wild animals and nonmigratory wild birds;

(B) A person hunting or taking unprotected species of wild animals, wild birds and migratory wild birds during the open season, in the open fields, open water and open marshes of the state;

(C) A person carrying a firearm pursuant to sections six and six-a of this article; or

(D) A person carrying a firearm for self-defense who is not prohibited from possessing firearms by section seven, article seven, chapter sixty-one of this code;

(10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun with cartridges that have not been removed or a magazine that has not been detached, in or on any

vehicle or conveyance, or its attachments. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun itself. Except that between five o'clock post meridian of day one and seven o'clock ante meridian, Eastern Standard Time, of the following day, any unloaded firearm or crossbow may be carried only when in a case or taken apart and securely wrapped. During the period from July 1 to September 30, inclusive, of each year, the requirements relative to carrying unloaded firearms are permissible only from eight-thirty o'clock post meridian to five o'clock ante meridian, Eastern Standard Time: *Provided*, That the time periods for carrying unloaded and uncased firearms are extended for one hour after the post meridian times and one hour before the ante meridian times established in this subdivision, if a person is transporting or transferring the firearms to or from a hunting site, campsite, home or other abode;

~~(11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which wildlife may be taken after the hour of five o'clock ante meridian on Sunday on private land without the written consent of the landowner any wild animals or wild birds except when a big game season opens on a Monday, the Sunday prior to that opening day will be closed for any taking of wild animals or birds after five o'clock ante meridian on that Sunday: *Provided*, That traps previously and legally set may be tended after the hour of five o'clock ante meridian on Sunday and the person tending the traps may carry firearms for the purpose of humanely dispatching trapped animals. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, in addition to any fines that may be imposed by this or other sections of this code, is subject to a \$100 fine;~~

~~(12) (11) Hunt, catch, take, kill, injure or pursue a wild animal or wild bird with the use of a ferret;~~

~~(13) (12) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;~~

~~(14) (13) Catch, take, kill or attempt to catch, take or kill any fish by any means other than by rod, line and hooks with natural or~~

artificial lures: *Provided*, That snaring of any species of suckers, carp, fallfish and creek chubs is lawful;

~~(15)~~ (14) Employ, hire, induce or persuade, with money, things of value or by any means, any person to hunt, take, catch or kill any wild animal or wild bird except those species in which there is no closed season; or to fish for, catch, take or kill any fish, amphibian or aquatic life that is protected by rule, or the sale of which is otherwise prohibited;

~~(16)~~ (15) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U. S. C. §703, *et seq.*, and its regulations;

~~(17)~~ (16) Kill, take, catch, sell, transport or have in his or her possession, living or dead, any wild bird other than a game bird including the plumage, skin or body of any protected bird, irrespective of whether the bird was captured in or out of this state, except the English or European sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*) and cowbird (*Molothrus ater*), which may be killed at any time;

~~(18)~~ (17) Use dynamite, explosives or any poison in any waters of the state for the purpose of killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction thereof, shall be fined not more than \$500 or imprisoned for not less than six months nor more than three years, or both fined and imprisoned;

~~(19)~~ (18) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same time;

~~(20)~~ (19) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt to take any wildlife except as otherwise provided in sections five-g and forty-two-w of this article;

~~(21)~~ (20) Take or attempt to take turkey, bear, elk or deer with any arrow unless the arrow is equipped with a point having at least

two sharp cutting edges measuring in excess of three fourths of an inch wide;

~~(22)~~ (21) Take or attempt to take any wildlife with an arrow having an explosive head or shaft, a poisoned arrow or an arrow which would affect wildlife by any chemical action;

~~(23)~~ (22) Shoot an arrow across any public highway;

~~(24)~~ (23) Permit any dog owned or under his or her control to chase, pursue or follow the tracks of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon the grounds or lands of another person with his or her written permission, or on public lands at any time. Nonresidents may not train dogs in this state at any time except during the legal small game hunting season. A person training dogs may not have firearms or other implements in his or her possession during the closed season on wild animals and wild birds;

~~(25)~~ (24) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water race or wild hunt: *Provided*, That any person, group of persons, club or organization may hold a trial upon obtaining a permit pursuant to section fifty-six of this article. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in the trial and make the records readily available for inspection by any natural resources police officer upon request;

~~(26)~~ (25) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird or wild fowl except during open seasons;

~~(27) Hunting~~ (26) Hunt on public lands on Sunday after five o'clock ante meridian is ~~prohibited~~; and

~~(28) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement which wildlife can be taken, on private lands on Sunday after the hour of five o'clock ante meridian: *Provided*,~~

~~That the provisions of this subdivision do not apply in any county until the county commission of the county holds an election on the question of whether the provisions of this subdivision prohibiting hunting on Sunday shall apply within the county and the voters approve the allowance of hunting on Sunday in the county. The election is determined by a vote of the resident voters of the county in which the hunting on Sunday is proposed to be authorized. The county commission of the county in which Sunday hunting is proposed shall give notice to the public of the election by publication of the notice as a Class II 0 legal advertisement in compliance with the provisions of article three, chapter fifty nine of this code and the publication area for the publication is the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the fourteen consecutive days next preceding the election.~~

~~On the local option election ballot shall be printed the following:~~

~~Shall hunting on Sunday be authorized on private lands only with the consent of the land owner in _____ County?~~

~~Yes~~

~~No~~

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

~~Any local option election to approve or disapprove of the proposed authorization of Sunday hunting within a county shall be in accordance with procedures adopted by the commission. The local option election may be held in conjunction with a primary or general election or at a special election. Approval shall be by a majority of the voters casting votes on the question of approval or disapproval of Sunday hunting at the election.~~

~~If a majority votes against allowing Sunday hunting, an election on the issue may not be held for a period of one hundred four weeks. If a majority votes "yes", an election reconsidering the action may not be held for a period of five years. A local option election may thereafter be held if a written petition of qualified~~

~~voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which Sunday hunting is authorized. The petition may be in any number of counterparts. The election shall take place at the next primary or general election scheduled more than ninety days following receipt by the county commission of the petition required by this subsection: *Provided*, That the issue may not be placed on the ballot until all statutory notice requirements have been met. No local law or regulation providing any penalty, disability, restriction, regulation or prohibition of Sunday hunting may be enacted and the provisions of this article preempt all regulations, rules, ordinances and laws of any county or municipality in conflict with this subdivision.~~

~~Amendments to this subdivision promulgated during the 2015 regular session of the Legislature shall have no effect upon the results of elections held prior to their enactment; and~~

~~(29) (27) Hunt or conduct hunts for a fee when the person is not physically present in the same location as the wildlife being hunted within West Virginia.~~

~~(b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt throughout the State of West Virginia on private lands on Sundays after the hour of five o'clock ante meridian with the written consent of the private landowner pursuant to section seven, article two of this chapter.~~

§20-2-42g. Class H nonresident small game hunting license.

A Class H license is a nonresident small game hunting license and entitles the licensee to hunt small game in all counties of the state, except as prohibited by rules of the director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee, ~~excluding Sunday in counties closed to Sunday hunting.~~ The fee for the license is \$25. This is a base license and does not require the purchase of a prerequisite

license to participate in the activities specified in this section, except as noted.

§20-2-42h. Class J nonresident small game shooting preserve license.

A Class J license is a nonresident small game shooting preserve license and entitles the licensee to hunt small game on designated shooting preserves, except as prohibited by rules of the director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee, ~~excluding Sunday in counties closed to Sunday hunting.~~ The fee for the license is \$10. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.”

The bill was ordered to third reading.

S. B. 360, Creating Legislative Coalition on Diabetes Management; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page one, by striking out the enacting section and inserting a new enacting section to read as follows:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-5Z-1, §16-5Z-2, §16-5Z-3, §16-5Z-4 and §16-5Z-5, all to read as follows” followed by a colon.

On page three, by inserting a new subdivision (2) to read as follows, “(2) Consult with a quality improvement organization,” and renumbering the remaining subdivisions accordingly.

And,

On page four, by striking out section five, and renumbering the remaining sections accordingly.

The bill was ordered to third reading.

Com. Sub. for S. B. 402, Relating to covenants not to compete between physicians and hospitals; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §47-11E-1, §47-11E-2, §47-11E-3, §47-11E-4 and §47-11E-5, all to read as follows:

ARTICLE 11E. PHYSICIANS FREEDOM OF PRACTICE ACT.

§47-11E-1. Definitions.

As used in this article:

‘Contract’ means a written agreement between a physician and an employer.

‘Covenant not to compete’ means any contract that restricts the right of a physician to practice medicine in any geographic area of the state for any period of time following the expiration of the physician’s contract with his or her employer, or upon the termination of the physician’s contract by the physician’s employer.

‘Employer’ means any person employing at least one individual in the state or any agent of an employer employing at least one individual in the state.

‘Person’ means any individual, proprietorship, partnership, firm, association, corporation, labor organization, limited liability corporation or any other legal entity.

‘Physician’ means a doctor of allopathic or osteopathic medicine who is fully licensed to practice medicine and surgery

pursuant to the provisions of either article three or fourteen of chapter thirty.

§47-11E-2. Limitation on contractual provisions in physician employment contract.

(a) A covenant not to compete contained in a contract between a physician and an employer shall be limited to not more than:

(1) One year in duration; and

(2) Thirty road miles from the physician's primary place of practice with the employer.

(b) A covenant not to compete shall be void and unenforceable upon the termination of the physician's employment by the employer.

§47-11E-3. Enforceability of other provisions.

Provided that the contract does not state otherwise, nothing in this article limits the enforceability of:

(1) Provisions prohibiting a physician from taking any property, patient lists or records of the employer with him or her upon the termination or expiration of the contract;

(2) Provisions requiring a physician to repay an employer all or a portion of:

(A) A loan;

(B) Relocation expenses;

(C) A signing bonus;

(D) Remuneration to induce the physician to relocate or establish a physician practice in a specific geographic area; or

(E) Recruiting, education and training expenses;

(3) A nondisclosure provision relating to confidential information and trade secrets;

(4) A nonsolicitation provision with respect to patients and employees of the employer;

(5) A provision for liquidated damages; or

(6) Any other provision of a contract that is not in violation of law.

§47-11E-4. Exemptions to limitations.

The limitations set forth in this article do not apply to any of the following unless the contract terms provide otherwise:

(1) In the case where the physician has sold his or her business or practice in the form of a sale of assets, stock, membership interests or otherwise to his or her employer; or

(2) To contracts between physicians who are shareholders, owners, partners, members or directors of a health care practice.

§47-11E-5. Applicability.

This article applies to any contract between a physician and his or her employer entered into, modified, renewed or extended on or after July 1, 2017: *Provided*, That the provisions of this article do not otherwise apply to or abrogate any contract in effect on or before June 30, 2017.”

The bill was ordered to third reading.

Com. Sub. for S. B. 441, Establishing Municipal Home Rule Pilot Program; on second reading, coming up in regular order, was read a second time.

Delegate Howell requested to be excused from voting on questions regarding Com. Sub. for S. B. 441 under the provisions of House Rule 49.

The Speaker replied that Delegate Howell exhibits direct personal or pecuniary interest therein and not as a member of a class of persons, and excused the Gentleman from voting.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, section five-a, beginning on line one, after the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

**“ARTICLE 1. PURPOSE AND SHORT TITLE;
DEFINITIONS; GENERAL PROVISIONS;
CONSTRUCTION.**

§8-1-5a. Municipal Home Rule Pilot Program.

(a) *Legislative findings.* — The Legislature finds and declares that:

(1) The initial Municipal Home Rule Pilot Program brought innovative results, including novel municipal ideas that became municipal ordinances which later resulted in new statewide statutes;

(2) The initial Municipal Home Rule Pilot Program also brought novel municipal ideas that resulted in court challenges against some of the participating municipalities;

(3) The Municipal Home Rule Board was an essential part of the initial Municipal Home Rule Pilot Program, but it lacked some needed powers and duties;

(4) Municipalities still face challenges delivering services required by federal and state law or demanded by their constituents;

(5) Municipalities are sometimes restrained by state statutes, policies and rules that challenge their ability to carry out their duties and responsibilities in a cost-effective, efficient and timely manner;

(6) ~~Continuing~~ Establishing the Municipal Home Rule Pilot Program as a permanent program available to all municipalities statewide is in the public interest; and

(7) Increasing the powers and duties of the Municipal Home Rule Board will enhance the Municipal Home Rule Pilot Program.

~~(b) *Continuance of pilot program.* — The Municipal Home Rule Pilot Program is continued until July 1, 2019. The ordinances enacted by the participating municipalities pursuant to the Municipal Home Rule Pilot Program may remain in effect, subject to the requirements of this section, until the ordinances are repealed: *Provided*, That any ordinance enacting a municipal occupation tax is hereby null and void.~~

(b) *Establishment of a permanent program and continuation of pilot plans.* — The Municipal Home Rule Pilot Program is hereby established as a permanent program and shall be identified as the Municipal Home Rule Program. Any ordinance, act, resolution, rule or regulation enacted by a participating municipality under the provisions of this section during the period of the Municipal Home Rule Pilot Program shall continue in full force and effect until repealed.

(c) *Authorizing participation.* —

(1) Commencing ~~July 1, 2015~~ July 1, 2017, ~~thirty any~~ any Class I, Class II, ~~and~~ Class III ~~municipalities~~ municipality and ~~four~~ Class IV ~~municipalities~~ municipality that ~~are~~ is current in payment of all state fees may participate in the Municipal Home Rule ~~Pilot~~ Program pursuant to the provisions of this section.

(2) The municipalities participating in the pilot program on the effective date of the amendment and reenactment of this section are hereby authorized to continue in the ~~pilot~~ program, subject to the requirements of this section, and may amend current written plans and/or submit new written plans in accordance with the provisions of this section.

(d) *Municipal Home Rule Board.* — The Municipal Home Rule Board is hereby continued. Effective July 1, 2015, the Municipal Home Rule Board shall consist of the following five voting members:

(1) The Governor, or a designee, who shall serve as chair;

(2) The Executive Director of the West Virginia Development Office, or a designee;

(3) One member representing the Business and Industry Council, appointed by the Governor with the advice and consent of the Senate;

(4) One member representing the largest labor organization in the state, appointed by the Governor with the advice and consent of the Senate; and

(5) One member representing the West Virginia Chapter of the American Institute of Certified Planners, appointed by the Governor with the advice and consent of the Senate.

The Chair of the Senate Committee on Government Organization and the Chair of the House Committee on Government Organization shall continue to be ex officio nonvoting members of the board.

(e) *Board's powers and duties.* — The Municipal Home Rule Board has the following powers and duties:

(1) Review, evaluate, make recommendations and approve or reject for any reason, by a majority vote of the board, each aspect of the written plan, or the written plan in its entirety, submitted by a municipality;

(2) By a majority vote of the board, select, based on the municipality's written plan, new Class I, Class II, Class III and/or Class IV municipalities to participate in the Municipal Home Rule Pilot Program;

(3) Review, evaluate, make recommendations and approve or reject for any reason, by a majority vote of the board, the amendments to the written plans submitted by municipalities;

(4) Consult with any agency affected by the written plans or the amendments to the written plans; and

(5) Perform any other powers or duties necessary to effectuate the provisions of this section.

(f) *Written plan.* — Any Class I, Class II, Class III or Class IV municipality desiring to participate in the Municipal Home Rule ~~Pilot~~ Program shall submit a written plan to the board stating in detail the following:

(1) The specific laws, acts, resolutions, policies, rules or regulations which prevent the municipality from carrying out its duties in the most cost-efficient, effective and timely manner;

(2) The problems created by the laws, acts, resolutions, policies, rules or regulations;

(3) The proposed solutions to the problems, including all proposed changes to ordinances, acts, resolutions, rules and regulations: *Provided*, That the specific municipal ordinance instituting the solution does not have to be included in the written plan; and

(4) A written opinion, by an attorney licensed to practice in West Virginia, stating that the proposed written plan does not violate the provisions of this section.

(g) *Public hearing on written plan.* — Prior to submitting its written plan to the board, the municipality shall:

(1) Hold a public hearing on the written plan;

(2) Provide notice at least thirty days prior to the public hearing by a Class II legal advertisement;

(3) Make a copy of the written plan available for public inspection at least thirty days prior to the public hearing; and

(4) After the public hearing, adopt an ordinance authorizing the municipality to submit a written plan to the Municipal Home Rule Board after the proposed ordinance has been read two times.

(h) *Selection of municipalities.* — On or after June 1, 2015, by a majority vote, the Municipal Home Rule Board may select from

the municipalities that submitted written plans and were approved by the board by majority vote new Class I, Class II, Class III and/or Class IV municipalities to participate in the Municipal Home Rule ~~Pilot~~ Program.

(i) *Powers and duties of municipalities.* — The municipalities participating in the Municipal Home Rule ~~Pilot~~ Program have the authority to pass an ordinance, act, resolution, rule or regulation, under the provisions of this section: Provided, That notice is given at least thirty days prior to passage by a Class II legal advertisement, that is not contrary to:

- (1) Environmental law;
- (2) Laws governing bidding on government construction and other contracts;
- (3) The Freedom of Information Act;
- (4) The Open Governmental Proceedings Act;
- (5) Laws governing wages for construction of public improvements;
- (6) The provisions of this section;
- (7) The provisions of section five-a, article twelve of this chapter;
- (8) The municipality's written plan;
- (9) The Constitution of the United States or the Constitution of the State of West Virginia;
- (10) Federal law or crimes and punishment;
- (11) Chapters sixty-a, sixty-one and sixty-two of this code or state crimes and punishment;
- (12) Laws governing pensions or retirement plans;
- (13) Laws governing annexation;

(14) Laws governing taxation: *Provided*, That a participating municipality may enact a municipal sales tax up to one percent if it reduces or eliminates its municipal business and occupation tax: *Provided, however*, That if a municipality subsequently reinstates or raises the municipal business and occupation tax it previously reduced or eliminated under the Municipal Home Rule Pilot Program or the Municipal Home Rule Program, it shall eliminate the municipal sales tax enacted under the Municipal Home Rule ~~Pilot~~ Program: *Provided further*, That any municipality that imposes a municipal sales tax pursuant to this section shall use the services of the Tax Commissioner to administer, enforce and collect the tax in the same manner as the state consumers sales and service tax and use tax under the provisions of articles fifteen, fifteen-a and fifteen-b, chapter eleven of this code and all applicable provisions of the Streamlined Sales and Use Tax Agreement: *And provided further*, That such tax ~~will~~ shall not apply to the sale of motor fuel or motor vehicles;

(15) Laws governing tax increment financing;

(16) Laws governing extraction of natural resources; ~~and~~

(17) Marriage and divorce laws; and

(18) Laws governing professional licensing or certification, including the administration and oversight of those laws, by state agencies to the extent required by law.

(j) Municipalities may not pass an ordinance, act, resolution, rule or regulation under the provisions of this section that:

(1) Affects persons or property outside the boundaries of the municipality: *Provided*, That this prohibition under the Municipal Home Rule ~~Pilot~~ Program does not limit a municipality's powers outside its boundary lines under other provisions of this section, other sections of this chapter, other chapters of this code or court decisions; or

(2) Enacts an occupation tax, fee or assessment payable by a nonresident of a municipality.

(k) *Amendments to written plans.* — A municipality participating in the Municipal Home Rule ~~Pilot~~ Program may amend its written plan at any time.

(l) *Amendments to ordinances, acts, resolutions, rules or regulations.* — A municipality participating in the Municipal Home Rule ~~Pilot~~ Program may amend any ordinance, act, resolution, rule or regulation enacted pursuant to the municipality's approved written plan at any time so long as any amendment is consistent with the municipality's approved written plan, complies with the provisions of subsections (i) and (j) of this section and the municipality complies with all applicable state law procedures for enacting municipal legislation.

(m) *Reporting requirements.* — Commencing December 1, 2015, and each year thereafter, each participating municipality shall give a progress report to the Municipal Home Rule Board and commencing January 1, 2016, and each year thereafter, the Municipal Home Rule Board shall give a summary report of all the participating municipalities to the Joint Committee on Government and Finance.

~~(n) *Termination of the pilot program.* — The Municipal Home Rule Pilot Program terminates on July 1, 2019. An ordinance, act, resolution, rule or regulation enacted by a participating municipality under the provisions of this section during the period of the Municipal Home Rule Pilot Program shall continue in full force and effect until repealed.~~

(n) In the event thirty percent of the qualified voters of the municipality that voted in the previous municipal election, by petition duly signed by them in their own handwriting and filed with the recorder of the municipality within forty-five days after the enactment or amendment of an ordinance, protest against the ordinance as enacted or amended, the ordinance shall not become effective until it is ratified by a majority of the legal votes cast by the qualified voters of the municipality at a regular municipal election or special municipal election, as the governing body directs. Voting shall not take place until after notice of the submission is given by publication as a Class II legal advertisement

in compliance with the provisions of article three, chapter fifty-nine of this code.

(o) Notwithstanding any other provision of this code to the contrary, on and after the effective date of the enactment of this provision in 2015, no distributee under the provisions of this section may seek from the Tax Division of the Department of Revenue a refund of revenues or moneys collected by, or remitted to, the Tax Division of the Department of Revenue, nor seek a change in past amounts distributed, or any other retrospective adjustment relating to any amount distributed, to the extent that the moneys in question have been distributed to another distributee, regardless of whether those distributions were miscalculated, mistaken, erroneous, misdirected or otherwise inaccurate or incorrect. For purposes of this section, the term ‘distributee’ means any municipality that receives or is authorized to receive a specific distribution of revenues or moneys collected by, or remitted to, the Tax Division of the Department of Revenue pursuant to this section.”

The bill was ordered to third reading.

S. B. 490, Clarifying standard of liability for officers of corporation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 499, Creating Debt Resolution Services Division in Auditor’s office; on second reading, coming up in regular order, was, on motion of Delegate Cowles, laid upon the table.

S. B. 578, Relating generally to copies of health care records furnished to patients; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause, and inserting in lieu thereof the following:

“That §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 29. HEALTH CARE RECORDS.

§16-29-1. Copies of health care records to be furnished to patients.

(a) Any licensed, certified or registered health care provider so licensed, certified or registered under the laws of this state shall, upon the written request of a patient, his or her personal representative, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and any rules promulgated pursuant to the act, and his or her authorized agent or authorized representative, within a reasonable time no more than thirty days from the receipt of the request, furnish a copy, in the form of a paper copy or, if requested and if the provider routinely stores records electronically and has the ability to so provide, a copy in an electronic format including, but not limited to, a downloadable format through a secure web portal, a copy saved upon a computer disc, an electronically mailed copy or a copy saved upon a portable memory device of all or a portion of the patient’s record to the patient, his or her personal representative, or authorized agent or authorized representative subject to the following exceptions:

(1) In the case of a patient receiving treatment for psychiatric or psychological problems, a summary of the record shall be made available to the patient, personal representative, or his or her authorized agent or authorized representative following termination of the treatment program.

(2) The furnishing of a copy, as requested, of the reports of X-ray examinations, electrocardiograms and other diagnostic procedures shall be deemed to comply with the provisions of this article.

(b) Nothing in this article shall be construed to require a health care provider responsible for diagnosis, treatment or administering

health care services in the case of minors for birth control, prenatal care, drug rehabilitation or related services or venereal disease according to any provision of this code, to release patient records of such diagnosis, treatment or provision of health care as aforesaid to a parent or guardian, without prior written consent therefor from the patient, nor shall anything in this article be construed to apply to persons regulated under the provisions of chapter eighteen of this code or the rules and regulations established thereunder.

(c) This article does not apply to records subpoenaed or otherwise requested through court process, except for the fee provisions in section two of this article, which do apply to subpoenaed records.

(d) The provisions of this article may be enforced by a patient, personal representative, authorized agent or authorized representative and any health care provider found to be in violation of this article shall pay any attorney fees and costs, including court costs incurred in the course of such enforcement.

(e) Nothing in this article shall be construed to apply to health care records maintained by health care providers governed by the AIDS-related Medical Testing and Records Confidentiality Act under the provisions of article three-c of this chapter.

§16-29-2. Reasonable expenses to be reimbursed.

(a) A provider may charge a patient or the patient's personal representative a fee consistent with HIPAA, as amended, and any rules promulgated pursuant to HIPAA, plus any applicable taxes.

~~(a)-(b)~~ A person other than a patient or patient's personal representative requesting records from a health care provider shall place submit the request and HIPAA compliant authorization in writing and pay a reasonable, cost-based fee, at the time of delivery. Notwithstanding any other section of the code or rule, the fees shall be not exceed: based on the provider's cost of: (1) A search and handling fee of \$20 Labor for copying the requested records if in paper, or for placing the records in electronic media; (2) a per page fee of 40 cents for paper copies; supplies for creating

~~the paper copy or electronic media~~ and (3) postage, if the person requested that the records be mailed, plus any applicable taxes.

(c) If the requested record is stored by the health care provider in an electronic form, unless the person requesting the record specifically requests a paper copy, the records will be delivered in electronic or digital form and the per page fee for providing an electronic copy shall not exceed 20 cents per page but shall in no event exceed \$150 inclusive of all fees, including a search and handling fee, except for applicable taxes.

(d) Any person requesting a record be certified by affidavit pursuant to section four-e, article five, chapter fifty-seven of this code shall pay a fee of \$10 for such certification.

(e) If a person requests or agrees to an explanation or summary of the records, the provider may charge a reasonable cost-based fee for the labor cost if preparing the explanation or the summary; for the supplies for creating the explanation or summary; and for the cost of postage, if the person requested that the records be mailed, plus any applicable taxes. If the records are stored with a third party or a third party responds to the request for records in paper or electronic media, the provider may charge additionally for the actual charges incurred from the third party.

~~(b) (f) The labor per page fee for copying under this section shall not exceed twenty-five dollars per hour and shall be adjusted to reflect the consumer price index for medical care services such that the base amount shall be increased or decreased by the proportional consumer price index in effect as published of every October 1 starting October 1, 2017. of the calendar year in which the request was made, rounded to the nearest dollar~~

~~(e) (g)~~ Notwithstanding the provisions of subsection (a) of this section, a provider shall not impose a charge on an indigent person or his or her authorized representative if the medical records are necessary for the purpose of supporting a claim or appeal under any provisions of the Social Security Act, 42 U. S. C. §301, *et seq.*

For purposes of this section, a person is considered indigent if he or she:

(1) Is represented by an organization or affiliated pro bono program that provides legal assistance to indigents; or

(2) Verifies on a medical records request and release form that the records are requested for purposes of supporting a Social Security claim or appeal and submits with the release form reasonable proof that the person is financially unable to pay full copying charges by reason of unemployment, disability, income below the federal poverty level or receipt of state or federal income assistance.

~~(d)~~ (h) Any person requesting free copies of written medical records pursuant to the provisions of subsection ~~(e)~~ (g) of this section is limited to one set of copies per provider. Any additional requests for the same records from the same provider shall be subject to the fee provisions of ~~subsection~~ subsections (a), (b) and (c).”

The bill was ordered to third reading.

Com. Sub. for S. B. 602, Creating uniform system of recording and indexing fictitious names used by sole proprietors; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 606, Relating to minimum wage and maximum hours for employees; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Fleischauer, the bill was amended on page three, section one-f, line fifty-one, immediately following the word “article”, by striking out subdivision (20) in its entirety and inserting in lieu thereof a semicolon and “or (20) any person employed by a recreational establishment which (A) does not operate for more than seven months in any calendar year, or, (B) during the preceding calendar year had average receipts for any six months of the year which were not more than thirty-three and one-third per centum of its average receipts for the other six months of

that year: *Provided*, That any such person is compensated on a salary basis in an annual amount of not less than two thousand eighty times the West Virginia state minimum wage as stated in section two of this article.”

The bill was ordered to third reading.

S. B. 621, Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page one, section thirteen, line two, following the words “notice to the state board that it”, by striking out the words “is considering or in” and inserting in lieu thereof the words “has taken official action to begin”.

Delegate Lynch moved to amend the bill on page one, section thirteen, line nine, by striking out the period, inserting a semi-colon and the following proviso: “*Provided*, That the provisions of this section apply only to written notices provided to the state board after July 1, 2017.”

Delegate Lynch then asked and obtained unanimous consent to offer a reformed amendment on page one, section thirteen, line nine, by striking out the period, inserting a semi-colon and the following proviso: “*Provided*, That the provisions of this section apply only to written notices provided to the state board after September 1, 2017.”

Delegate Lynch subsequently withdrew his amendment.

Delegate Lynch then moved to amend the bill on page one, section thirteen, line eight, by striking out the word “not”.

On the adoption of the amendment, Delegate Lynch demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 395**), and there were—yeas 53, nays 46, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Ambler, Arvon, Atkinson, Blair, Butler, Capito, Cooper, Cowles, Criss, Dean, Ellington, Espinosa, Fast, G. Foster, N. Foster, Gearheart, Hamrick, Hanshaw, Harshbarger, Higginbotham, Hill, Hollen, Householder, Howell, Kessinger, Martin, C. Miller, Moore, Nelson, O'Neal, Overington, Paynter, Phillips, Queen, Rohrbach, Shott, Sobonya, Statler, Summers, Sypolt, Upson, Walters, Westfall, White, Wilson and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 631, Prosecuting violations of municipal building code; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 636, Authorizing State Fire Commission establish program to address problems facing VFDs; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 690, Authorizing WV State Police impose and collect fees for agencies and entities using their facilities; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

The following bills and joint resolution on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. J. R. 6, Roads to Prosperity Amendment of 2017,

S. B. 25, Creating farm-to-food bank tax credit,

S. B. 27, Relating to microprocessor permit,

Com. Sub. for S. B. 40, Requiring inclusion of protocols for response to after-school emergencies in school crisis response plans,

Com. Sub. for S. B. 116, Authorizing MAPS promulgate legislative rules,

S. B. 174, Exempting transportation of household goods from PSC jurisdiction,

Com. Sub. for S. B. 187, Providing for confidentiality of patients' medical records,

Com. Sub. for S. B. 202, Relating to pawnbrokers generally,

Com. Sub. for S. B. 219, Relating to conspiracy to commit crimes under Uniform Controlled Substances Act,

S. B. 235, Relating to motorcycle registration renewal,

Com. Sub. for S. B. 238, Increasing tax credits allowed for rehabilitation of certified historic structures,

S. B. 333, Requiring all DHHR-licensed facilities access WV Controlled Substances Monitoring Program Database,

Com. Sub. for S. B. 388, Relating to dangerous weapons,

S. B. 433, Permitting counties increase excise tax on privilege of transferring real property,

Com. Sub. for S. B. 440, Relating to use of Regional Jail and Correctional Facility Authority funds,

S. B. 444, Establishing Court Advanced Technology Subscription Fund,

Com. Sub. for S. B. 454, Providing more efficient collection and submission of state moneys received from court transactions or court services,

S. B. 461, Exempting WV State Police from state purchasing requirements,

S. B. 486, Relating to health care provider taxes,

Com. Sub. for S. B. 515, Relating to parole requirements for hearings and release,

Com. Sub. for S. B. 523, Converting to biweekly pay cycle for state employees,

Com. Sub. for S. B. 533, Relating to taxes on wine and intoxicating liquors,

Com. Sub. for S. B. 535, Reorganizing Division of Tourism,

S. B. 547, Modifying fees paid to Secretary of State,

S. B. 608, Clarifying lawful business structures are unaffected by enactment of prohibitory legislation,

Com. Sub. for S. B. 622, Relating generally to tax procedures and administration,

Com. Sub. for S. B. 630, Establishing Accessibility and Equity in Public Education Enhancement Act,

Com. Sub. for S. B. 656, Relating to Student Data Accessibility, Transparency and Accountability Act,

S. B. 658, Establishing procedure for retitling mobile and manufactured homes,

S. B. 667, Limiting authority of Attorney General to disclose certain information provided by Tax Commissioner,

S. B. 686, Exempting facilities governed by DHHR that provide direct patient care,

S. B. 687, Relating generally to coal mining, safety and environmental protection,

And,

S. B. 691, Relating to off-road vehicles.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 186, Adjusting date when children become eligible for certain school programs and school attendance requirements.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 280, Moving administration of Civil Air Patrol to Adjutant General.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 321, Reporting requirements of employee information to CPRB.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 344, Relating to application of payments on consumer credit sale and loans.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

Com. Sub. for S. B. 358, Relating generally to trustee sale of timeshare estates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 398, Creating Emergency Volunteer Health Practitioners Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 564, Relating to Statewide Independent Living Council.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 581, Relating generally to administration of trusts.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 588, Relating to reproduction, distribution and sale of tax maps.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 60 – “Designating the year 2017 as the Robert C. Byrd Centennial Legacy Year.”

Whereas, November 20, 2017, marks the 100th anniversary of the birth of the late Senator Robert C. Byrd; and

Whereas, Senator Robert C. Byrd was the longest-serving United States Senator in United States history; and

Whereas, Senator Robert C. Byrd lives in the hearts and memories of West Virginians as one of the greatest citizens in the history of our state; and

Whereas, The West Virginia Legislature, in the year 2001, named Senator Robert C. Byrd the West Virginian of the Twentieth Century; and

Whereas, A special celebration of Senator Robert C. Byrd’s life and career will occur at the Culture Center in Charleston, West Virginia. It will feature the exhibit Robert C. Byrd, Senator, Statesman, West Virginian, created by the Robert C. Byrd Center for Congressional History and Education at Shepherd University, as well as other exhibit materials, along with a program that will include the country music for which Senator Byrd was so well known; and

Whereas, It is the desire of the West Virginia Legislature to promote and honor Senator Robert C. Byrd’s great legacy to this state and to the nation; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby designates the year 2017 as The Robert C. Byrd Centennial Legacy Year; and, be it

Further Resolved, That the Senate encourages citizens, scholars, schools and public and private entities to mark this centennial with appropriate programs, lectures, public events, publications, feature stories, entertainments and other activities designed to reflect on Senator Robert C. Byrd's legacy and the history of the State of West Virginia; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Robert C. Byrd Center for Congressional History and Education at Shepherd University.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 637, Relating to private club operations requirements,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for S. B. 637) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Anderson, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

H. R. 13, America's promise to our retired coal miners and widows and to pass the Miners Protection Act as soon as possible and provide the full measure of benefits these retirees were promised and have earned.

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (H. R.13) was referred to the Committee on Rules.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 76, Creating WV Second Chance for Employment Act,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for S. B. 76) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 288, Increasing penalty for crime of child abuse causing death by parent, guardian, custodian or other person,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for S. B. 288) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 220, Relating to offenses and penalties under Uniform Controlled Substances Act,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for S. B. 220) was taken up for immediate consideration, read a first time and ordered to second reading.

On motions for leave, resolutions were introduced (Originating in the Committee on Finance and reported with the recommendation that they each be adopted), which were read by their titles, as follows:

By Delegates Nelson, Householder, Anderson, C. Miller, A. Evans, Walters, Bates, Westfall, Hamilton, Ellington, Espinosa, Ambler, Butler, Frich, Storch, Gearheart and Cowles:

H. C. R. 121 - "Requesting the Joint Committee on Government and Finance to study the feasibility and, if indicated, develop a proposal for the transfer of the Division of Forestry to the Department of Agriculture."

Whereas, The Division of Forestry is currently a part of the Department of Commerce; and

Whereas, During the 2017 regular session of the Legislature, House Bill 2790 and Senate Bill 183 were introduced and each proposed to transfer the Division of Forestry and its employees to the Department of Agriculture; and

Whereas, The House of Delegates deems it prudent to conduct further study of such a transfer; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance, study the feasibility and, if indicated, develop a proposal for the transfer of the Division of Forestry to the Department of Agriculture; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2018, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And,

By Delegates Nelson, Walter, Ellington, Boggs, Sponaugle, Bates, Hamilton, Pethel, Frich, Storch, Gearheart, Barrett, Rowe and Hartman:

H. C. R. 122 - “Requesting the Joint Committee on Government and Finance to conduct an interim study on how to increase funding for West Virginia’s Medicaid programs through the amendment of the State’s tax laws.”

Whereas, The recent severe shortfalls in tax revenues and possible impending cuts in federal funding for the Medicaid program make it imperative that the State of West Virginia vigorously explore options to maximize federal matching funding; and

Whereas, While federal law permits taxes on various health care related items and services without affecting Medicaid matching funding, such taxes must generally be broad-based and must not treat non-Medicaid taxpayers differently from Medicaid taxpayers; and

Whereas, Federal law recognizes an exception to the broad based uniformity requirements in situations in which a state is able

to demonstrate that the net impact of the tax is “generally redistributive” under a statistical test set forth in federal regulations at 42 CFR 433.68; and

Whereas, The Federal Center for Medicaid and Medicare Services (CMS) has recently approved the State of Ohio’s request for a waiver from such broad-based uniformity requirements under which a sales tax will be imposed on Medicaid managed care organizations (MCOs) as well as all other non-Medicaid medical plans that will, under Ohio’s estimates, result in a net benefit to the State of \$615,000,000 in the next fiscal year, with only a corresponding impact on non-Medicaid MCOs of only \$4,000,000; and

Whereas, The realization of a similar program in West Virginia will require study by the Legislature in conjunction with the Bureau for Medical Services (BMS) and, if deemed a viable approach, require coordinated action by the Legislature to amend the state tax laws and by BMS to file a request by BMS for a waiver similar to Ohio’s; and

Whereas, The West Virginia Legislature has the authority to conduct a study of these issues and to seek long term solutions to the Medicaid funding crisis; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct an interim study on how to structure a new tax on Medicaid MCO’s that would be “generally redistributive” under the pertinent federal Medicaid regulations, and as such would satisfy the requirements for a waiver to be granted to the Bureau for Medical Services from CMS from the broad-based and uniformity requirements of the Medicaid laws; and, be it

Further Resolved, That the Joint Committee on Government and Finance is hereby requested to include in the study the identification of similar programs in other states that are designed to maximize federal matching funding; and, be it

Further Resolved, That the Bureau for Medical Services is directed to work with the Joint Committee on Government and Finance in evaluating the Code of West Virginia, the United States Code and other laws to identify statutes and regulations that would enable West Virginia to execute a program similar to Ohio's; and, be it

Further Resolved, That a report of the findings, conclusions and recommendations of the studies, together with drafts of any legislation necessary to effectuate the recommendations, be reported to the Legislature at its 2018 regular session; and, be it

Further Resolved, That the expenses necessary to conduct these studies and to prepare a report and draft necessary legislation are requested to be paid from legislative appropriations to the Joint Committee on Government and Finance.

The resolutions were referred to the Committee on Rules.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 694, Expiring funds to unappropriated surplus balance in General Revenue fund to Department of Administration,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (S. B. 694) was taken up for immediate consideration, read a first time and ordered to second reading.

On motion for leave, a resolution was introduced (Originating in the Committee on Education and reported with the recommendation that it be adopted), which was read by its title, as follows:

By Delegates Westfall, Cooper, Wilson, Rowan, Pyles, Romine, Evans, Statler, Espinosa, Wagner and Blair:

H. C. R. 127 – “Requesting the Joint Committee on Government and Finance to conduct an interim study on areas for removing from law and policy barriers to operational efficiency in the public schools.”

Whereas, The constitutional responsibility of the Legislature includes providing for a system of schools which is efficient; and

Whereas, Operational efficiency means achieving a policy objective effectively at the lowest possible cost; and

Whereas, Barriers in law and policy include:

(a) Overly prescriptive processes that unnecessarily add to the cost of achieving a policy objective effectively;

(b) Requirements in law and policy that unnecessarily add to the cost of or impede the provision of a system of schools that is safe and enables students to obtain a thorough education; and

(c) The absence of authority or flexibility in law and policy that limit or impede the provision of a system of schools that is safe and enables students to obtain a thorough education; therefore, be it:

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct an interim study on areas for removing from law and policy barriers to operational efficiency in the public schools; and, be it

Further Resolved, That as a part of this study, a copy of this resolution should be provided to each of the county superintendents of schools to solicit their input on barriers in law and policy that should be removed to improve operational efficiency in the public schools; and, be it

Further Resolved, That a report of the findings, conclusions and recommendations of the study, together with drafts of any legislation necessary to effectuate the recommendations be reported to the Legislature at its 2017 Regular Session; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and draft necessary legislation are requested to be paid from legislative appropriations to the Joint Committee on Government and Finance.

The resolution was referred to the Committee on Rules.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. C. R. 31, Requesting the Joint Committee on Government and Finance study the possibility of reducing the number of county boards of education in the State along with other educational reorganization,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 31 - "Requesting the Joint Committee on Government and Finance study the possibility of reducing the number of county boards of education in the state along with other educational reorganization,"

With the recommendation that the committee substitute be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (Com. Sub. for H. C. R. 31) was referred to the Committee on Rules.

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 47, U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road,

Com. Sub. for H. C. R. 53, US Army Corporal Jerry Lee Noble Memorial Bridge,

Com. Sub. for H. C. R. 64, Gill Brothers World War II Veterans' Memorial Bridge,

Com. Sub. for H. C. R. 65, Hobert G. 'Hobie' Underwood Memorial Bridge,

Com. Sub. for H. C. R. 84, U.S. Army Air Force S/SGT Harold 'Dean' Baker Memorial Bridge,

Com. Sub. for H. C. R. 93, Extending WV Route 93,

Com. Sub. for H. C. R. 98, John H. Reed, Jr. Memorial Bridge,

H. C. R. 118, Craddock Brothers Bridge,

H. R. 15, Supporting the passage of HR 1315 introduced in the United States House of Representatives to roll back ethanol fuel requirements,

S. C. R. 8, Donnie Adkins Memorial Bridge,

S. C. R. 11, USMC Lance Corporal Edwin Russell 'Snook' Daneheart Memorial Bridge,

S. C. R. 13, US Army CPL James Russell Carter Memorial Road,

S. C. R. 14, US Army PVT Oren J. "Junior" Johnson Memorial Bridge,

Com. Sub. for S. C. R. 15, US Army CPL Herbert "Herb" Linkous Memorial Bridge,

S. C. R. 18, US Marine CPL Walter Vincent Filipek Memorial Bridge,

S. C. R. 21, US Army CPL Daniel Fredrick Mehringer Memorial Bridge,

Com. Sub. for S. C. R. 23, Johnny O’Dell Linville Memorial Bridge,

S. C. R. 24, US Army PFC Joe Messe, Sr., Memorial Bridge,

Com. Sub. for S. C. R. 26, US Marine Corps SSG Beecher J. Rhoades Memorial Bridge,

S. C. R. 28, US Army SPC4 Randall W. Arbogast Memorial Road,

S. C. R. 31, US Navy BT2 Mark Edward Hutchison Memorial Bridge,

S. C. R. 39, US Army PFC Kelva H. Justice Memorial Road,

S. C. R. 41, US Army PV2 Mandvial S. “Bunker” Bias Memorial Bridge,

S. C. R. 43, Eugene Lee “Gene” Burner Memorial Bridge,

And,

S. C. R. 45, Home of Anna Lindquist, 1996 NHSPA Hall of Fame Inductee highway sign,

And reports the same back with the recommendation that they each be adopted.

Messages from the Executive

The Speaker laid before the House of Delegates the Proclamation of His Excellency, the Governor, which was read by the Clerk, as follows:

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
Charleston

A P R O C L A M A T I O N

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 February, two thousand seventeen; and

WHEREAS, Pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand seventeen regular session of the Legislature is scheduled to conclude on the eighth day of April, two thousand seventeen; 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 has not been finally acted upon by the Legislature as of this fifth day of April, two thousand seventeen.

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 seventeen regular session of the Legislature for an additional period not to exceed one day, through and including the ninth day of April, two thousand seventeen; 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.



DONE at the Capitol in the City of Charleston, State of West Virginia, this fifth day of April, in the year of our Lord, Two Thousand Seventeen, and in the One Hundred Fifty-Fourth year of the State.

Jim Justice,
Governor.

By the Governor

MAC WARNER,
Secretary of State.

Conference Committee Report Availability

At 9:55 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on Com. Sub. for H. B. 2447, Renaming the Court of Claims the state Claims Commission.

Miscellaneous Business

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegates Bates and Arvon regarding the Upper Big Branch Mine disaster be printed in the Appendix to the Journal.

Delegate Ward asked and obtained unanimous consent that the remarks of Delegate Caputo regarding the history of mine disasters in the state be printed in the Appendix to the Journal.

Delegate Love asked and obtained unanimous consent that the remarks of R. Miller regarding Com. Sub. for H. B. 2018 be printed in the Appendix to the Journal.

Delegate Sypolt filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. R. 13.

At 9:56 p.m., the House of Delegates adjourned until 9:00 a.m., Thursday, April 6, 2017.