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VOLUME III
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



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REGULAR SESSION, 2017

Organizational Day	Wednesday	January 11	1
1 st Day	Wednesday	February 8	141
2 nd Day	Thursday	February 9	223
3 rd Day	Friday	February 10	257
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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
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42 nd Day	Tuesday	March 21	1137
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46 th Day	Saturday	March 25	1357
48 th Day	Monday	March 27	1427

49 th Day	Tuesday	March 28.....	1497
50 th Day	Wednesday.....	March 29.....	1547
51 st Day	Thursday	March 30.....	1603
52 nd Day.....	Friday	March 31.....	1763
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1 st Day	Thursday	May 4.....	3497
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3 rd Day.....	Monday	May 15.....	3511
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7 th Day	Friday.....	May 19.....	3529
8 th Day	Monday	May 22.....	Senate Only
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19 th Day	Thursday	June 15.....	3879
20 th Day	Friday.....	June 16.....	3883
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1st Day Monday October 16 4212
2nd Day Tuesday October 17 4225
3rd Day Monday November 13 Senate Only
4th Day Monday December 4 Senate Only
5th Day Monday January 8, 2018 Senate Only

THIRD EXTRAORDINARY SESSION

1st Day Monday December 4 4263

Thursday, April 6, 2017

FIFTY-EIGHTH 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 Wednesday, April 5, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

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. 2006, Increasing the penalties for violating the Whistle-blower Law.

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. 2119, Repealing West Virginia Health Benefit Exchange Act.

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. 2319, Relating to candidates or candidate committees for legislative office disclosing contributions.

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

Com. Sub. for H. B. 2319 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-15; and to amend said code by adding thereto a new section, designated §6B-3-4a, all relating to enhancing disclosure requirements while the Legislature is in session; requiring timely disclosure of fund-raising events, including contributions, of candidates or candidate committees for legislative office while the Legislature is in session; requiring members of Legislature who are candidates for public office to disclose existence of fund-raising event and receipt of all contributions within five business days after event; imposing the same reporting requirements upon former candidates or candidate committees for legislative office who are still in office and who use fund-raising event to retire or pay-off debt to campaign while Legislature in session; clarifying that reporting under this section does not relieve a candidate or candidate’s committee from regular reporting requirements; requiring Secretary of State to create a form for disclosure; requiring the Secretary of State to publish information on the Secretary of State’s website; authorizing the Secretary of State to establish a means for electronic filing and disclosure as an alternative; authorizing the Secretary of State to promulgate legislative and emergency rules; requiring timely disclosure of certain lobbyist expenditures while the Legislature is in session; requiring lobbyists to disclose certain expenditures within five business days after the expenditure; clarifying that reporting under this section does not relieve a lobbyist from regular reporting requirements; requiring the Ethics Commission to create a form for disclosure; requiring the Ethics Commission to publish information on the Ethics Commission’s website; authorizing the Ethics Commission to establish a means for electronic filing and disclosure as an alternative; and authorizing the Ethics Commission to promulgate legislative and emergency 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. 396**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Fluharty, Folk, Hicks, Kessinger, Marcum, Maynard, Nelson, Robinson, Rodighiero, Rohrbach, Statler and 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. 2319) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2373, Authorizing school bus drivers trained in administration of epinephrine auto-injectors to administer auto-injectors.

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 section and inserting in lieu thereof the following:

“ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-22c. Providing for the maintenance and use of epinephrine auto-injectors; administration of injections; notice; indemnity from liability; rules.

(a) A public, private, parochial or denominational school located within this state may possess and maintain at the school a supply of epinephrine auto-injectors for use in emergency medical care or treatment for an anaphylactic reaction. A prior diagnosis for a student or school personnel requiring the use of epinephrine auto-injectors is not necessary to permit the school to stock epinephrine auto-injectors. Epinephrine auto-injectors shall be maintained by the school in a secure location which is only accessible by medical personnel and authorized nonmedical personnel and not by students.

(b) An allopathic physician licensed to practice pursuant to the provisions of article three, chapter thirty of this code or an osteopathic physician licensed to practice pursuant to the provisions of article fourteen, chapter thirty of this code may prescribe within the course of his or her professional practice standing orders and protocols for use when necessary by a school which wishes to maintain epinephrine auto-injector pursuant to the provisions of this section.

(c) A school nurse, as set forth in section twenty-two of this article, ~~is authorized to~~ may administer an epinephrine auto-injector to a student or school personnel during regular school hours or at a school function when the school nurse medically believes the individual is experiencing an anaphylactic reaction. A school nurse may use the school supply of epinephrine auto-injectors for a student or school personnel authorized to self-administer that meet the requirements of a prescription on file with the school.

(d) Nonmedical school personnel who have been trained in the administration of an epinephrine auto-injector and who have been designated and authorized by the school or county board to administer the epinephrine auto-injector are authorized to administer an epinephrine auto-injector to a student or school personnel during regular school hours or at a school function when the authorized and designated nonmedical school personnel reasonably believes, based upon their training, that the individual is experiencing an anaphylactic reaction. Nonmedical school personnel may use the school supply of epinephrine auto-injectors for a student or school personnel authorized to self-administer that meet the requirements of a prescription on file with the school.

(e) School transportation employees, including bus drivers, who have been trained in the administration of an epinephrine auto-injector and who have been designated and authorized by the school or county board to administer an epinephrine auto-injector may administer an epinephrine auto-injector to a student or school personnel during transportation to or from a school function when the school transportation employee reasonably believes, based upon his or her training, that the individual is experiencing an

anaphylactic reaction. A school transportation employee may use the individual's personal supply of epinephrine auto-injectors or the school's supply of epinephrine auto-injectors for a student or school personnel authorized to self-administer that meet the requirements of a prescription on file with the school: *Provided*, That a school transportation employee shall defer to an individual possessing a higher degree of medical training or the parent of the child experiencing an anaphylactic reaction, if either are present at the time of the reaction: *Provided, however*, That the school transportation employee, trained and authorized to administer epinephrine auto-injectors, is not subject to the terms of section twenty-two of this article.

~~(e)~~ (f) Prior notice to the parents of a student of the administration of the epinephrine auto-injector is not required. Immediately following the administration of the epinephrine auto-injector, the school shall provide notice to the parent of a student who received an auto-injection.

~~(f)~~ (g) A school nurse, a trained school transportation employee, or trained and authorized nonmedical school personnel who administer an epinephrine auto-injection to a student or to school personnel as provided in this section is immune from liability for any civil action arising out of an act or omission resulting from the administration of the epinephrine auto-injection unless the act or omission was the result of the school nurse, school transportation employee, or trained and authorized nonmedical school personnel's gross negligence or willful misconduct.

~~(g)~~ (h) For the purposes of this section, all county boards of education may participate in free or discounted drug programs from pharmaceutical manufacturers to provide epinephrine auto-injectors to schools in their counties ~~who~~ which choose to stock auto-injectors.

~~(h)~~ (i) All county boards of education are required to collect and compile aggregate data on incidents of anaphylactic reactions resulting in the administration of school maintained epinephrine auto-injectors in their county during a school year and forward the data to the state superintendent of schools. The state superintendent

of schools shall prepare an annual report to be presented to the Joint Committee on Government and Finance as set forth in article three, chapter four of this code, by December 31 of each year.

(i) (j) The State Board of Education, as defined in article two of this chapter, shall consult with the state health officer, as defined in section four, article three, chapter thirty of this code, and promulgate rules necessary to effectuate the provisions of this section in accordance with the provisions of article three-b, chapter twenty-nine-a of this code. The rules shall provide, at a minimum, for:

(1) The criteria for selection and minimum requirements of nonmedical school personnel and school transportation employees who may administer epinephrine auto-injectors following the necessary training;

(2) The training requirements necessary for nonmedical school personnel and school transportation employees to be authorized to administer an epinephrine auto-injection;

(3) Training on anaphylaxis and allergy awareness for food service workers in the school system, if easily available locally;

(4) Storage requirements for maintaining the epinephrine auto-injectors within the schools;

(5) Comprehensive notice requirements to the parents of a student who was administered a school maintained epinephrine auto-injection including who administered the injection, the rationale for administering the injection, the approximate time of the injection and any other necessary elements to make the student's parents fully aware of the circumstances surrounding the administration of the injection;

(6) Any and all necessary documentation to be kept and maintained regarding receipt, inventory, storage and usage of all epinephrine auto-injectors;

(7) Detailed reporting requirements for county boards of education on incidents of use of school maintained epinephrine auto-injectors during a school year; and

(8) Any other requirements necessary to fully implement this section.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2373 – “A Bill to amend and reenact §18-5-22c of the Code of West Virginia, 1931, as amended, relating to the administration of epinephrine auto-injectors by a school nurse, nonmedical personnel or a school transportation employee to a student or school personnel; authorizing school transportation employees trained in administration of epinephrine auto-injectors and designated and authorized by the school or county board to administer auto-injectors to a student or school personnel experiencing an anaphylactic reaction and excluding such school transportation employees from section twenty-two, article five, chapter eighteen of said code; adding the county board as an entity that can authorize and designate nonmedical school personnel to administer the epinephrine auto-injector; establishing that school transportation employees are immune from liability for administration of an epinephrine auto-injector except in cases of gross negligence or willful misconduct; and requiring the State Board of Education to promulgate rules necessary to effectuate the provisions of this section.”

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. 397**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Fluharty, Folk, Hicks, Kessinger, Marcum, Maynard, Nelson, Robinson, Rodighiero, Rohrbach, Statler and 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. 2373) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2404, Barring persons who are convicted of certain criminal offenses from acquiring property from their victims.

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 section and inserting in lieu thereof the following:

“CHAPTER 36. ESTATES AND PROPERTY.

ARTICLE 1. CREATION OF ESTATES GENERALLY.

§36-1-20. When survivorship preserved.

(a) ~~The preceding section shall~~ Section nineteen of this article does not apply to any estate which joint tenants have as executors or trustees, nor to an estate conveyed or devised to persons in their own right, when it manifestly appears from the tenor of the instrument that it was intended that the part of the one dying should then belong to the others. Neither shall it affect the mode of proceeding on any joint judgment or decree in favor of, or on any contract with, two or more, one of whom dies.

(b) When the instrument of conveyance or ownership in any estate, whether real estate or tangible or intangible personal property, links multiple owners together with the disjunctive “or,” such ownership shall be held as joint tenants with the right of survivorship, unless expressly stated otherwise.

(c) ~~Not~~ A person convicted of violating the provisions of section one or three, article two, chapter sixty-one of this code as a principal, aider and abettor or accessory before the fact, or convicted of a similar provision of law of another state or the United States, or who has been convicted of an offense causing the death of an incapacitated adult set forth in section twenty-nine-a, article two, chapter sixty-one of this code, as a principal, aider and abettor or accessory before the fact, or convicted of a similar provision of law of another state or the United States, may not take or acquire any real or personal property by survivorship pursuant to this section when the victim of the criminal offense was a joint holder of title to the property. The property to which the convicted person ~~so convicted~~ would otherwise have been entitled shall go to the person or persons who would have taken the ~~same~~ property if the convicted ~~so convicted~~ had predeceased the victim.

(d) A person who has been convicted of an offense of abuse or neglect of an incapacitated adult pursuant to section twenty-nine, article two, chapter sixty-one of this code, a felony offense of financial exploitation of an elderly person, protected person or an incapacitated adult pursuant to section twenty-nine-b of that article, or convicted of a similar provision of law of another state or the United States, may not take or acquire any real or personal property by survivorship pursuant to this section, when the victim of the criminal offense is a joint holder of the title to the property. The money or property which the person would have otherwise have received shall go to the person or persons who would have taken the money or property if the convicted person had predeceased the victim. This subsection does not apply if, after the conviction, the victim of the offense, if competent, executes a recordable instrument, sworn to, notarized and witnessed by two persons that would be competent as witnesses to a will of the victim, expresses a specific intent to allow the person so convicted to retain his or her tenancy in the property with rights of survivorship.

CHAPTER 42. DESCENT AND DISTRIBUTION.

ARTICLE 4. GENERAL PROVISIONS.

§42-4-2. Homicide bars acquisition of estate or insurance money.

~~No~~ (a) A person who has been convicted of feloniously killing another, or of conspiracy in the killing of another, shall may not take or acquire any money or property, real or personal, or interest therein in the money or property, from the one killed or conspired against, either by descent and distribution, or by will, or by any policy or certificate of insurance, or otherwise; but the money or the property to which the convicted person so-convicted would otherwise have been entitled shall go to the person or persons who would have taken the same the money or property if the convicted person so-convicted had been dead at the date of the death of the one killed or conspired against, unless by some rule of law or equity the money or the property would pass to some other person or persons.

(b) A person who has been convicted of an offense causing the death of an incapacitated adult set forth in section twenty-nine-a, article two, chapter sixty-one of this code, or convicted of a similar provision of law of another state or the United States, may not take or acquire any money or property, real or personal, or interest in the money or property, from the victim decedent, either by descent and distribution, or by will, or by any policy or certificate of insurance, or otherwise; but the money or the property to which the convicted person would otherwise have been entitled shall go to the person or persons who would have taken the money or property if the convicted person had been dead at the date of the death of the decedent, unless by law the money or the property would pass to some other person or persons.

(c) A person who has been convicted of an offense of abuse or neglect of an incapacitated adult pursuant to section twenty-nine, article two, chapter sixty-one of this code, a felony offense of financial exploitation of an elderly person, protected person or incapacitated adult pursuant to section twenty-nine-b, article two, chapter sixty-one of this code, or convicted of a similar provision of law of another state or the United States, may not take or acquire any money or property, real or personal, or any interest in the money or property, from the victim of the offense, either by descent and distribution, or by will, or

by any policy or certificate of insurance, or otherwise. The money or the property to which the convicted person would otherwise have been entitled shall go to the person or persons who would have taken the money or property if the convicted person had been dead at the date of the death of the victim, unless by law the money or the property would pass to some other person or persons. This subsection does not apply if, after the conviction, the victim of the offense, if competent, executes a recordable instrument, sworn to, notarized and witnessed by two persons that would be competent witnesses to a will of the victim, expresses a specific intent to allow the convicted person to inherit or otherwise receive the money, estate or other property of the victim of the offense.”

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. 398**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Fluharty, Folk, Hicks, Kessinger, Maynard, Nelson, Rodighiero, Rohrbach, Statler and 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. 2404) 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:

H. B. 2427, Requiring agencies listed in the online state phone directory to update certain employee information.

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. 2453, Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp.

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. 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.

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

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. 2676, Transferring the Security office under the Division of Culture and History to the Division of Protective Services.

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

On motion of Delegate Cowles, the House of Delegates refused to concur in the following Senate amendments and requested the Senate to recede therefrom:

On page four, section five, lines seventy-six through seventy-seven, by striking out the words “is in excess of \$10 million and is contained in the division’s six-year plan”.

On page seven, section nine, lines sixty through sixty-one, by striking out all of subsection (g), and by relettering the remaining subsections.

On pages seven and eight, section nine, line sixty-four after the word “Finance”, by striking out the remainder of the bill.

And,

By amending the title of the bill to read 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; removing the cost limitation on projects completed by the Division of Highways; and eliminating the sunset provision.”

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

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

On motion of Delegate Cowles, the House of Delegates refused to concur in the following Senate amendments and requested the Senate to recede therefrom:

On page one, section two, lines five through twelve, by striking out all of subsection (b).

On page one, section two, line seventeen, after the word “program”, by striking out the comma and the words “but shall not

be included in expenditure limits provided by subsection (b) of this section”.

And,

By amending the title of the bill to read 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 eliminating the financial limitations on utilizing the Highway Design-Build Program for highway construction; and removing obsolete language.”

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

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. 2726, Authorizing home incarceration officers to arrest participants for violating the terms and conditions of his or her supervision with or without a court order.

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. 2731, Clarifying civil actions heard in circuit court.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following Senate amendments and requested the Senate to recede therefrom:

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

“ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.

§51-2-2. Jurisdiction.

(a) The circuit court shall have supervision and control of all proceedings before magistrates, by mandamus, prohibition and certiorari.

(b) Except in cases confined exclusively by the Constitution to some other tribunal, the circuit court shall have original and general jurisdiction of all matters at law where the amount in controversy, excluding interest, exceeds ~~\$2,500~~ \$5,000. *Provided*, That the jurisdictional limit on amounts in controversy does not apply to real estate installment sales contracts.

(c) The circuit court shall have original and general jurisdiction in all of the following matters:

- (1) Habeas corpus;
- (2) Mandamus;
- (3) Quo warranto;
- (4) Prohibition;
- (5) Crimes; and
- (6) Misdemeanors.

(d) The circuit court shall have original and general jurisdiction in all cases in equity, including jurisdiction in equity to remove any cloud on the title to real property, or any part of a cloud, or any estate, right or interest in the real property, and to determine questions of title with respect to the real property without requiring allegations or proof of actual possession of the real property.

(e) The circuit court shall have appellate jurisdiction in all cases, civil and criminal, where an appeal, writ of error or supersedeas may be allowed to the judgment or proceedings of any inferior tribunal.

(f) The circuit court shall also have any other jurisdiction, whether supervisory, original, appellate or concurrent, as is or may be prescribed by law.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2731 - “A Bill to amend and reenact §51-2-2 of the Code of West Virginia, 1931, as amended, relating to clarifying that only civil actions with controversial amounts exceeding \$5,000 must be heard in circuit court, except in actions relating to real estate installment sales contracts or actions confined exclusively by the Constitution to some other tribunal.”

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

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. 2734, Authorizing a method for the collection and remittance of property taxes related to dealers’ heavy equipment inventory.

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

On page one, section fifteen, in the section caption, by striking out the words “unit property tax” and inserting in lieu thereof the word “fees”.

On page two, section fifteen, line thirty, by striking out the words “unit property taxes” and inserting in lieu thereof the word “fees”.

On page two, section fifteen, line thirty-five, by striking out the words “unit property taxes” and inserting in lieu thereof the word “fees”.

On page two, section fifteen, line forty-one, by striking out the words “unit property taxes” and inserting in lieu thereof the word “fees”.

On page one, 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 §11-5-15, to read as follows” and a colon.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2734 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-5-15, all relating to authorizing dealers of heavy equipment rental inventory to collect a fee from renters for the purpose of paying the dealers’ property taxes on rental equipment; and establishing requirements for collection and remittance of such rental fees.”

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. 399**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Folk, Kessinger, Maynard, Rodighiero, Statler and 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. 2734) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2868, Relating generally to Uniform Unclaimed Property Act.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following Senate amendments and requested the Senate to recede therefrom.

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

“ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-2. Presumptions of abandonment.

(a) Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

- (1) Traveler’s check, fifteen years after issuance;
- (2) Money order, seven years after issuance;

(3) Stock or other equity interest in a business association or financial organization, including a security entitlement under article eight of the uniform commercial code, five years after the earlier of: (i) The date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner; or (ii) the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(4) Debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, five years after the date of the most recent interest payment unclaimed by the apparent owner;

(5) A noninterest bearing demand, savings or time deposit, including a deposit that is automatically renewable, five years after the earlier of maturity or the date of the last indication by the owner of interest in the property; an interest-bearing demand, savings or time deposit including a deposit that is automatically renewable, seven years after the earlier of maturity or the date of the last indication by the owner of interest in the property. A deposit that

is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(6) Money or credits owed to a customer as a result of a retail business transaction, three years after the obligation accrued;

(7) Gift certificate, three years after December 31, of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is deemed to be sixty percent of the certificate's face value;

(8) Amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, three years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based: Provided, That the obligations set forth in this subdivision and the application of subsection (e) of this section relating to this subdivision are guided by policies, requirements and interpretations of the Insurance Commissioner pursuant to article thirteen-d, chapter thirty-three of this code, the Unclaimed Life Insurance Benefits Act: Provided, however, That proceeds paid by an insurer to the beneficiary with applicable interest are not presumed to have been abandoned prior to the insurer's compliance with section two of said article. The insurer shall remit any unpaid proceeds to the Unclaimed Property Fund in accordance with subsection (i) of said section: Provided further, That with respect to the amendments to this subsection passed in 2017, such amendments shall not have any force or effect, whatsoever, on any litigation pending prior to the effective date of the amendments;

(9) Property distributable by a business association or financial organization in a course of dissolution, one year after the property becomes distributable;

(10) Property received by a court as proceeds of a class action, and not distributed pursuant to the judgment, one year after the distribution date;

(11) Property held by a court, government, governmental subdivision, agency or instrumentality, one year after the property becomes distributable;

(12) Wages or other compensation for personal services, one year after the compensation becomes payable;

(13) Deposit or refund owed to a subscriber by a utility, two years after the deposit or refund becomes payable;

(14) Property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

(15) Warrants for payment issued by the State of West Virginia which have not been presented for payment, within six months of the date of issuance;

(16) All funds held by a fiduciary, including the state Municipal Bond Commission, for the payment of a note, bond, debenture or other evidence of indebtedness, five years after the principal maturity date, or if such note, bond, debenture or evidence of indebtedness is called for redemption on an earlier date, then the redemption date, such premium or redemption date to also be applicable to all interest and premium, if any, attributable to such note, bond, debenture or other evidence of indebtedness; and

(17) All other property, five years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

(b) At the time that an interest is presumed abandoned under subsection (a) of this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

(c) Property is unclaimed if, for the applicable period set forth in subsection (a) of this section, the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held, and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

(d) An indication of an owner's interest in property includes:

(1) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(2) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(3) The making of a deposit to or withdrawal from a bank account; and

(4) The payment of a premium with respect to a property interest in an insurance policy; but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before

the depletion of the cash surrender value of a policy by the application of those provisions.

(e) Property is payable or distributable for purposes of this article notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment."

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2868 – "A Bill to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating generally to Uniform Unclaimed Property Act; clarifying that presumed abandoned property in the form of amounts owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, and obligations related thereto, are guided by policies, requirements and interpretations of the Insurance Commissioner; and providing that amendments have no force and effect on pending litigation."

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

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. 2898, Authorizing the Joint Committee on Government and Finance to request and obtain criminal background checks of employees of the Legislature.

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

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

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

On pages thirty-one and thirty-two, by striking out all of section ten and inserting in lieu thereof the following:

“**§47-1A-10. Sterilization processes; annual permits; fees.**

(1) (a) 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 twenty five dollars.~~ 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. The commissioner shall take final action upon all completed permit applications within thirty days of receipt if the application is uncontested, or within ninety days if the application is contested. Such permit shall expire one year from date of issue ~~and the fee for annual renewal of the sterilization permit shall be ten dollars.~~

(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) (b) 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.”~~

And,

By amending the title of the bill to read 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 the issuance of permits; establishing timelines for taking final action on certain permits; modifying procedures for the issuance of permits by the Public Service Commission for activities related to the commercial transportation of coal; modifying procedures for the issuance of permits by the Division of Forestry for activities related to growing or dealing ginseng; modifying procedures for the issuance of permits by the Commissioner of Agriculture to operate a public market; modifying procedures for the issuance of permits by the Commissioner of Agriculture to feed garbage to swine; modifying procedures for the issuance of permits by the Commissioner of Agriculture for activities related to noxious weeds; modifying procedures for the issuance of permits by the Commissioner of Agriculture for activities related to the manufacture or distribution of fertilizer; modifying procedures for the issuance of permits by the Dangerous Wild Animals Board; modifying procedures for the issuance of uniform farmers market vendor permits by local health departments; modifying procedures for the issuance of burning permits by the Director of the Division of Natural Resources; modifying procedures for the issuance of permits by the Director

of the Division of Natural Resources for the excavation or removal of archaeological, paleontological, prehistoric and historic features; modifying procedures for the issuance of permits by the Division of Labor to operate an amusement ride or attraction, a commercial bungee jumping site, or a zipline or canopy tour; modifying procedures for the issuance of permits by the Public Service Commission to operate as a contract carrier by motor vehicle; modifying procedures for the issuance of permits by the State Fire Marshal; modifying procedures for the issuance of permits by a nonprofit youth organization; and modifying permit fees and procedures for the issuance of permits by the Commissioner of the Division of Labor for activities related to the regulation and control of bedding and upholstery businesses.”

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. 400**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Folk, Kessinger, Maynard, Rodighiero, Statler and 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. 2948) passed.

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

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. 2963, Eliminating tax lien waiver requirement for estates of nonresidents.

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

S. B. 256, Relating to prohibiting aiding and abetting of sexual abuse by school personnel.

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

On page one, section twenty-two, line two, by striking out the words “public and private” and inserting in lieu thereof the words “including any employee of a public or private school.”

And,

By amending the title to read as follows:

S. B. 256 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-22, relating to prohibiting aiding and abetting of sexual abuse by school personnel; prohibiting school personnel, contractors, agents or employees of any state, regional or local education agency from assisting school employees, contractors or agents in obtaining a new job with knowledge, or has probable cause to believe, that the person engaged in sexual misconduct with a minor or student; clarifying that routine transmission of administrative and personnel files is permissible; providing exceptions to prohibition on aiding those individuals from obtaining new jobs; and clarifying the relationship between prohibition and other statutes, regulations or policies.”

On passage of the bill, the yeas and nays were taken (**Roll No. 401**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Folk, Maynard, Rodighiero, Statler and Wilson.

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.

Resolutions Introduced

Delegates Hanshaw and Shott offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 124 – “Requesting that the Joint Committee on Government and Finance study the requirement that any power generation facility obtain a siting certificate from the State Public Service Commission and review the current regulatory oversight of siting power generation and transmission facilities in the State.”

Whereas, West Virginia is rich in natural resources, such as coal and natural gas, important to affordable power generation; and

Whereas, West Virginia hopes to attract a diversified energy portfolio that includes investment in fossil fuels power generation and renewable energy sources; and

Whereas, West Virginia is strategically located to capitalize on power generation investment to be exported and sold into the PJM Regional Transmission Organization; and

Whereas, West Virginia potentially stands to generate added revenue and employment growth from power generation and electric transmission investment in the State; and

Whereas, The current regulatory oversight of new and existing power generation facilities poses potential delays in the siting of new electric power facilities and transmission infrastructure; and

Whereas, The Joint Committee on Government and Finance shall assist in this study; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the existing requirement that any power generation facility obtain a siting certificate from the State Public Service Commission, and review commission oversight of the siting of electric transmission infrastructure; and, be it

Further Resolved, That the Joint Committee on Government and Finance should study the potential economic and employment benefits of growth in power generation and transmission infrastructure to the State; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, in 2018, on its findings, conclusions and recommendations, together with any 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.

Delegate Marcum offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 125 – “Requesting the Division of Highways to name bridge number 30-3/5-19.82 (30A268) (37.93753, -82.27931), locally known as Lowney Singing Bridge, carrying County Route 3/5 over West Fork of Twelvepole Creek in Mingo County, the ‘US Army SGT Benny Fleming Memorial Bridge’.”

Whereas, Sergeant Fleming was born on June 9, 1948, to Goodlow and Lora Evans Fleming of Wilsondale and passed away on August 30, 2013; and

Whereas, Sergeant Fleming was the ninth child out of eleven. He had three brothers: John P. Fleming, Ray Fleming, and Sherman Franklin Fleming all of Wilsondale, and seven sisters: Betty June

Shrader of Lineboro, Maryland, Faye Tatro of Tampa, Florida, Debbie Buskell of Baltimore, Maryland, Mary Davis of Jacksonville, Florida, Judy Maynard of Avon, Ohio, and Blaze Starr and Berta Gail Browning of Wilsondale; and

Whereas, Sergeant Fleming was a lifelong resident of Mingo County and it was there that he raised a family and made a living as a coal miner. Throughout his life, he overcame many obstacles, all while maintaining a great attitude. This made him the man he would eventually become; and

Whereas, As a young boy, Sergeant Fleming spent his days exploring the very countryside he would eventually call home. He attended Lowney Grade School near his family home, and graduated from Lenore High School in 1966. That same year, he enlisted in the US Army. In the five years he served, he was promoted to the level of Army Sergeant E-5, served in Vietnam, and eventually received an honorable discharge. After returning home, he worked for the West Virginia Department of Highways; and

Whereas, Sergeant Fleming began working underground in the coal mines in the early to mid-1970s, when the danger of working underground was at its highest. He worked for Dehue Mines in Logan until they closed, and then went to work at Rawl Sales Rocky Hollow for nearly fifteen years until he suddenly became sick while on vacation with his family. He was diagnosed with transverse myelitis. After spending months in the hospital, and at a rehabilitation center, he was left paralyzed from the waist down, and confined to a wheelchair; and

Whereas, When faced with an obstacle such as this, most people would have given up, but not Sergeant Fleming. He had to learn how to use his hands again, and how to sit up again. He learned how to cook, clean, do laundry, and be self-sufficient. Eventually, he would mow his own grass, and the grass of his sister, just to keep busy. He also became active in modifying facilities to become handicapped accessible. It was very important to him to be able to get in and out of places without having to ask for assistance; and

Whereas, Sergeant Fleming had two daughters, Machelles and Teresa. He loved them dearly. They married and had children of their own. Machelles had his first grandchild, Jarrid, in 1991. This gave Sergeant Fleming something to get stronger for, and something to look forward to. Jarrid was his whole world. He would spend weekends with Sergeant Fleming, and he would feed him, bathe him, and change his diaper, all while being confined to a wheelchair; and

Whereas, Five years later, Machelles had Sergeant Fleming's second grandchild, Seann Cameron. He and Sergeant Fleming spent their time fishing, riding four wheelers, and Sergeant Fleming would point out deer and bear tracks to his grandson. Some weekends, Sergeant Fleming would keep both boys. That was when he was at his happiest; and

Whereas, In August of 1998, Teresa had Sergeant Fleming's third grandchild, a boy named Carson. Just as he did with the grandsons before him, Sergeant Fleming loved to spend time with him, watching him play basketball and talk about trains. He too would spend the night with Sergeant Fleming, and he would see to it that he was well taken care of; and

Whereas, Because of his grandkids, including a fourth, Mackenzie Taylor, the last years of Sergeant Fleming's life were his happiest. In 2002, he was the official scorekeeper for his grandson Jarrid's baseball team, and never missed a game. He traveled to the away games, as well as the home games, and treated Jarrid's teammates as if they were his own. He would buy the kids drinks, hotdogs, and candy at the games, and they loved him as if he were their own grandpa. He also spent time with his companion and life partner, Cathy Perry. They were at their happiest when spending time outdoors and sharing memories; and

Whereas, In his last few years, Sergeant Fleming began reflecting on his life. He began compiling notes and started the process of writing a short story about the life and times of growing up in the 1950s. He titled it "Growing Up Lowney." It tells the story of when he was young, and going to Lowney Grade School near his childhood home. He goes into great detail, and tells

everything he can remember of growing up in that area of Mingo County. He typed the story himself, and surprised his children and grandchildren each with a copy. The seven-page story is Sergeant Fleming's legacy. It is a small glimpse into the type of man that he was. Although confined to a wheelchair for the last twenty-five years of his life, Sergeant Fleming overcame many obstacles with the love and support of his family. He overcame them to become a loving father, extraordinary grandfather, and outstanding member of the community, all with a smile on his face; and

Whereas, Finally, in 2001, Sergeant Fleming had his first granddaughter. Teresa gave birth to Mackenzie Grace in July of that year. He loved having a little girl, but she was just as rough and tough as the boys. They would all play baseball in the front yard, ride four-wheelers, and go berry picking; and

Whereas, For these reasons it is fitting and proper that the bridge be named in honor of Sergeant Fleming. With his short story titled "Growing Up Lowney," and the bridge known as the Lowney Singing Bridge, the irony is clear. Naming this bridge for him would be a testament to the strong, loving family man that was taken from us way too soon; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 30-3/5-19.82 (30A268) (37.93753, -82.27931), locally known as Lowney Singing Bridge, carrying County Route 3/5 over West Fork of Twelvepole Creek in Mingo County, the "US Army SGT Benny Fleming 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 "US Army SGT Benny Fleming 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 Transportation.

Delegates Ward, Caputo, Longstreth and Summers offered the following resolution, which was read by its title and referred to the Committee on Rules.

H. C. R. 126 – “Requesting the Division of Highways to name bridge number 25-79-140.37 NB & SB (25A147, 25A148) (39.5047, -80.0708), locally known as Little Creek Road Overpass, carrying Interstate 79 over County Route 76 in Marion county, the ‘Pastor Robert L. “Bob” Barker Memorial Bridge’.”

Whereas, Robert L. Barker was born in Parkersburg, West Virginia, July 20, 1953, and went to be with the Lord on May 20, 2016; and

Whereas, Robert L. Barker graduated from South Parkersburg High School and went on to receive a Bachelor of Arts in Theology from Baptist University of America in Atlanta, Georgia in 1979; and

Whereas, Robert L. Barker founded Victory Baptist Church in Fairmont, West Virginia in 1983 and was elected the first pastor of the church; and

Whereas, Robert L. Barker had a lifelong mission to spread the word of God in his community and beyond; and

Whereas, Robert L. Barker spread the word of God through outreach ministry weekly at local nursing homes and Union Mission in Fairmont, West Virginia; and

Whereas, Robert L. Barker and Victory Baptist Church supported nearly two hundred missionaries around the world to teach God’s word; and

Whereas, Robert L. Barker was affectionately known as a soul winner in his community; and

Whereas, The congregation of Victory Baptist Church would like to memorialize their beloved pastor; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 25-79-140.37 NB & SB (25A147, 25A148) (39.5047, -80.0708), locally known as Little Creek Road Overpass, carrying Interstate 79 over County Route 76 in Marion County, the “Pastor Robert L. ‘Bob’ Barker Memorial Bridge”; and, be it

Further Resolved, That 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 “Pastor Robert L. ‘Bob’ Barker 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 Fast and Ambler offered the following resolution, which was read by its title and referred to the Committee on Rules.

H. C. R. 128 – “Requesting the Joint Committee on Government and Finance to study the advantages, disadvantages, feasibility and financial impact of requiring all maintenance and custodial work on state and county buildings, facilities and equipment to be done under private contract with private maintenance, physical services and custodial contractors; including providing for preferences for visually impaired or disabled persons in the bid requirements, and setting a reasonable implementation period.”

Whereas, Present economic conditions of the state require that the Legislature examine alternative methods to maintain or improve service to the public in more cost-efficient ways; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the advantages, disadvantages, feasibility and financial impact of requiring all maintenance and custodial work on state and county buildings, facilities and equipment to be done under private contract with private maintenance, physical services and custodial contractors; including providing for preferences for visually

impaired or disabled persons in the bid requirements, and setting a reasonable implementation period; 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.

Petitions

Delegate Sponaugle presented a petition signed by 1,103 of his citizens requesting tax relief for Veterans; which was referred to the Committee on Finance.

Special Calendar

Unfinished Business

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

S. C. R. 8, Donnie Adkins Memorial Bridge,

S. C. R. 11, USMC Lance Corporal Edwin Russell “Snook” Danehart 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 Frederick 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,

And,

Com. Sub. for S. C. R. 26, US Marine Corps SSG Beecher J. Rhoades Memorial Bridge.

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

S. C. R. 28, US Army SPC4 Randall W. Arbogast Memorial Road; coming up in regular order, as unfinished business, was reported by the Clerk.

On motion of Delegate Cowles, the resolution was amended on page one, line one, by striking out the remainder of the resolution and inserting in lieu thereof the following:

“Requesting the Division of Highways to name a section of U. S. Route 219 from its Intersection with WV State Route 15 at Valley Head, West Virginia, south to the Pocahontas County line in Randolph County, the ‘U. S. Army SPC 4 Randall W. Arbogast Memorial Road.’”

Whereas, Randall W. Arbogast was born at Valley Head, West Virginia, on February 12, 1945, the eldest son of the late Warren Everett Arbogast and Arizona Ware Arbogast. He was a graduate of Tygarts Valley High School Class of 1964 and was employed by Pioneer Lumber Company until entering the U. S. Army on September 29, 1965, and was one of 4,000 soldiers assigned to the elements of the 196th Light Infantry Brigade, the first ‘light’ infantry brigade in U. S. military history; and

Whereas, U. S. Army SPC 4 Randall W. Arbogast was the only casualty of the Vietnam War from the southern Randolph County communities of Valley Head, Mingo and Monterville, West Virginia and was also the only graduate of Tygarts Valley High School to lose his life in the Vietnam War; and

Whereas, Randall served with B Company 4th Battalion 31 Infantry from September 29, 1965 thru February 11, 1967; on his 22nd birthday, February 12, 1967, he was transferred to B Company 1st Battalion Mechanized 5th Infantry 25th Infantry Division where he was assigned as an 11C10 Indirect Fire Infantryman M-60 Machine Gunner; and

Whereas, On May 3, 1967, Randall's squad was engaged in hostile action with the enemy in Hau Nghia Province when he was hit with a blast from a white phosphorous grenade and suffered sixty-eight percent total body burns with forty-seven percent being third degree burns; Randall was evacuated from the field and on May 8, 1967, arrived at Brook General Hospital, Fort Sam Houston, Texas, for treatment of his injuries; and

Whereas, U. S. Army SPC 4 Randall W. Arbogast died on May 31, 1967, of septicemia due to burns received in combat in Hau Nghia Province, Vietnam; he was awarded the Purple Heart, Bronze Star, the Republic of Vietnam Campaign Medal, the Vietnam Service Medal, the National Defense Medal and the Combat Infantry Badge; his name is listed on the Vietnam Memorial Wall in Washington, D. C.; and

Whereas, Randall was survived by two brothers, Stanley and Steve Arbogast, and six sisters, Lou Arbogast Burkhardt, Leanne Arbogast, Jean Arbogast Hesson, Janice Arbogast Hadley, Kayleen Arbogast Dunsmoor and Carol Arbogast; and

Whereas, The death of this brave American soldier and his sacrifice to his country, state and community should not go unnoticed and the naming of a section of U. S. Route 219, from its intersection with WV State Route 15 at Valley Head, West Virginia, south to the Pocahontas County line, the 'U. S. Army SPC

4 Randall W. Arbogast Memorial Road' in Randolph County would be an appropriate tribute; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a section of U. S. Route 219 from its intersection with WV State Route 15 at Valley Head, West Virginia, south to the Pocahontas County line in Randolph County, the 'U. S. Army SPC 4 Randall W. Arbogast Memorial 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. Army SPC 4 Randall W. Arbogast 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."

The question before the House being the adoption of the resolution, as amended, the same was put and prevailed.

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:

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.

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

H. R. 15, Supporting the passage of HR 1315 introduced in the United States House of Representatives to roll back ethanol fuel requirements; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

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,

And,

H. C. R. 118, Craddock Brothers 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 S. B. 134, Authorizing Bureau of Commerce 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. 402**), 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: Deem, Folk, Rodighiero 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. 134) passed.

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

Com. Sub. for S. B. 134 - “A Bill to amend and reenact §64-10-1, §64-10-2 and §64-10-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain Bureau of Commerce legislative rules; repealing certain legislative, procedural or interpretive rules promulgated by certain agencies and boards under the Bureau of Commerce which are no longer authorized or are obsolete; authorizing 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 Division of Natural Resources to promulgate a legislative rule relating to the point system for the revocation of hunting – repeal; authorizing the Division of Natural Resources to promulgate a legislative rule relating to revocation of hunting and fishing licenses; authorizing the Division of Natural Resources to promulgate a legislative rule relating to special waterfowl hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to the commercial sale of wildlife; authorizing the Division of Natural Resources to promulgate a legislative rule relating to miscellaneous permits and

licenses; repealing the Division of Natural Resources legislative rule relating to litter control grant program; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to certification, recertification and training of EMT-Miners and the certification of EMT-M instructors; and authorizing the Board of Coal Mine Health and Safety to promulgate a legislative rule relating to rules governing proximity detection systems and haulage safety generally.”

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

On this question, the yeas and nays were taken (**Roll No. 403**), 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: Deem, Folk, Rodighiero 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. 134) 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. 240, Creating crime of nonconsensual distribution of sexual images; 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. 404**), 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: Deem, Folk, Rodighiero 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. 240) passed.

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

Com. Sub. for S. B. 240 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-28a, relating to creating the offense of nonconsensual disclosure of privately taken images of another that show intimate parts of the depicted person or show the depicted person engaged in sexually explicit conduct; defining terms; setting forth elements of the crime; providing for criminal penalties; providing circumstances in which this section does not apply; and excluding providers of interactive computer services, information services, and telecommunications services from liability under this section.”

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. 255, Relating generally to filling vacancies in elected office; 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. 405**), and there were—yeas 87, nays 10, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Byrd, Caputo, Fleischauer, Fluharty, Marcum, Phillips, Pushkin, Robinson, Sponaugle and Thompson.

Absent and Not Voting: Deem, Folk and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 255) 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. 299, Supplementing, amending, decreasing and increasing items of appropriations from State Road Fund to DOH; 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. 406**), 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: Deem, Folk and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 299) passed.

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

On this question, the yeas and nays were taken (**Roll No. 407**), 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: Deem, Folk 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 S. B. 299) 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. 339, Creating Legislative Coalition on Chronic Pain Management; 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. 408**), 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: Deem, Folk and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 339) passed.

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

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 and §16-52-5, all relating to creating a legislative coalition on chronic pain management; setting forth findings; setting forth a purpose; providing for administrative functions of the coalition; setting forth membership of the coalition; providing for appointments to be made by the President of the Senate; providing for appointments to be made by the Speaker of the House of Delegates; setting forth powers of the coalition; setting forth duties of the coalition; setting forth required reporting; setting forth reporting data elements; and providing a sunset 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. 345, Allowing certain hunting and trapping on private lands on Sundays; 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. 409**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: A. Evans, Fast, Hanshaw, Sponaule and Statler.

Absent and Not Voting: Deem, Folk and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 345) 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:

S. B. 345 - “A Bill to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; to amend and reenact §20-2-5, §20-2-42g and §20-2-42h of said code; all relating to hunting; repealing limitations on trappers on Sundays; eliminating local option election regarding hunting on Sunday on private land; permitting hunting on Sunday on private land; clarifying hunting on Sunday on public lands is unlawful; and superseding ballot measures relating to Sunday hunting that have passed or failed prior to the effective date of the 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. 360, Creating Legislative Coalition on Diabetes Management; 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. 410**), 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: Deem, Folk and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 360) passed.

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

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 and §16-5Z-5, 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; and providing a sunset date.”

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. 402, Relating to covenants not to compete between physicians and hospitals; 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. 411**), and there were—yeas 80, nays 18, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Byrd, Eldridge, E. Evans, Fast, N. Foster, Hamilton, Hill, Kessinger, Love, Marcum, Martin, McGeehan, Moore, Paynter, Robinson, Statler, Wagner and Wilson.

Absent and Not Voting: Folk and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 402) 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. 441, Establishing Municipal Home Rule Pilot Program; on third reading, coming up in regular order, was read a third 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 exhibited 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. 412**), and there were—yeas 92, nays 2, excused 1, with the nays, excused and absent and not voting being as follows:

Nays: McGeehan and Sobonya.

Excused: Howell.

Absent and Not Voting: Folk, Hicks, Rodighiero, Thompson 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. 441) 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. 490, Clarifying standard of liability for officers of corporation; 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. 413**), and there were—yeas 90, nays 6, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Diserio, Fleischauer, Isner, Marcum, Pushkin and Pyles.

Absent and Not Voting: Folk, Hicks, Rodighiero and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 490) passed.

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

S. B. 490 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31D-8-842a, relating to the standard of liability for officers of a corporation; establishing standards of liability for officers of a corporation; providing an officer is not liable to the corporation or its shareholders for any decision to take or not to take action or any failure to take any action as an officer except in specified circumstances; providing standards a party seeking to hold an officer liable must establish when seeking money damages; providing standards a party seeking to hold an officer liable must establish when seeking other legal remedies; and clarifying that certain actions under different code sections or the United States code are unaffected.”

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

S. B. 578, Relating generally to copies of health care records furnished to patients; 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. 414**), and there were—yeas 82, nays 14, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Barrett, Brewer, Caputo, Diserio, Eldridge, Ferro, Fleischauer, Fluharty, Love, Marcum, Miley, Pyles, Sponaugle and Thompson.

Absent and Not Voting: Folk, Hicks, Rodighiero and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 578) passed.

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

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; providing that health care records must be furnished no more than thirty days from the receipt of the request from a patient, his or her representative, authorized agent, or authorized representative; stating that electronic copies of health records may be provided in a downloadable format through a secure web portal; permitting a personal representative to act in lieu of a patient in certain circumstances; clarifying that fees shall apply to subpoenaed records; establishing fees for providing copies of health care records; and providing that the per page fee shall be adjusted annually according to the consumer price index.”

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. 602, Creating uniform system of recording and indexing fictitious names used by sole proprietors; 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. 415**), 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: Folk, Hicks, Rodighiero 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. 602) passed.

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

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 registering and indexing of fictitious names used by sole proprietors, individuals, or general partnerships; striking exemptions; and providing that the Secretary of State shall keep a searchable database for all persons filing forms to register and index fictitious names.”

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. 606, Relating to minimum wage and maximum hours for employees; 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. 416**), and there were—yeas 55, nays 43, 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, Cooper, Dean, Diserio, Eldridge, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hicks, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethel, Phillips, Pushkin, Pyles, Queen, Rodighiero, Rohrbach, Rowe, Sponaule, Thompson, Wagner and Ward.

Absent and Not Voting: Folk 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. 606) 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. 621, Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations; 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. 417**), and there were—yeas 66, nays 32, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin, Byrd, Canestraro, Caputo, Eldridge, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hicks, Hornbuckle, Iaquinta, Isner, Kelly, Love, Lynch, Marcum, Miley, R. Miller, Moye, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Upson, Wagner and Ward.

Absent and Not Voting: Folk and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 621) passed.

An amendment to the title of the bill, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the title to read as follows:

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 has taken official action to begin the process of closing or consolidating a school or schools, any revision or supplementation to certain rules is applicable to the school closing or consolidation project described in the county board’s notification to the state board.”

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

On this question, the yeas and nays were taken (**Roll No. 418**), and there were—yeas 59, nays 39, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, A. Evans, E. Evans, Fast, Ferro, Fleischauer, Fluharty, Hamilton, Hicks, Hornbuckle, Iaquinta, Isner, Kelly, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Wagner and Ward.

Absent and Not Voting: Folk and Williams.

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.

Com. Sub. for S. B. 631, Prosecuting violations of municipal building code; 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. 419**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Eldridge, McGeehan, Sobonya and Upson.

Absent and Not Voting: Folk.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 631) passed.

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

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 generally to municipal ordinances and procedures; creating a procedure for misdemeanor prosecutions of violations of municipal ordinances; defining terms; providing for the designation of enforcement agencies; providing a procedure for code enforcement agency officials to enter premises for investigation or inspection of a structure, dwelling or building; granting plenary power to the governing body of every municipality to adopt an ordinance providing for the vacating, closing, removal or demolition of specific dwellings, structures or buildings by a municipality in the absence of owner agreement or court order with specific requirements; providing for notice to the

owner of the right to apply to the circuit court for a temporary injunction or other similar relief; requiring a hearing to be held within twenty days if the owner makes such application to the circuit court; requiring an owner to pay a bond into court if the owner seeks a continuance of the hearing seeking a temporary injunction or other similar relief; allowing for the disbursement of moneys paid into court by an owner if a court finds that the property is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; permitting a governing body of a municipality to file a lien against the real property for an amount that reflects all costs incurred by a municipality for repairing, altering or improving, or of vacating and closing, removing or demolishing any dwelling or building; permitting a municipality to institute a civil action in circuit court against a landowner or other responsible party to obtain an order to take corrective action up to and including demolition of any structure, dwelling or building that is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare and permitting a municipality to recover all reasonable costs and expenses incurred by the municipality with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action; providing for service of notices of violations; and providing for a procedure to prosecute ordinances adopted under the section pertaining to regulating the repair, alteration, improvement, closing, demolition, etc., of structures, dwelling or buildings that are unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.”

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. 636, Authorizing State Fire Commission establish program to address problems facing VFDs; 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. 420**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Cowles, Sobonya and White.

Absent and Not Voting: Folk 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. 636) passed.

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

S. B. 690, Authorizing WV State Police impose and collect fees for agencies and entities using their 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. 421**), 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: Folk.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 690) passed.

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

On this question, the yeas and nays were taken (**Roll No. 422**), 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: Folk.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 690) 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. J. R. 6, Roads to Prosperity Amendment of 2017; 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 resolution on page one, following the enacting section, by striking out the remainder of the resolution and inserting in lieu thereof the following:

“Roads to Prosperity Amendment of 2017.

(a) The Legislature shall have power to authorize the issuing and selling of state bonds not exceeding in the aggregate \$1.6 billion. The proceeds of said bonds are hereby authorized to be issued and sold over a four-year period in the following amounts:

- (1) July 1, 2017, an amount not to exceed \$800 million;
- (2) July 1, 2018, an amount not to exceed \$400 million;
- (3) July 1, 2019, an amount not to exceed \$200 million; and
- (4) July 1, 2020, an amount not to exceed \$200 million.

Any bonds not issued under the provisions of subdivisions (1) through (3), inclusive, of this subsection may be carried forward and issued in any subsequent year before July 1, 2022.

(b) The proceeds of the bonds shall be used and appropriated for the following purposes:

(1) Matching available federal funds for highway and bridge construction in this state; and

(2) General highway and secondary road and bridge construction or improvements in each of the fifty-five counties.

(c) When a bond issue as aforesaid is authorized, the Legislature shall at the same time provide for the collection of an annual state tax, as well as certain fees, which shall be in a sufficient amount to pay the interest on such bonds and the principal thereof as such may accrue within and not exceeding twenty-five years, which tax and fees may include, but shall not be limited to: (1) increases to fees charged by the Division of Motor Vehicles; (2) additional fees on motor vehicles fueled, in part or entirely, by alternative fuels or electricity; and (3)

increases to the motor fuel excise tax. Such taxes and fees shall be levied in any year only to the extent that the moneys in the state road fund irrevocably set aside and appropriated for and applied to the payment of the interest on and the principal of said bonds becoming due and payable in such year are insufficient therefor. Any interest that accrues on the issued bonds prior to payment shall only be used for the purposes of the bonds.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such proposed amendment is hereby numbered ‘Amendment No. 1’ and designated as the ‘Roads to Prosperity Amendment of 2017’ and the purpose of the proposed amendment is summarized as follows: ‘To provide for the improvement and construction of safe roads in the state by the issuance of bonds not to exceed \$1.6 billion in the aggregate to be paid for from the State Road Fund by the collection of annual state taxes and fees, which may include, but are not limited to: increases in fees charged by the Division of Motor Vehicles, additional fees charged by the Division of Motor Vehicles, and increases to the motor fuel excise taxes as provided by the Legislature by general law.’”

The resolution was ordered to third reading.

S. B. 25, Creating farm-to-food bank tax credit; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 27, Relating to microprocessor permit; on second reading, coming up in regular order, was, at the request of Delegate Cowles and by unanimous consent, placed at the foot of the calendar.

Com. Sub. for S. B. 40, Requiring inclusion of protocols for response to after-school emergencies in school crisis response plans; 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, following the enacting clause, by striking out the remainder of the bill 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 §18-2-25b, to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25b. Emergency Action Plans for Athletics.

(a) No later than August 1, 2017, the West Virginia Secondary Schools Athletics Commission shall promulgate rules to establish guidelines for emergency action plans for athletics, designed to respond to athletic injuries that occur on school property during school-sponsored athletic events. The rules shall address, at a minimum:

(1) Protocols for practices and for games;

(2) Directives for personnel or equipment which should be available on sports fields or in school buildings for both girls' and boys' teams; and

(3) Training needed for school or volunteer personnel on an as-needed basis.

(b) All member schools shall submit an emergency action plan for athletics to the West Virginia Secondary Schools Athletics Commission and their county boards of education by December 31, 2017: *Provided*, That the county boards shall keep the emergency plan of each school in the county on file and, unless otherwise provided for, provide a copy of each school's emergency action plan for athletics to each local emergency response agency that has a role in the plan.

(c) Any person licensed by, or certified or registered in, this state to provide health care or professional health care services who renders services of a medical nature to students under this section, who has an agreement with a county board of education that defines the scope of his or her duties as such, and for which no remuneration is demanded

or received, is not liable for any civil damages as a result of rendering such services, or as a result of any act or failure to act in providing or arranging further medical treatment.

(1) The limitation of liability only applies if the services are provided in accordance with acceptable standards of care and the licensed health care provider is not grossly negligent or does not demonstrate willful misconduct.

(2) Any liability is limited to the applicable limits of the professional liability insurance provided by the State Board of Risk and Insurance Management in effect at the time.

(3) Nothing in this subsection nullifies the immunity from civil liability as granted pursuant to section fifteen, article seven, chapter fifty-five of this code or federal law except to the extent to which the actions are covered within the applicable limits of the professional liability insurance provided by the State Board of Risk and Insurance Management pursuant to this section and in effect at the time.”

The bill was ordered to third reading.

At 11:15 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 12:30 p.m.

* * * * *

Afternoon Session

* * * * *

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

Special Calendar

Second Reading

-continued-

Com. Sub. for S. B. 76, Creating WV Second Chance for Employment Act; on second reading, coming up in regular order, was read a second time, advanced to third reading and the rule was

suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 116, Authorizing MAPS 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, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §64-6-1, §64-6-2 and §64-6-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF
MILITARY AFFAIRS AND PUBLIC SAFETY TO
PROMULGATE LEGISLATIVE RULES.**

**§64-6-1. Governor’s Committee on Crime, Delinquency and
Correction.**

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article twenty-nine, chapter thirty of this code, modified by the Governor’s Committee on Crime, Delinquency and Correction to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2016, relating to the Governor’s Committee on Crime, Delinquency and Correction (law-enforcement training and certification standards, 149 CSR 02), is authorized with the following amendments:

On page 10, subdivision 8.2.a., by striking out each of the two uses of the underlined word ‘must’ and inserting in lieu thereof the word ‘shall’;

On page 16, subdivision 14.1.b., after the underlined word ‘certification’, by inserting the word ‘holder’;

And,

On page 16, subdivision 14.1.b, after the underlined word “against”, by striking out the word “it” and inserting in lieu thereof the words “him or her”.

§64-6-2. State Fire Marshal.

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section eight, article three-e, chapter twenty-nine of this code, modified by the State Fire Marshal to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2016, relating to the State Fire Marshal (regulation of fireworks and related explosive materials, 103 CSR 04), is authorized with the following amendments:

On page 5, subsection 3.44, after the word “issued”, by deleting the word “a”;

On page 6, paragraph 5.1.b.6, by striking out the following “Require Manager(s) of any CFRS to complete and pass a limited online safety training approved by the State Fire Commission. At least one (1) certificate shall be submitted” and inserting in lieu thereof the words “Submit at least one (1) certificate”;

On page 7, subdivision 5.1.o, by striking the words “this article” and inserting in lieu thereof the word “the law or this rule”;

On page 9, subdivision 5.4.a, after the words “jurisdiction over” by inserting the word “the”;

On page 11, subdivision 8.2.f, by striking out the words “Applicants shall be required to provide” and inserting in lieu thereof the word “Provide”;

On page 12, paragraph 8.3.a.2, by striking out the words “Pay the required” and inserting in lieu thereof the word “A”;

On page 12, subsection 9.1, after the words “engaged in”, by inserting the word “the”;

On page 14, paragraph 10.1.a.3, after the words “certificate and”, by inserting the word “meets”;

On page 15, subdivision 11.4.c, by adding the word “or” after the semicolon;

On page 15, subdivision 11.7.a, after the word “alcohol”, by striking the period and adding a semicolon;

On page 15, subdivision 11.7.b, after the word “substance”, by striking the period and adding a semicolon;

On page 15, subdivision 11.7.c, after the word “drug”, by striking the period and adding a semicolon;

On page 15, subdivision 11.7.d, after the word “drug”, by striking the period and adding a semicolon and the word “or”;

And,

On page 15, subdivision 11.6.f, by striking out the subdivision number and inserting in lieu thereof a new subsection number 11.8.

§64-6-3. Division of Justice and Community Services.

The legislature directs the Division of Justice and Community Services, pursuant to the authority given to the Division in section ten, article seven, chapter seventeen-b of this code, to promulgate the legislative rule filed in the State Register by the Division on February 17, 2017, relating to the Division (William R. Laird IV – second chance driver’s license program, 224 CSR 1), with the following amendments:

On page 2, by renumbering subdivision “2.1” to “2.9”;

And,

On page 8, by correcting the Code date from “1131” to “1931”.

The bill was ordered to third reading.

S. B. 174, Exempting transportation of household goods from PSC jurisdiction; 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 §24A-1-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. PURPOSES, DEFINITIONS AND EXEMPTIONS.

§24A-1-3. Exemptions from chapter.

The provisions of this chapter, except where specifically otherwise provided, do not apply to:

(1) Motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers: *Provided*, That the vehicles and their operators are subject to the safety rules promulgated by the commission;

(2) Motor vehicles owned and operated by the United States of America, the State of West Virginia or any county, municipality or county board of education, urban mass transportation authority established and maintained pursuant to article twenty-seven, chapter eight of this code, or by any of their departments, and any motor vehicles operated under a contract with a county board of education exclusively for the transportation of children to and from school or other legitimate transportation for the schools as the commission may specifically authorize;

(3) Motor vehicles used exclusively in the transportation of agricultural or horticultural products, livestock, poultry and dairy products from the farm or orchard on which they are raised or produced to markets, processing plants, packing houses, canneries, railway shipping points and cold storage plants, and in the

transportation of agricultural or horticultural supplies to farms or orchards where they are to be used: *Provided*, That the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the safety and insurance rules promulgated by the commission;

(4) Motor vehicles used exclusively in the transportation of human or animal excreta;

(5) Motor vehicles used exclusively in ambulance service or duly chartered rescue squad service;

(6) Motor vehicles used exclusively for volunteer fire department service;

(7) Motor vehicles used exclusively in the transportation of coal from mining operations to loading facilities for further shipment by rail or water carriers: *Provided*, That the vehicles and their operators are subject to the safety rules promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

(8) Motor vehicles used by petroleum commission agents and oil distributors solely for the transportation of petroleum products and related automotive products when the transportation is incidental to the business of selling the products: *Provided*, That the vehicles and their operators are subject to the safety rules promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

(9) Motor vehicles owned, leased by or leased to any person and used exclusively for the transportation of processed source-separated recycled materials generated by commercial, institutional and industrial customers, transported free of charge or

by a nonprofit recycling cooperative association in accordance with subdivision (1), subsection (d), section one, article four, chapter nineteen of this code from the customers to a facility for further processing: *Provided*, That the vehicles and their operators shall be subject to the safety rules promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

(10) Motor vehicles specifically preempted from state economic regulation of intrastate motor carrier operations by the provisions of 49 U. S. C. §14501 as amended by Title I, Section 103 of the federal Interstate Commerce Commission Termination Act of 1995: *Provided*, That the vehicles and their operators are subject to the safety regulations promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

(11) Motor vehicles designated by the West Virginia Bureau of Senior Services for use and operation by local county aging programs: *Provided*, That the vehicles and their operators are subject to the safety rules promulgated by the commission;

(12) Motor vehicles designated by the West Virginia Division of Public Transit operated by organizations that receive federal grants from the Federal Transit Administration: *Provided*, That the vehicles and their operators are subject to the safety and insurance rules promulgated by the commission; ~~and~~

(13) Motor vehicles used exclusively in the nonemergency medical transportation of Medicaid members ~~by community action agencies as designated by the Governor, including those under contract with any broker authorized by the Bureau for Medical Services although~~ : *Provided*, That these vehicles and their operators shall be subject to the safety rules promulgated by the commission; and

(14) Common carriers or contract carriers engaged in the business of transporting household goods and motor vehicles used exclusively in the transportation of household goods” and a semicolon.

The bill was ordered to third reading.

Com. Sub. for S. B. 187, Providing for confidentiality of patients’ medical records; 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 §27-3-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. CONFIDENTIALITY.

§27-3-1. Definition of confidential information; disclosure.

(a) Communications and information obtained in the course of treatment or evaluation of any client or patient are confidential information. Such confidential information includes the fact that a person is or has been a client or patient, information transmitted by a patient or client or family thereof for purposes relating to diagnosis or treatment, information transmitted by persons participating in the accomplishment of the objectives of diagnosis or treatment, all diagnoses or opinions formed regarding a client’s or patient’s physical, mental or emotional condition, any advice, instructions or prescriptions issued in the course of diagnosis or treatment, and any record or characterization of the matters hereinbefore described. It does not include information which does not identify a client or patient, information from which a person acquainted with a client or patient would not recognize such client or patient and uncoded information from which there is no possible means to identify a client or patient.

(b) Confidential information shall not be disclosed, except:

(1) In a proceeding under section four, article five of this chapter to disclose the results of an involuntary examination made pursuant to section two, three or four of said article;

(2) In a proceeding under article six-a of this chapter to disclose the results of an involuntary examination made pursuant thereto;

(3) Pursuant to an order of any court based upon a finding that the information is sufficiently relevant to a proceeding before the court to outweigh the importance of maintaining the confidentiality established by this section;

(4) To provide notice to the federal National Instant Criminal Background Check System, established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U. S. C. §922, in accordance with article seven-a, chapter sixty-one of this code;

(5) To protect against a clear and substantial danger of imminent injury by a patient or client to himself, herself or another;

~~(6) For treatment or internal review purposes, to staff of the mental health facility where the patient is being cared for or to other health professionals involved in treatment of the patient; and~~

~~(7) Without the patient's consent as provided for under the Privacy Rule of the federal Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. §164.506, for thirty days from the date of admission to a mental health facility if: (i) The provider makes a good faith effort to obtain consent from the patient or legal representative prior to disclosure; (ii) the minimum information necessary is released for a specifically stated purpose; and (iii) prompt notice of the disclosure, the recipient of the information and the purpose of the disclosure is given to the patient or legal representative.~~

(6) Pursuant to and as provided for under the federal privacy rule of the Health Insurance Portability and Accountability Act of 1996 in 45 CFR §164.506; and

(7) Pursuant to and as provided for under the federal privacy rule of the Health Insurance Portability and Accountability Act of

1996 in 45 CFR §164.512: *Provided*, That disclosures made pursuant to 45 CFR §164.512(e) comply with subdivision (3) of this subsection.

(8) Upon execution of a duly executed release in compliance with the Health Insurance Portability and Accountability Act of 1996.”

The bill was ordered to third 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. 423**), 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: Dean, Folk and Walters.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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. 424**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Love.

Absent and Not Voting: Dean, Folk and 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. 187) passed.

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

Com. Sub. for S. B. 187 - “A Bill to amend and reenact §27-3-1 of the Code of West Virginia, 1931, as amended, relating generally to confidentiality of medical records for patients’ physical, mental or emotional conditions generally; eliminating disclosure exception for treatment or internal review purposes; eliminating 30-day requirement; eliminating requirement that provider make good faith effort to obtain consent from the patient or legal representative; eliminating requirement that the minimum information necessary is released for a specifically stated purpose; eliminating requirement that prompt notice of the disclosure, the recipient of the information and the purpose of the disclosure is given to the patient or legal representative; adopting provisions of federal law which pertain to disclosure of protected health information; and providing for disclosure upon execution of a duly executed release in compliance with the Health Insurance Portability and Accountability Act of 1996.”

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. 202, Relating to pawnbrokers generally; 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 two-a, line fourteen, by striking out subsection (b) in its entirety and inserting a new subsection (b) to read as follows:

“(b) During the course of business, a pawnbroker may not purchase, pawn, receive or exchange a gift card with a balance that exceeds \$100, or is in the aggregate of \$300 in a thirty day time frame, from any one individual.”

The bill was ordered to third reading.

Com. Sub. for S. B. 219, Relating to conspiracy to commit crimes under Uniform Controlled Substances Act; on second

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

Com. Sub. for S. B. 220, Relating to offenses and penalties under Uniform Controlled Substances Act; on second reading, coming up in regular order, was read a second time, advanced to third reading and the rule was suspended to permit the offering and consideration of amendments on that reading.

S. B. 235, Relating to motorcycle registration renewal; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Finance, was reported by the Clerk and adopted, amending the bill on page two, section three, line twenty-six, following the words “at least one year”, by inserting the words “from the date of registration” followed by a comma.

And,

On page two, section three, line twenty-seven, following the words “to the division”, by striking out the colon and the proviso in its entirety and inserting a period.

The bill was ordered to third 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. 425**), 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, Folk, Walters and Zatezalo.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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. 426**), 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, Folk, Walters and Zatezalo.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 235) 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. 235 - “A Bill to amend and reenact §17A-10-3 of the Code of West Virginia, 1931, as amended, relating to requiring that the registration fee and any other fees required by this chapter for motorcycles and parking enforcement vehicles shall be for at least one year.”

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

On this question, the yeas and nays were taken (**Roll No. 427**), 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, Folk, Walters and Zatezalo.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 235) 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. 238, Increasing tax credits allowed for rehabilitation of certified historic structures; 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, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

“That §11-21-8a and §11-21-8e of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-24-23a and §11-24-23e of said code be amended and reenacted, all to read as follows:

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-8a. Credit for qualified rehabilitated buildings investment. A credit against the tax imposed by the provisions of this article ~~shall be~~ is allowed as follows:

(a) *Certified historic structures.* – For certified historic structures, the credit is equal to ten percent of qualified rehabilitation expenditures as defined in Title 26, §47(c)(2) of the United States Code, as amended: Provided, That for qualified rehabilitation expenditures made after June 30, 2018, the credit allowed by this section is equal to fifteen percent of the qualified rehabilitation expenditure: Provided, however, That for qualified rehabilitation expenditures made after June 30, 2019, the credit allowed by this section is equal to twenty percent of the qualified rehabilitation expenditure: Provided further, That for qualified rehabilitation expenditures made after June 30, 2020, the credit allowed by this section is equal to twenty-five percent of the qualified rehabilitation expenditure: And provided further, That the taxpayer may not be entitled to this credit if the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax structure when the applicant begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with article three, chapter twenty-nine-a of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division nor is the taxpayer delinquent in

the payment of property taxes on the property containing the certified historic tax structure. The Tax Commissioner may also propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code for the administration of this tax credit and to provide any necessary mechanism to recover credits claimed by taxpayers that become delinquent in the payment of property taxes on the property containing the historic structure or become in arrears in the payment of any tax administered by the Tax Division. This credit is available for both residential and nonresidential buildings located in this state, that are reviewed by the West Virginia Division of Culture and History and designated by the National Park Service, United States Department of the Interior as certified historic structures, and further defined as a qualified rehabilitated building, as defined under Title 26, §47(c)(1) of the United States Code, as amended.

(b) No more than \$5 million of the tax credits may be allocated by the Division of Culture and History in any given West Virginia state fiscal year. The Division of Culture and History shall allocate the tax credits in the order the applications therefor are received.

§11-21-8e. Carryback, carryforward.

(a) Any unused portion of the credit for qualified rehabilitated buildings investment authorized by section eight-a of this article which may not be taken in the taxable year to which the credit applies qualifies for carryback and carryforward treatment subject to the identical general provisions under §39, Title 26 of the United States Code, as amended: *Provided*, That the amount of the credit taken in a taxable year shall in no event exceed the tax liability due for the taxable year: *Provided, however*, That for tax years beginning January 1, 2018, any unused portion of the credit authorized by section eight-a of this article, may not be carried back to any prior taxable year: *Provided further*, That for tax years beginning January 1, 2018, any unused portion of the credit authorized by section eight-a of this article may be carried over to each of the next five tax years following the unused credit year until used or forfeited due to lapse of time.

(b) Effective for taxable years beginning on and after January 1, 2001, credits granted to an electing small business corporation (S corporation), limited partnership, general partnership, limited liability company or multiple owners of property shall be passed through to the shareholders, partners, members or owners, either pro rata or pursuant to an agreement among the shareholders, partners, members or owners documenting an alternative distribution method. The Tax Commissioner shall promulgate procedural rules in accordance with article three, chapter twenty-nine-a of this code that provide the method of reporting the alternative method of distribution authorized by this section.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-23a. Credit for qualified rehabilitated buildings investment.

(a) A credit against the tax imposed by the provisions of this article shall be allowed as follows:

Certified historic structures. – For certified historic structures, the credit is equal to ten percent of qualified rehabilitation expenditures as defined in §47(c)(2), Title 26 of the United States Code, as amended: Provided, That for qualified rehabilitation expenditures made after June 30, 2018, the credit allowed by this section is equal to fifteen percent of the qualified rehabilitation expenditure: Provided, however, That for qualified rehabilitation expenditures made after June 30, 2019, the credit allowed by this section is equal to twenty percent of the qualified rehabilitation expenditure: Provided further, That for qualified rehabilitation expenditures made after June 30, 2020, the credit allowed by this section is equal to twenty-five percent of the qualified rehabilitation expenditure: And provided further, That the taxpayer may not be entitled to this credit if the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax structure when the applicant begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with article three,

chapter twenty-nine-a of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure. The Tax Commissioner shall also propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code for the administration of this tax credit and to provide any necessary mechanism to recover credits claimed by taxpayers that become delinquent in the payment of property taxes on the property containing the historic structure or become in arrears in the payment of any tax administered by the Tax Division. This credit is available for both residential and nonresidential buildings located in this state that are reviewed by the West Virginia Division of Culture and History and designated by the national park service, United States department of the interior as ‘certified historic building’, and further defined as a ‘qualified rehabilitated building’, as defined under §47(c)(1), Title 26, of the United States Code, as amended.

(b) No more than \$5 million of the tax credits may be allocated by the Division of Culture and History in any given West Virginia state fiscal year. The Division of Culture and History shall allocate the tax credits in the order the applications therefor are received.

§11-24-23e. Carryback, carryforward.

Any unused portion of the credit for qualified rehabilitated buildings investment authorized by section twenty-three-a of this article which may not be taken in the taxable year to which the credit applies shall qualify for carryback and carryforward treatment subject to the identical general provisions under §39, Title 26 of the United States Code, as amended: *Provided*, That the amount of such credit taken in a taxable year shall in no event exceed the tax liability due for the taxable year; *Provided, however*, That for tax years beginning January 1, 2018, any unused portion of the credit authorized by section twenty-three-a of this article, may not be carried back to any prior taxable year: *Provided further*, That for tax years beginning January 1, 2018, any unused

portion of the credit authorized by section twenty-three-a of this article may be carried over to each of the next five tax years following the unused credit year until used or forfeited due to lapse of time.”

The bill was ordered to third 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. 428**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: G. Foster.

Absent and Not Voting: Folk, Marcum and Walters.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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. 429**), and there were—yeas 90, nays 8, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Blair, Cowles, G. Foster, N. Foster, Kessinger, Marcum, Sobonya and Wilson.

Absent and Not Voting: Folk and 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. 238) 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. 238 – “A Bill to amend and reenact §11-21-8a and §11-21-8e of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-24-23a and §11-24-23e of said code, all relating to tax credits for qualified rehabilitated buildings investment; increasing the allowable corporation net income tax credit and personal income tax credit for qualified rehabilitated buildings investments; limiting taxpayers eligible for the credits; authorizing Tax Commissioner to promulgate procedural rules and propose legislative rules; and setting limits on total aggregate tax credits in a fiscal year and limiting carry forward and carry back of unused tax credits.”

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. 288, Increasing penalty for crime of child abuse causing death by parent, guardian, custodian or other person; on second reading, coming up in regular order, was read a second time, advanced to third reading and the rule was suspended to permit the offering and consideration of amendments on that reading.

S. B. 333, Requiring all DHHR-licensed facilities access WV Controlled Substances Monitoring Program Database; 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 §60A-9-4, §60A-9-5 and §60A-9-5a 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 §60A-9-9 all to read as follows:

ARTICLE 9. CONTROLLED SUBSTANCES MONITORING.

§60A-9-4. Required information.

(a) Whenever a medical services provider dispenses a controlled substance listed in Schedule II, III or IV as established under the provisions of article two of this chapter or an opioid antagonist, or whenever a prescription for the controlled substance or opioid antagonist is filled by: (i) A pharmacist or pharmacy in this state; (ii) a hospital, or other health care facility, for outpatient use; or (iii) a pharmacy or pharmacist licensed by the Board of Pharmacy, but situated outside this state for delivery to a person residing in this state, the medical services provider, health care facility, pharmacist or pharmacy shall, in a manner prescribed by rules promulgated by the ~~board under~~ Board of Pharmacy pursuant to this article, report the following information, as applicable:

(1) The name, address, pharmacy prescription number and Drug Enforcement Administration controlled substance registration number of the dispensing pharmacy or the dispensing physician or dentist;

(2) The full legal name, address and birth date of the person for whom the prescription is written;

(3) The name, address and Drug Enforcement Administration controlled substances registration number of the practitioner writing the prescription;

(4) The name and national drug code number of the Schedule II, III and IV controlled substance or opioid antagonist dispensed;

(5) The quantity and dosage of the Schedule II, III and IV controlled substance or opioid antagonist dispensed;

(6) The date the prescription was written and the date filled;

(7) The number of refills, if any, authorized by the prescription;

(8) If the prescription being dispensed is being picked up by someone other than the patient on behalf of the patient, the first name, last name and middle initial, address and birth date of the person picking up the prescription as set forth on the person's government-issued photo identification card shall be retained in

either print or electronic form until such time as otherwise directed by rule promulgated by the ~~board~~ Board of Pharmacy; and

(9) The source of payment for the controlled substance dispensed.

(b) Whenever a medical services provider treats a patient for an overdose that has occurred as a result of illicit or prescribed medication, the medical service provider shall report the full legal name, address and birth date of the person who is being treated, including any known ancillary evidence of the overdose. The Board of Pharmacy shall coordinate with the Division of Justice and Community Services and the Office of Drug Control Policy regarding the collection of overdose data.

~~(b)~~ (c) The ~~board~~ Board of Pharmacy may prescribe by rule promulgated ~~under this~~ pursuant to this article the form to be used in prescribing a Schedule II, III, and IV substance or opioid antagonist if, in the determination of the ~~board~~ Board of Pharmacy, the administration of the requirements of this section would be facilitated.

~~(e)~~ (d) Products regulated by the provisions of article ten of this chapter shall be subject to reporting pursuant to the provisions of this article to the extent set forth in said article.

~~(d)~~ (e) Reporting required by this section is not required for a drug administered directly to a patient by a practitioner. Reporting is, however, required by this section for a drug dispensed to a patient by a practitioner. ~~Provided, That the~~ The quantity dispensed by a prescribing practitioner to his or her own patient may not exceed an amount adequate to treat the patient for a maximum of seventy-two hours with no greater than two 72-hour cycles dispensed in any fifteen-day period of time.

~~(e)~~ (f) The Board of Pharmacy shall notify a physician prescribing buprenorphine or buprenorphine/naloxone within sixty days of the availability of ~~the~~ an abuse deterrent form of buprenorphine or buprenorphine/naloxone ~~is~~ if approved by the Food and Drug Administration as provided in FDA Guidance to

Industry. Upon receipt of the notice, a physician may switch their patients using buprenorphine or buprenorphine/naloxone to the abuse deterrent form of the drug.

§60A-9-5. Confidentiality; limited access to records; period of retention; no civil liability for required reporting.

(a)(1) The information required by this article to be kept by the ~~board~~ Board of Pharmacy is confidential and not subject to the provisions of chapter twenty-nine-b of this code or obtainable as discovery in civil matters absent a court order and is open to inspection only by inspectors and agents of the ~~board~~ Board of Pharmacy, members of the West Virginia State Police expressly authorized by the Superintendent of the West Virginia State Police to have access to the information, authorized agents of local law-enforcement agencies as members of a federally affiliated drug task force, authorized agents of the federal Drug Enforcement Administration, duly authorized agents of the Bureau for Medical Services, duly authorized agents of the Office of the Chief Medical Examiner for use in post-mortem examinations, duly authorized agents of the Office of Health Facility Licensure and Certification for use in certification, licensure and regulation of health facilities, duly authorized agents of licensing boards of practitioners in this state and other states authorized to prescribe Schedules II, III and IV controlled substances, prescribing practitioners and pharmacists, a dean of any medical school or his or her designee located in this state to access prescriber level data to monitor prescribing practices of faculty members, prescribers and residents enrolled in a degree program at the school where he or she serves as dean, a physician reviewer designated by an employer of medical providers to monitor prescriber level information of prescribing practices of physicians, advance practice registered nurses or physician assistant in their employ, and a chief medical officer of a hospital or a physician designated by the chief executive officer of a hospital who does not have a chief medical officer, for prescribers who have admitting privileges to the hospital or prescriber level information, and persons with an enforceable court order or regulatory agency administrative subpoena. ~~Provided, That all~~ All law-enforcement personnel who

have access to the Controlled Substances Monitoring Program database shall be granted access in accordance with applicable state laws and the ~~board's legislative~~ Board of Pharmacy's rules, shall be certified as a West Virginia law-enforcement officer and shall have successfully completed training approved by the ~~board~~ Board of Pharmacy. All information released by the ~~board~~ Board of Pharmacy must be related to a specific patient or a specific individual or entity under investigation by any of the above parties except that practitioners who prescribe or dispense controlled substances may request specific data related to their Drug Enforcement Administration controlled substance registration number or for the purpose of providing treatment to a patient: *Provided*, That the West Virginia Controlled Substances Monitoring Program Database Review Committee established in subsection (b) of this section is authorized to query the database to comply with said subsection.

(2) Subject to the provisions of subdivision (1) of this subsection, the ~~board~~ Board of Pharmacy shall also review the West Virginia Controlled Substance Monitoring Program database and issue reports that identify abnormal or unusual practices of patients who exceed parameters as determined by the advisory committee established in this section. The ~~board~~ Board of Pharmacy shall communicate with practitioners and dispensers to more effectively manage the medications of their patients in the manner recommended by the advisory committee. All other reports produced by the ~~board~~ Board of Pharmacy shall be kept confidential. The ~~board~~ Board of Pharmacy shall maintain the information required by this article for a period of not less than five years. Notwithstanding any other provisions of this code to the contrary, data obtained under the provisions of this article may be used for compilation of educational, scholarly or statistical purposes, and may be shared with the West Virginia Department of Health and Human Resources for those purposes, as long as the identities of persons or entities and any personally identifiable information, including protected health information, contained therein shall be redacted, scrubbed or otherwise irreversibly destroyed in a manner that will preserve the confidential nature of the information. No individual or entity required to report under

section four of this article may be subject to a claim for civil damages or other civil relief for the reporting of information to the ~~board~~ Board of Pharmacy as required under and in accordance with the provisions of this article.

(3) The ~~board~~ Board of Pharmacy shall establish an advisory committee to develop, implement and recommend parameters to be used in identifying abnormal or unusual usage patterns of patients in this state. This advisory committee shall:

(A) Consist of the following members: A physician licensed by the West Virginia Board of Medicine, a dentist licensed by the West Virginia Board of Dental Examiners, a physician licensed by the West Virginia Board of Osteopathic Medicine, a licensed physician certified by the American Board of Pain Medicine, a licensed physician board certified in medical oncology recommended by the West Virginia State Medical Association, a licensed physician board certified in palliative care recommended by the West Virginia Center on End of Life Care, a pharmacist licensed by the West Virginia Board of Pharmacy, a licensed physician member of the West Virginia Academy of Family Physicians, an expert in drug diversion and such other members as determined by the ~~board~~ Board of Pharmacy.

(B) Recommend parameters to identify abnormal or unusual usage patterns of controlled substances for patients in order to prepare reports as requested in accordance with subdivision (2), subsection (a) of this section.

(C) Make recommendations for training, research and other areas that are determined by the committee to have the potential to reduce inappropriate use of prescription drugs in this state, including, but not limited to, studying issues related to diversion of controlled substances used for the management of opioid addiction.

(D) Monitor the ability of medical services providers, health care facilities, pharmacists and pharmacies to meet the 24-hour reporting requirement for the Controlled Substances Monitoring Program set forth in section three of this article, and report on the feasibility of requiring real-time reporting.

(E) Establish outreach programs with local law enforcement to provide education to local law enforcement on the requirements and use of the Controlled Substances Monitoring Program database established in this article.

(b) The ~~board~~ Board of Pharmacy shall create a West Virginia Controlled Substances Monitoring Program Database Review Committee of individuals consisting of two prosecuting attorneys from West Virginia counties, two physicians with specialties which require extensive use of controlled substances and a pharmacist who is trained in the use and abuse of controlled substances. The review committee may determine that an additional physician who is an expert in the field under investigation be added to the team when the facts of a case indicate that the additional expertise is required. The review committee, working independently, may query the database based on parameters established by the advisory committee. The review committee may make determinations on a case-by-case basis on specific unusual prescribing or dispensing patterns indicated by outliers in the system or abnormal or unusual usage patterns of controlled substances by patients which the review committee has reasonable cause to believe necessitates further action by law enforcement or the licensing board having jurisdiction over the practitioners or dispensers under consideration. The licensing board having jurisdiction over the practitioner or dispenser under consideration shall report back to the Board of Pharmacy regarding any findings, investigation or discipline resulting from the findings of the review committee within thirty days of resolution of any action taken by the licensing board resulting from the information provided by the Board of Pharmacy. The review committee shall also review notices provided by the chief medical examiner pursuant to subsection (h), section ten, article twelve, chapter sixty-one of this code and determine on a case-by-case basis whether a practitioner who prescribed or dispensed a controlled substance resulting in or contributing to the drug overdose may have breached professional or occupational standards or committed a criminal act when prescribing the controlled substance at issue to the decedent. Only in those cases in which there is reasonable cause to believe a breach of professional or occupational standards or a criminal act may

have occurred, the review committee shall notify the appropriate professional licensing agency having jurisdiction over the applicable practitioner or dispenser and appropriate law-enforcement agencies and provide pertinent information from the database for their consideration. The number of cases identified shall be determined by the review committee based on a number that can be adequately reviewed by the review committee. The information obtained and developed may not be shared except as provided in this article and is not subject to the provisions of chapter twenty-nine-b of this code or obtainable as discovering in civil matters absent a court order.

(c) The ~~board~~ Board of Pharmacy is responsible for establishing and providing administrative support for the advisory committee and the West Virginia Controlled Substances Monitoring Program Database Review Committee. The advisory committee and the review committee shall elect a chair by majority vote. Members of the advisory committee and the review committee may not be compensated in their capacity as members but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(d) The ~~board~~ Board of Pharmacy shall promulgate rules with advice and consent of the advisory committee, in accordance with the provisions of article three, chapter twenty-nine-a of this code. The legislative rules must include, but shall not be limited to, the following matters:

(1) Identifying parameters used in identifying abnormal or unusual prescribing or dispensing patterns;

(2) Processing parameters and developing reports of abnormal or unusual prescribing or dispensing patterns for patients, practitioners and dispensers;

(3) Establishing the information to be contained in reports and the process by which the reports will be generated and disseminated; and

(4) Setting up processes and procedures to ensure that the privacy, confidentiality, and security of information collected, recorded, transmitted and maintained by the review committee is not disclosed except as provided in this section.

(e) Persons or entities with access to the West Virginia Controlled Substances Monitoring Program database pursuant to this section may, pursuant to rules promulgated by the ~~board~~ Board of Pharmacy, delegate appropriate personnel to have access to said database.

(f) Good faith reliance by a practitioner on information contained in the West Virginia Controlled Substances Monitoring Program database in prescribing or dispensing or refusing or declining to prescribe or dispense a Schedule II, III, or IV controlled substance shall constitute an absolute defense in any civil or criminal action brought due to prescribing or dispensing or refusing or declining to prescribe or dispense.

(g) A prescribing or dispensing practitioner may notify law enforcement of a patient who, in the prescribing or dispensing practitioner's judgment, may be in violation of section four hundred ten, article four of this chapter, based on information obtained and reviewed from the controlled substances monitoring database. A prescribing or dispensing practitioner who makes a notification pursuant to this subsection is immune from any civil, administrative or criminal liability that otherwise might be incurred or imposed because of the notification if the notification is made in good faith.

(h) Nothing in the article may be construed to require a practitioner to access the West Virginia Controlled Substances Monitoring Program database except as provided in section five-a of this article.

(i) The ~~board~~ Board of Pharmacy shall provide an annual report on the West Virginia Controlled Substance Monitoring Program to the Legislative Oversight Commission on Health and Human Resources Accountability with recommendations for needed legislation no later than January 1 of each year.

§60A-9-5a. Practitioner requirements to access database and conduct annual search of the database; required rulemaking.

(a) All practitioners, as that term is defined in section one hundred one, article two of this chapter who prescribe or dispense Schedule II, III or IV controlled substances shall register with the West Virginia Controlled Substances Monitoring Program and obtain and maintain online or other electronic access to the program database: *Provided*, That compliance with the provisions of this subsection must be accomplished within thirty days of the practitioner obtaining a new license: *Provided, however*, That ~~the~~ licensing board the Board of Pharmacy may renew a practitioner's license without proof that the practitioner meet the requirements of this subsection.

(b) Upon initially prescribing or dispensing any pain-relieving controlled substance for a patient for whom they are providing pain-relieving controlled substances as part of a course of treatment for chronic, nonmalignant pain but who are not suffering from a terminal illness and at least annually thereafter should the practitioner or dispenser continue to treat the patient with controlled substances, all persons with prescriptive or dispensing authority and in possession of a valid Drug Enforcement Administration registration identification number and, who are licensed by the Board of Medicine as set forth in article three, chapter thirty of this code, the Board of Registered Professional Nurses as set forth in article seven of said chapter, the Board of Dental Examiners as set forth in article four of said chapter and the Board of Osteopathic Medicine as set forth in article fourteen of said chapter shall access the West Virginia Controlled Substances Monitoring Program database for information regarding specific patients ~~for whom they are providing pain-relieving controlled substances as part of a course of treatment for chronic, nonmalignant pain but who are not suffering from a terminal illness~~. The information obtained from accessing the West Virginia Controlled Substances Monitoring Program database for the patient shall be documented in the patient's medical record maintained by a private prescriber or any inpatient facility licensed

pursuant to the provisions of chapter sixteen of this code. A pain-relieving controlled substance shall be defined as set forth in section one, article three-a, chapter thirty of this code.

(c) The various boards mentioned in subsection (b) of this section shall promulgate both emergency and legislative rules pursuant to the provisions of article three, chapter twenty-nine-a of this code to effectuate the provisions of this section.

§60A-9-9. Drugs of concern designation.

(a) The Board of Pharmacy may designate certain drugs as drugs of concern which must be reported to the database established pursuant to this article. The designation of a drug of concern shall be reserved for drugs which have a high potential for abuse. Whenever a medical services provider dispenses a drug of concern or whenever a prescription for a drug of concern is filled by: (i) A pharmacist or pharmacy in this state; (ii) a hospital, or other health care facility, for outpatient use; or (iii) a pharmacy or pharmacist licensed by the Board of Pharmacy, but situated outside this state for delivery to a person residing in this state, the medical services provider, health care facility, pharmacist or pharmacy shall, in a manner prescribed by rules promulgated by the Board of Pharmacy under this article, report the following information, as applicable:

(1) The name, address, pharmacy prescription number and Drug Enforcement Administration controlled substance registration number of the dispensing pharmacy or the dispensing physician or dentist;

(2) The full legal name, address and birth date of the person for whom the prescription is written;

(3) The name, address and Drug Enforcement Administration controlled substances registration number of the practitioner writing the prescription;

(4) The name and national drug number of the drug of concern dispensed;

(5) The quantity and dosage of the drug of concern dispensed;

(6) The date the prescription was written and the date filled;

(7) The number of refills, if any, authorized by the prescription;

(8) If the prescription being dispensed is being picked up by someone other than the patient on behalf of the patient, the first name, last name and middle initial, address and birth date of the person picking up the prescription as set forth on the person's government-issued photo identification card shall be retained in either print or electronic form until such time as otherwise directed by rule promulgated by the Board of Pharmacy; and

(9) The source of payment for the drug of concern dispensed.

(b) The penalties set forth in section seven of this article shall not apply to drugs listed as drugs of concern. Failure to report may be considered a violation of the practice act of the prescriber and may result in discipline by the appropriate licensing board.

(c) The Board of Pharmacy may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to effectuate the provisions of this section."

The bill was ordered to third reading.

Com. Sub. for S. B. 388, Relating to dangerous weapons; 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 §61-7-11a and §61-7-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.**§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.**

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that subsections (b), (g) and (h) of this section and paragraph (I), subdivision (2), subsection (b) of this section are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section twenty-two, article three of the Constitution of the State of West Virginia.

(b) (1) It is unlawful for a person to possess a firearm or other deadly weapon on a school bus as defined in section one, article one, chapter seventeen-a of this code, or in or on a public primary or secondary education building, structure, facility or grounds including a vocational education building, structure, facility or grounds where secondary vocational education programs are conducted or at a school-sponsored function, or in or on a private primary or secondary education building, structure or facility: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon on or in a private primary or secondary education building, structure or facility when such institution has adopted written policies allowing for possession of firearms on or in the institution's buildings, structures or facilities.

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to section five, article twelve, chapter sixty-two or chapter forty-nine of this code in the performance of his or her duties;

(C) A retired law-enforcement officer who:

(i) Is employed by a state, county or municipal law-enforcement agency;

(ii) Is covered for liability purposes by his or her employer;

(iii) Is authorized by a county board of education and the school principal to serve as security for a school;

(iv) Meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U. S. C. §926C(c); and

(v) Meets all of the requirements for handling and using a firearm established by his or her employer and has qualified with his or her firearm to those requirements;

(D) A person specifically authorized by the Board of Education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

(E) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

(F) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

(G) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity; ~~or~~

(H) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

(I) Any person, twenty-one years old or older, who has a valid concealed handgun permit may possess a concealed handgun while

in a motor vehicle in a parking lot, traffic circle or other areas of vehicular ingress or egress to a public school: *Provided, That:*

(i) When he or she is occupying the vehicle the person stores the handgun out of view from persons outside the vehicle; or

(ii) When he or she is not occupying the vehicle the person stores the handgun out of view from persons outside the vehicle, the vehicle is locked, and the handgun is in a locked trunk, glove box or other interior compartment, or in a locked container securely fixed to the vehicle.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of subsection (b) of this section shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by article five, chapter forty-nine of this code, a court which adjudicates a person who is fourteen years of age or older as delinquent for a violation of subsection (b) of this section may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not

to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward to the Division of Motor Vehicles.

(e)(1) If a person eighteen years of age or older is convicted of violating subsection (b) of this section and if the person does not act to appeal the conviction within the time periods described in subdivision (2) of this subsection, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in subdivision (1) of this subsection shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within twenty days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in subdivision (1) of this subsection, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative

hearing which substantially complies with the requirements of the provisions of section two, article five-a, chapter seventeen-c of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within ten days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian or custodian of a person less than eighteen years of age who knows that the person is in violation of subsection (b) of this section or has reasonable cause to believe that the person's violation of subsection (b) is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

§61-7-14. Right of certain persons to limit possession of firearms on premises.

Notwithstanding the provisions of this article, any owner, lessee or other person charged with the care, custody and control of real property may prohibit the carrying openly or ~~concealed~~ concealing of any firearm or deadly weapon on property under his or her domain: *Provided*, That for purposes of this section 'person' means an individual or any entity which may acquire title to real property.

Any person carrying or possessing a firearm or other deadly weapon on the property of another who refuses to temporarily relinquish possession of ~~such~~ the firearm or other deadly weapon, upon being requested to do so, or to leave ~~such~~ the premises, while in possession of ~~such~~ the firearm or other deadly weapon, ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in ~~the county~~ jail not more than six months, or both: *Provided*, That the provisions of this section ~~shall do~~ do not apply to ~~those persons~~ a person as set forth in ~~subsections (3) through (6) of section six of this code~~ subdivisions (3) through (7), inclusive, subsection (a), section six of this article

while such persons are the person is acting in an official capacity; and to a person as set forth in subdivisions (1) through (8), inclusive, subsection (b) of said section, while the person is acting in his or her official capacity: Provided, however, That under no circumstances, except as provided for by the provisions of paragraph (1), subdivision (2), subsection (b), section eleven-a of this article, may any person possess or carry or cause the possession or carrying of any firearm or other deadly weapon on the premises of any primary or secondary educational facility in this state unless such the person is a law-enforcement officer or he or she has the express written permission of the county school superintendent.”

The bill was ordered to third reading.

S. B. 433, Permitting counties increase excise tax on privilege of transferring real property; on second reading, coming up in regular order, was read a second time.

Delegate Phillips moved to amend the bill on page one, following the enacting section, by adding the following:

“ARTICLE 6A. POLLUTION CONTROL FACILITIES TAX TREATMENT.

§1. Repeal of section related to wind power projects.

That §11-6A-5a of the Code of West Virginia, 1931, as amended, is hereby repealed.”

And,

On page one, by striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §11-6A-5a of the Code of West Virginia, 1931, as amended, be repealed; and that §11-22-2 of said code be amended and reenacted, all to read as follows” and a colon.

Delegate Anderson 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 was different than the fundamental purpose of the bill and ruled that the amendment was not germane.

The bill was ordered to third reading.

Com. Sub. for S. B. 440, Relating to use of Regional Jail and Correctional Facility Authority funds; 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, following the enacting section, by striking out the remainder of the bill in its entirety and inserting in lieu thereof the following:

**“ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND
CORRECTIONAL FACILITY AUTHORITY.**

**§31-20-10. Regional Jail and Correctional Facility Authority
funds.**

(a) The Regional Jail and Correctional Facility Authority may create special funds in the State Treasury to identify various revenue sources and payment of specific obligations. These funds may be used for purposes that include, but are not limited to, the construction, renovation or repair of specific facilities, cash control, facility maintenance and the individual operations accounts of facilities operated by the authority. The authority may create other separate accounts within these funds that it determines are necessary for the efficient operation of the authority.

(b) Revenues deposited into these funds shall be used to make payments of interest and shall be pledged as security for bonds, security interests or notes issued or lease-purchase obligations entered into with another state entity by the authority pursuant to this article.

(c) Whenever the authority determines that the balance in these funds is in excess of the immediate requirements of this article, it may request that the excess be invested with the West Virginia Board of Treasury Investments until needed. ~~In this case, the~~

~~excess shall be invested in a manner consistent with the investment of temporary state funds. Interest earned~~ Earnings on any ~~money invested~~ investments pursuant to this section shall be credited to these funds.

(d) If the authority determines that moneys held in these funds are in excess of the amount needed to carry out the purposes of this article, it shall take any action that is necessary to release the excess and transfer it to the General Revenue Fund of the State Treasury.

(e) These funds consist of the following:

(1) Amounts raised by the authority by the sale of bonds or other borrowing authorized by this article;

(2) Moneys collected and deposited in the State Treasury which are specifically designated by Acts of the Legislature for inclusion in these funds;

(3) Contributions, grants and gifts from any source, both public and private, which may be used by the authority for any project or projects;

(4) All sums paid by the counties pursuant to subsection (h) of this section; and

(5) All interest earned on investments made by the state from moneys deposited in these funds.

(f) The amounts deposited in these funds shall be accounted for and expended in the following manner:

(1) Amounts raised by the sale of bonds or other borrowing authorized by this article shall be deposited in a separate account within these funds and expended for the purpose of construction, renovation and repair of correctional facilities, regional jails and juvenile detention and correctional facilities for which need has been determined by the authority;

(2) Amounts deposited from all other sources shall be pledged first to the debt service on any bonded indebtedness, including

lease-purchase obligations entered into by the authority with another state entity or other obligation incurred by borrowing of the authority;

(3) After any requirements of debt service have been satisfied, the authority shall requisition from these funds the amounts that are necessary to provide for payment of the administrative expenses of this article;

(4) The authority shall requisition from these funds, after any requirements of debt service have been satisfied, the amounts that are necessary for the maintenance and operation of regional jails that are constructed pursuant to the provisions of this article and shall expend those amounts for that purpose. These funds shall make an accounting of all amounts received from each county by virtue of any filing fees, court costs or fines required by law to be deposited in these funds and amounts from the jail improvement funds of the various counties. After the expenses of administration have been deducted, the amounts expended in the respective regions from those sources shall be in proportion to the percentage the amount contributed to these funds by the counties in each region bears to the total amount received by these funds from those sources;

(5) Notwithstanding any other provisions of this article, sums paid into these funds by each county pursuant to subsection (h) of this section for each inmate shall be placed in a separate account and shall be requisitioned from these funds to pay for costs incurred at the regional jail facility at which each inmate was incarcerated; and

(6) Any amounts deposited in these funds from other sources permitted by this article shall be expended in the respective regions based on particular needs to be determined by the authority.

(g) (1) After a regional jail facility becomes available pursuant to this article for the incarceration of inmates, each county within the region shall incarcerate all persons whom the county would have incarcerated in any jail prior to the availability of the regional jail facility in the regional jail facility except those whose

incarceration in a local jail facility used as a local holding facility is specified as appropriate under the standards and procedures developed pursuant to section nine of this article and who the sheriff or the circuit court elects to incarcerate therein.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, circuit and magistrate courts are authorized to:

(A) Detain persons who have been arrested or charged with a crime, in ~~a county or municipal~~ jail, specified as appropriate under the standards and procedures developed pursuant to section nine of this article, for a period not to exceed ninety-six hours; or

(B) Commit persons convicted of a crime in ~~a county or municipal~~ jail, specified as appropriate under the standards and procedures developed pursuant to section nine of this article, for a period not to exceed fourteen days.

(h) When inmates are placed in a regional jail facility pursuant to subsection (g) of this section, the county shall pay into the Regional Jail and Correctional Facility Authority Fund a cost per day for each incarcerated inmate to be determined by the Regional Jail and Correctional Facility Authority according to criteria and by procedures established by legislative rules proposed for promulgation pursuant to article three, chapter twenty-nine-a of this code and as established in section ten-a of this article to cover the costs of operating the regional jail facilities of this state to maintain each inmate. The per diem costs for incarcerating inmates may not include the cost of construction, acquisition or renovation of the regional jail facilities: *Provided*, That each regional jail facility operating in this state shall keep a record of the date and time that an inmate is incarcerated and a county may not be charged for a second day of incarceration for an individual inmate until that inmate has remained incarcerated for more than twenty-four hours. After that, in cases of continuous incarceration, subsequent per diem charges shall be made upon a county only as subsequent intervals of twenty-four hours pass from the original time of incarceration.”

The bill was ordered to third reading.

S. B. 444, Establishing Court Advanced Technology Subscription Fund; 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, following the enacting section, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

“ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-22. Court Advanced Technology Subscription Fund created.

(a) The West Virginia Supreme Court of Appeals may charge fees from subscribers using the court’s advanced technology systems pursuant to a schedule of fees published pursuant to administrative order of the Court. All fees charged shall be deposited into the state treasury in accordance with the provisions of this section. There is created within the State Treasury a special revenue fund designated the Court Advanced Technology Subscription Fund to be administered by the West Virginia Supreme Court of Appeals.

(b) The fund shall consist of moneys received from subscribers using the court’s advanced technology systems including, but not limited to, the E-filing system and the Unified Judicial Application Information System: *Provided*, That until the E-filing system or any other advanced technology is mandatory in all fifty-five counties of the state there may be no subscriber fee or other fee charged for use of the E-filing system beyond the fees required in counties not yet using the E-filing system or other advanced technology, so that the costs of the using the courts in this state are equal regardless of where a person may use the courts.

(c) One half of all moneys collected from subscribers are to be deposited into the State Treasury and credited to the Court Advanced Technology Subscription Fund shall be used to pay the costs associated with maintaining and administering the court’s

advanced technology systems. One half of all moneys collected from subscribers are to be deposited into the general revenue fund.

(d) All moneys collected by the administrator of the Supreme Court of Appeals for the use of the court's advanced technology shall be deposited into the Court Advanced Technology Subscription Fund. Expenditures from the fund shall be for the purposes set forth in subsection (c) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature in accordance with article three, chapter twelve of this code and upon fulfillment of the requirements 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.*"

The bill was ordered to third reading.

Com. Sub. for S. B. 454, Providing more efficient collection and submission of state moneys received from court transactions or court services; on second reading, coming up in regular order, was read a second time and ordered to third 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. 430**), 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: Ellington, Folk and Walters.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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. 431**), 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: Folk and 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. 454) passed.

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

Com. Sub. for S. B. 461, Exempting WV State Police from state purchasing requirements; on second reading, coming up in regular order, was read a second time and ordered to third 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. 432**), 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: Folk and Walters.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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. 433**), 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: Folk and 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. 461) passed.

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

Com. Sub. for S. B. 486, Relating to health care provider taxes; on second reading, coming up in regular order, was read a second time and ordered to third 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. 434**), 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: Folk and Walters.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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. 435**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Folk and 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. 486) passed.

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

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; modifying eligibility criteria for ‘eligible acute care hospital;’ removing conditions precedent for taxation; changing condition precedent for the automatic suspension of taxation; 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.”

Delegate Cowles moved that the bill take effect July 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 436**), 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: Folk and Walters.

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. 486) 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. 515, Relating to parole requirements for hearings and release; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 523, Converting to biweekly pay cycle for state employees; 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 everything after the enacting clause and inserting in lieu thereof the following:

“That §4-2A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11B-2-12 of said code be amended and reenacted; that §12-3-12a and §12-3-13b of said code be amended and reenacted; that §15-2-5 of said code be

amended and reenacted; that §18-3-1 of said code be amended and reenacted; that §20-1-5 of said code be amended and reenacted; that §20-7-1 of said code be amended and reenacted; that §22C-1-4 of said code be amended and reenacted; that §24-1-3 of said code be amended and reenacted; that §24A-6-6 of said code be amended and reenacted; that §24B-5-2 of said code be amended and reenacted; that §25-1-19 of said code be amended and reenacted; that §31-19-4 of said code be amended and reenacted; that §33-2-2 of said code be amended and reenacted; that §50-1-8 and §50-1-9 of said code be amended and reenacted; that §51-7-3 and §51-7-5 of said code be amended and reenacted; that §51-8-2 of said code be amended and reenacted; and that §62-12-5 of said code be amended and reenacted, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 2A. COMPENSATION FOR AND EXPENSES OF MEMBERS OF THE LEGISLATURE.

§4-2A-2. Basic compensation for services; proration.

(a) Beginning in the calendar year 2009 and for each calendar year after that, each member of the Legislature shall receive as basic compensation for his or her services the sum of \$20,000 per calendar year, to be paid as provided in subsection (b) of this section. In addition to the basic compensation, members shall receive the additional compensations as are expressly provided in sections three, four and five of this article. All other increased amounts or new amounts in respect to the compensation of members of the Legislature, set forth in the resolution of the Citizens Legislative Compensation Commission, dated January 9, 2007, and implemented in sections two, four, six and eight of this article providing for new amounts or amounts increased to new amounts greater than those in force and effect on January 1, 2007, become effective for calendar year 2009 and each calendar year after that: *Provided*, That increased amounts or new amounts in respect to the expenses of members of the Legislature, set forth in said resolution, and implemented in sections six and eight of this article providing for new amounts or amounts increased to new amounts greater than those in force and effect on January 1, 2007,

become effective for calendar year 2008 and each calendar year after that.

(b) The basic compensation is payable as follows:

(1) In the year 2009, and every fourth year after that:

(A) Five thousand dollars in each of February, March and April, payable at least twice a per month; and

(B) Six hundred twenty-five dollars in each of January, May, June, July, August, September, October and November, payable ~~once a~~ at least twice per month;

(2) Beginning in 2010, in all years except those described in subdivision (1) of this subsection:

(A) Five thousand dollars in each of January, February and March, payable at least twice a per month; and

(B) Six hundred twenty-five dollars in each of April, May, June, July, August, September, October and November, payable ~~once a~~ at least twice per month.

(c) In the event of the death, resignation or removal of a member of the Legislature and the appointment and qualification of his or her successor, the compensation provided in this section for the month in which the death, resignation or removal of the member of the Legislature occurs shall be prorated between the original member and his or her successor on the basis of the number of days served, including Saturdays and Sundays in the month.

CHAPTER 11B. DEPARTMENT OF REVENUE.

ARTICLE 2. STATE BUDGET OFFICE.

§11B-2-12. Submission of expenditure schedules; contents; submission of information on unpaid obligations; copies to Legislative Auditor.

(a) Prior to the beginning of each fiscal year, the spending officer of a spending unit shall submit to the secretary a detailed

expenditure schedule for the ensuing fiscal year. The schedule shall be submitted in such form and at such time as the secretary may require. The schedule shall show:

(1) A proposed ~~monthly~~ biweekly rate of expenditure for amounts appropriated for personal services;

(2) Each and every position budgeted under personal services for the next ensuing fiscal year, with the ~~monthly~~ biweekly salary or compensation of each position;

(3) A proposed quarterly rate of expenditure for amounts appropriated for employee benefits, current expenses, equipment and repairs and alterations classified by a uniform system of accounting as called for in section twenty-five of this article for each item of every appropriation;

(4) A proposed yearly plan of expenditure for amounts appropriated for buildings and lands; and

(5) A proposed quarterly plan of receipts itemized by type of revenue.

(b) The secretary may accept a differently itemized expenditure schedule from a spending unit to which the above itemizations are not applicable.

(c) The secretary shall consult with and assist spending officers in the preparation of expenditure schedules.

(d) Within fifteen days after the end of each month of the fiscal year, the head of every spending unit shall certify to the Legislative Auditor the status of obligations and payments of the spending unit for amounts of employee benefits, including, but not limited to, obligations and payments for social security withholding and employer matching, public employees' insurance premiums and public employees' retirement and Teachers Retirement Systems.

(e) In the event the Legislative Auditor determines from certified reports or from other sources that any spending unit is not making all payments and transfers for employee benefits from

funds appropriated for that purpose, the Legislative Auditor shall notify the secretary of administration, Auditor and Treasurer of the determination and thereafter no funds appropriated to the spending unit shall be encumbered or expended for the salary or compensation to the head of the spending unit until the Legislative Auditor determines that the payments or transfers are being made on a timely basis.

(f) When a spending officer submits an expenditure schedule to the secretary as required by this section, the spending officer shall at the same time transmit a copy thereof to the Legislative Auditor and the Joint Committee on Government and Finance or its designee. If a spending officer of a spending unit fails to transmit a copy to the Legislative Auditor on or before the beginning of the fiscal year, the Legislative Auditor shall notify the secretary, Auditor and Treasurer of the failure and thereafter no funds appropriated to the spending unit shall be encumbered or expended until the spending officer thereof has transmitted a copy to the Legislative Auditor.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

§12-3-12a. Payment of salaries of employees of ~~West Virginia board of regents~~ Higher Education Policy Commission, Council for Community and Technical College Education and institutions of higher education ~~in twelve equal monthly installments~~ over the twenty-six biweekly pay cycle.

Notwithstanding the provisions of section twelve of this article, in the event that an employee of the ~~West Virginia board of regents~~ Higher Education Policy Commission, Council for Community and Technical College Education or of any of the institutions which ~~it governs~~ they govern elects to receive his or her salary ~~in twelve equal monthly installments over the complete twenty-six biweekly pay cycle,~~ warrants may be drawn for the ~~last two such installments~~ in biweekly pay periods covering the months of July and August

following the fiscal year during which such salary was earned: *Provided*, That such warrants have been encumbered by ~~said board of regents~~ the commission, council or institution and the Budget Office prior to June 30 of said fiscal year.

§12-3-13b. Voluntary deductions by State Auditor from salaries of employees to pay association dues or fees and to pay supplemental health and life insurance premiums.

Any officer or employee of the State of West Virginia may authorize that a voluntary deduction from his or her net wages be made for the payment of membership dues or fees to an employee association. Voluntary deductions may also be authorized by an officer or employee for any supplemental health and life insurance premium, subject to prior approval by the Auditor. Such deductions shall be authorized on a form provided by the Auditor of the State of West Virginia and shall state: (a) The identity of the employee; (b) the amount and frequency of such deductions; and (c) the identity and address of the association or insurance company to which such dues shall be paid. Upon execution of such authorization and its receipt by the office of the Auditor, such deductions shall be made in the manner specified on the form and remitted to the designated association or insurance company on the tenth day of each month: *Provided*, That voluntary other deductions, as approved and authorized by the Auditor, may be made in accordance with rules proposed by the Auditor pursuant to article three, chapter twenty-nine-a of this code: *Provided, however*, That deductions shall be made ~~either once or~~ at least twice monthly, ~~at the option of the employee~~. Deduction authorizations may be revoked at any time thirty days prior to the date on which the deduction is regularly made and on a form to be provided by the office of the State Auditor: *Provided further*, That nothing in this section shall interfere with or remove any existing arrangement for dues deduction between an employer or any political subdivision of the state and its employees.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-5. Career progression system; salaries; exclusion from wages and hour law, with supplemental payment; bond; leave time for members called to duty in guard or reserves.

(a) The superintendent shall establish within the West Virginia State Police a system to provide for: The promotion of members to the supervisory ranks of sergeant, first sergeant, second lieutenant and first lieutenant; the classification of nonsupervisory members within the field operations force to the ranks of trooper, senior trooper, trooper first class or corporal; the classification of members assigned to the forensic laboratory as criminalist I-VIII; and the temporary reclassification of members assigned to administrative duties as administrative support specialist I-VIII.

(b) The superintendent may propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code for the purpose of ensuring consistency, predictability and independent review of any system developed under the provisions of this section.

(c) The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list.

(d) Beginning on July 1, 2011, members shall receive annual salaries payable at least twice per month as follows:

**ANNUAL SALARY SCHEDULE (BASE PAY)
SUPERVISORY AND NONSUPERVISORY RANKS**

Cadet During Training	\$ 2,833 Mo.\$ 33,994
Cadet Trooper After Training	\$ 3,438 Mo.\$ 41,258
Trooper Second Year		42,266
Trooper Third Year		42,649
Senior Trooper		43,048
Trooper First Class.....		43,654
Corporal		44,260

Sergeant.....	48,561
First Sergeant	50,712
Second Lieutenant.....	52,862
First Lieutenant	55,013
Captain	57,164
Major.....	59,314
Lieutenant Colonel.....	61,465

ANNUAL SALARY SCHEDULE (BASE PAY)
 ADMINISTRATION SUPPORT SPECIALIST
 CLASSIFICATION

I	42,266
II	43,048
III	43,654
IV	44,260
V	48,561
VI	50,712
VII	52,862
VIII	55,013

ANNUAL SALARY SCHEDULE (BASE PAY)
 CRIMINALIST CLASSIFICATION

I	42,266
II	43,048
III	43,654
IV	44,260
V	48,561
VI	50,712
VII	52,862
VIII	55,013

Each member of the West Virginia State Police whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in subsection (e) of this section and supplemental pay as provided in subsection (g) of this section.

(e) Each member of the West Virginia State Police whose salary is fixed and specified pursuant to this section shall receive, and is entitled to, an increase in salary over that set forth in

subsection (d) of this section for grade in rank, based on length of service, including that service served before and after the effective date of this section with the West Virginia State Police as follows: Beginning on January 1, 2015 and continuing thereafter, at the end of two years of service with the West Virginia State Police, the member shall receive a salary increase of \$500 to be effective during his or her next year of service and a like increase at yearly intervals thereafter, with the increases to be cumulative.

(f) In applying the salary schedules set forth in this section where salary increases are provided for length of service, members of the West Virginia State Police in service at the time the schedules become effective shall be given credit for prior service and shall be paid the salaries the same length of service entitles them to receive under the provisions of this section.

(g) The Legislature finds and declares that because of the unique duties of members of the West Virginia State Police, it is not appropriate to apply the provisions of state wage and hour laws to them. Accordingly, members of the West Virginia State Police are excluded from the provisions of state wage and hour law. This express exclusion shall not be construed as any indication that the members were or were not covered by the wage and hour law prior to this exclusion.

In lieu of any overtime pay they might otherwise have received under the wage and hour law, and in addition to their salaries and increases for length of service, members who have completed basic training and who are exempt from federal Fair Labor Standards Act guidelines may receive supplemental pay as provided in this section.

The authority of the superintendent to propose a legislative rule or amendment thereto for promulgation in accordance with article three, chapter twenty-nine-a of this code to establish the number of hours ~~per month~~ which constitute the standard ~~work month~~ pay period for the members of the West Virginia State Police is hereby continued. The rule shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of supplemental payment when hours are worked in excess of the standard ~~work~~

~~month~~ pay period. The superintendent shall certify ~~monthly~~ at least twice per month to the West Virginia State Police's payroll officer the names of those members who have worked in excess of the standard ~~work~~ month pay period and the amount of their entitlement to supplemental payment. The supplemental payment may not exceed ~~\$400 monthly~~ \$200.00 per pay period. The superintendent and civilian employees of the West Virginia State Police are not eligible for any supplemental payments.

(h) Each member of the West Virginia State Police, except the superintendent and civilian employees, shall execute, before entering upon the discharge of his or her duties, a bond with security in the sum of \$5,000 payable to the State of West Virginia, conditioned upon the faithful performance of his or her duties, and the bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor.

(i) In consideration for compensation paid by the West Virginia State Police to its members during those members' participation in the West Virginia State Police Cadet Training Program pursuant to section eight, article twenty-nine, chapter thirty of this code, the West Virginia State Police may require of its members by written agreement entered into with each of them in advance of such participation in the program that, if a member should voluntarily discontinue employment any time within one year immediately following completion of the training program, he or she shall be obligated to pay to the West Virginia State Police a pro rata portion of such compensation equal to that part of such year which the member has chosen not to remain in the employ of the West Virginia State Police.

(j) Any member of the West Virginia State Police who is called to perform active duty training or inactive duty training in the National Guard or any reserve component of the armed forces of the United States annually shall be granted, upon request, leave time not to exceed thirty calendar days for the purpose of performing the active duty training or inactive duty training and the time granted may not be deducted from any leave accumulated as a member of the West Virginia State Police.

CHAPTER 18. EDUCATION.**ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.****§18-3-1. Appointment; qualifications; compensation; traveling expenses; office and residence; evaluation.**

There shall be appointed by the state board a State Superintendent of Schools who serves at the will and pleasure of the state board. He or she shall be a person of good moral character, shall be able to perform the duties listed in this article and possess such other educational, administrative, experiential and other qualifications as determined by the State Board of Education. He or she shall hold at least a master's degree from a regionally accredited institution of higher education or equivalent degree as determined by the state board. He or she shall receive an annual salary set by the state board, to be paid ~~monthly~~ at least twice per month. The state superintendent also shall receive necessary traveling expenses incident to the performance of his or her duties to be paid out of the General School Fund upon warrants of the State Auditor. The state superintendent shall have his or her office at the state Capitol. The state board shall report to the Legislative Oversight Commission on Education Accountability upon request concerning its progress during any hiring process for a state superintendent.

The state board annually shall evaluate the performance of the state superintendent and publicly announce the results of the evaluation.

CHAPTER 20. NATURAL RESOURCES.**ARTICLE 1. ORGANIZATION AND ADMINISTRATION.****§20-1-5. Salary, expenses, oath and bond of director.**

The director shall receive an annual salary as provided in section two-a, article seven, chapter six of this code, payable ~~in equal monthly installments~~ at least twice per month and shall be allowed and paid necessary expenses incident to the performance of his or her official duties. Prior to the assumption of the duties of

his or her office, he or she shall take and subscribe to the oath required of public officers by the Constitution of West Virginia and shall execute a bond, with surety approved by the Governor, in the penal sum of \$10,000, which executed oath and bond shall be filed in the office of the Secretary of State. Premiums on the bond shall be paid from division funds.

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

§20-7-1. Chief natural resources police officer; natural resources police officers; special and emergency natural resources police officers; subsistence allowance; expenses.

(a) The division's law-enforcement policies, practices and programs are under the immediate supervision and direction of the division law-enforcement officer selected by the director and designated as chief natural resources police officer as provided in section thirteen, article one of this chapter.

(b) Under the supervision of the director, the chief natural resources police officer shall organize, develop and maintain law-enforcement practices, means and methods geared, timed and adjustable to seasonal, emergency and other needs and requirements of the division's comprehensive natural resources program. All division personnel detailed and assigned to law-enforcement duties and services under this section shall be known and designated as natural resources police officers and are under the immediate supervision and direction of the chief natural resources police officer except as otherwise provided. All natural resources police officers shall be trained, equipped and conditioned for duty and services wherever and whenever required by division law-enforcement needs. The chief natural resources police officer may also assign natural resources police officers to perform law-enforcement duties on any trail, grounds, appurtenant facility or other areas accessible to the public within the Hatfield-McCoy Recreation Area, under agreement that the Hatfield-McCoy Regional Recreation Authority, created pursuant to article fourteen of this chapter, shall reimburse the division for salaries paid to the officers and shall either pay directly or reimburse the division for

all other expenses of the officers in accordance with actual or estimated costs determined by the chief natural resources police officer.

(c) The chief natural resources police officer, acting under supervision of the director, is authorized to select and appoint emergency natural resources police officers for a limited period for effective enforcement of the provisions of this chapter when considered necessary because of emergency or other unusual circumstances. The emergency natural resources police officers shall be selected from qualified civil service personnel of the division, except in emergency situations and circumstances when the director may designate officers, without regard to civil service requirements and qualifications, to meet law-enforcement needs. Emergency natural resources police officers shall exercise all powers and duties prescribed in section four of this article for full-time salaried natural resources police officers except the provisions of subdivision (8), subsection (b) of said section.

(d) The chief natural resources police officer, acting under supervision of the director, is also authorized to select and appoint as special natural resources police officers any full-time civil service employee who is assigned to, and has direct responsibility for management of, an area owned, leased or under the control of the division and who has satisfactorily completed a course of training established and administered by the chief natural resources police officer, when the action is considered necessary because of law-enforcement needs. The powers and duties of a special natural resources police officer, appointed under this provision, is the same within his or her assigned area as prescribed for full-time salaried natural resources police officers. The jurisdiction of the person appointed as a special natural resources police officer, under this provision, shall be limited to the division area or areas to which he or she is assigned and directly manages.

(e) The Director of the Division of Forestry is authorized to appoint and revoke Division of Forestry special natural resources police officers who are full-time civil service personnel who have satisfactorily completed a course of training as required by the Director of the Division of Forestry. The jurisdiction, powers and

duties of Division of Forestry special natural resources police officers are set forth by the Director of the Division of Forestry pursuant to article three of this chapter and articles one-a and one-b, chapter nineteen of this code.

(f) The chief natural resources police officer, with the approval of the director, has the power and authority to revoke any appointment of an emergency natural resources police officer or of a special natural resources police officer at any time.

(g) Natural resources police officers are subject to seasonal or other assignment and detail to duty whenever and wherever required by the functions, services and needs of the division.

(h) The chief natural resources police officer shall designate the area of primary residence of each natural resources police officer, including himself or herself. Since the area of business activity of the division is actually anywhere within the territorial confines of the State of West Virginia, actual expenses incurred shall be paid whenever the duties are performed outside the area of primary assignment and still within the state.

(i) Natural resources police officers shall receive, in addition to their base pay salary, a minimum ~~monthly~~ biweekly subsistence allowance for their required telephone service, dry cleaning or required uniforms, and meal expenses while performing their regular duties in their area of primary assignment in the amount of ~~\$130 each month~~ \$60 per biweekly pay. This subsistence allowance does not apply to special or emergency natural resources police officers appointed under this section.

(j) After June 30, 2010, all those full-time law-enforcement officers employed by the Division of Natural Resources as conservation officers shall be titled and known as natural resources police officers. Wherever used in this code the term 'conservation officer', or its plural, means 'natural resources police officer', or its plural, respectively.

(k) Notwithstanding any provision of this code to the contrary, the provisions of subdivision (6), subsection c, section twelve,

article twenty-one, chapter eleven of this code are inapplicable to pensions of natural resources police officers paid through the Public Employees Retirement System.

CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS AND COMPACTS.

ARTICLE 1. WATER DEVELOPMENT AUTHORITY.

§22C-1-4. Water Development Authority; Water Development Board; organization of authority and board; appointment of board members; their term of office, compensation and expenses; Director of Authority; compensation.

(a) The Water Development Authority is continued. The authority is a governmental instrumentality of the state and a body corporate. The exercise by the authority of the powers conferred by this article and the carrying out of its purposes and duties are essential governmental functions and for a public purpose.

(b) The authority is controlled, managed and operated by a seven-member board known as the Water Development Board. The Governor or designee, the secretary of the Department of Environmental Protection or designee and the Commissioner of the Bureau for Public Health or designee are members ex officio of the board. Four members are appointed by the Governor, by and with the advice and consent of the Senate, for six-year terms, which are staggered in accordance with the initial appointments under prior enactment of this section. In the event of a vacancy, appointments are filled in the same manner as the original appointment for the remainder of the unexpired term. A member continues to serve until the appointment and qualification of the successor. More than two appointed board members may not at any one time belong to the same political party. Appointed board members may be reappointed to serve additional terms.

(c) All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon his or her duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of \$25,000 in the manner

provided in article two of said chapter. The Governor may remove any board member for cause as provided in article six of said chapter.

(d) The Governor or designee serves as chair. The board annually elects one of its appointed members as vice chair and appoints a secretary-treasurer, who need not be a member of the board. Four members of the board is a quorum and the affirmative vote of four members is necessary for any action taken by vote of the board. A vacancy in the membership of the board does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority. The person appointed as secretary-treasurer, including a board member if so appointed, shall give bond in the sum of \$50,000 in the manner provided in article two, chapter six of this code.

(e) The Governor or designee, the Secretary of the Department of Environmental Protection and the Commissioner of the Bureau for Public Health do not receive compensation for serving as board members. Each appointed member receives an annual salary of \$12,000, payable ~~in monthly installments~~ at least twice per month. Each of the seven board members is reimbursed for all reasonable and necessary expenses actually incurred in the performance of duties as a member of the board in a manner consistent with guidelines of the Travel Management Office of the Department of Administration. All expenses incurred by the board are payable solely from funds of the authority or from funds appropriated for that purpose by the Legislature. Liability or obligation is not incurred by the authority beyond the extent to which moneys are available from funds of the authority or from such appropriations.

(f) There is a director of the authority appointed by the Governor, with the advice and consent of the Senate, who serves at the Governor's will and pleasure. The director is responsible for managing and administering the daily functions of the authority and for performing other functions necessary to the effective operation of the authority. The compensation of the director is fixed annually by the board.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 1. GENERAL PROVISIONS.**§24-1-3. Commission continued; membership; chairman; compensation; quorum.**

(a) The Public Service Commission of West Virginia is continued and directed as provided by this chapter, chapter twenty-four-a, chapter twenty-four-b and chapter twenty-four-d of this code. The Public Service Commission may sue and be sued by that name.

(b) The Public Service Commission shall consist of three members who shall be appointed by the Governor, with the advice and consent of the Senate. The commissioners shall be citizens and residents of this state and at least one of them shall be duly licensed to practice law in West Virginia, with not less than ten years' actual work experience in the legal profession as a member of a State Bar.

(c) No more than two of the commissioners shall be members of the same political party.

(d) Each commissioner 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 West Virginia. The oath shall be filed in the office of the Secretary of State.

(e) The Governor shall designate one of the commissioners to serve as chairman at the Governor's will and pleasure. The chairman shall be the chief administrative officer of the commission. The Governor may remove any commissioner only for incompetency, neglect of duty, gross immorality, malfeasance in office or violation of subsections (g) and (h) of this section.

(f) Upon expiration of the terms, appointments are for terms of six years, except that an appointment to fill a vacancy is for the unexpired term only.

(g) No person while in the employ of, or holding any official relation to, any public utility subject to the provisions of this chapter or holding any stocks or bonds of a public utility subject to the provisions of this chapter or who is pecuniarily interested in a

public utility subject to the provisions of this chapter may serve as a member of the commission or as an employee of the commission.

(h) Nor may any commissioner be a candidate for or hold public office or be a member of any political committee while acting as a commissioner; nor may any commissioner or employee of the commission receive any pass, free transportation or other thing of value, either directly or indirectly, from any public utility or motor carrier subject to the provisions of this chapter. In case any of the commissioners becomes a candidate for any public office or a member of any political committee, the Governor shall remove him or her from office and shall appoint a new commissioner to fill the vacancy created.

(i) The annual salary of each commissioner provided in section two-a, article seven, chapter six of this code shall be paid ~~in monthly installments~~ at least twice per month from the special funds in the percentages that follow:

(1) From the Public Service Commission Fund collected under the provisions of section six, article three of this chapter, eighty percent;

(2) From the Public Service Commission Motor Carrier Fund collected under the provisions of section six, article six, chapter twenty-four-a of this code, seventeen percent; and

(3) From the Public Service Commission Gas Pipeline Safety Fund collected under the provisions of section three, article five, chapter twenty-four-b of this code, three percent.

(j) In addition to the salary provided for all commissioners in section two-a, article seven, chapter six of this code, the chairman of the commission shall receive \$5,000 per annum to be paid ~~in monthly installments~~ at least twice per month from the Public Service Commission Fund collected under the provisions of section six, article three of this chapter.

CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.

ARTICLE 6. DUTIES AND PRIVILEGES OF MOTOR CARRIERS SUBJECT TO REGULATION OF THE COMMISSION.

§24A-6-6. Special annual assessment against motor carriers for expenses of administering chapter; Public Service Commission Motor Carrier Fund.

In addition to the license fees, registration fees, or any other taxes required by law to be collected from motor carriers subject to this chapter, each such motor carrier shall be subject to, and shall pay to the Public Service Commission, a special annual assessment for the purpose of paying the salaries, compensation, costs and expenses of administering and enforcing this chapter. All proceeds or funds derived from such assessment shall be paid into the State Treasury and credited to a special fund, designated Public Service Commission Motor Carrier Fund, to be appropriated as provided by law for the purposes herein stated. Each member of the commission shall receive a salary in the amount set forth in section three, article one, chapter twenty-four of this code as compensation for the administration of this chapter in addition to all other salary or compensation otherwise provided by law, to be paid ~~in monthly installments~~ from said fund at least twice per month. The special assessment against each motor carrier shall be apportioned upon the number and capacity of motor vehicles used by said carrier, computed as hereinafter provided.

(a) For each uniform identification card\$ 3.00

(b) Upon each power unit of such carriers of property, in accordance with its capacity as rated by its manufacturer, in addition to amount of subdivision (a):

of one ton or less capacity.\$ 9.00

of over one to one and one-half tons capacity13.50

of over one and one-half tons to two tons capacity18.00

of over two tons to three tons capacity22.50

of over three tons to four tons capacity.....27.00

of over four tons to five tons capacity	31.50
of over five tons to six tons capacity	36.00
of over six tons to seven tons capacity	40.50
of over seven tons to eight tons capacity	45.00
of over eight tons to nine tons capacity	49.50
of over nine tons to ten tons capacity	54.00
of over ten tons capacity, \$54.00 plus \$4.50 for each additional ton of capacity in excess of ten tons.	

(c) Upon each trailer and semitrailer of such carriers of property, in accordance with its capacity as rated by its manufacturer, in an amount of two thirds of the amount provided for vehicles of its capacity in subdivision (b) of this section.

(d) Upon each power unit of such carriers of passengers, in accordance with the seating capacity thereof, in addition to amount in subdivision (a):

of ten passengers or less	\$13.50
of eleven to twenty passengers, inclusive	22.50
of twenty-one to thirty passengers, inclusive	31.50
of thirty-one to forty passengers, inclusive	45.00
of over forty passengers	54.00

(e) The annual assessment of each motor carrier shall be paid on or before July 1 of each year. Additional assessments shall be collected upon the placing in use of any additional motor vehicle: *Provided*, That such additional assessments shall be subject to a reduction in the amounts shown in subdivisions (b), (c) and (d) of this section corresponding to the unexpired quarterly periods of the fiscal year, but shall not in any event be less than one fourth of such amount plus the sum of \$3 provided in subdivision (a) of this section.

(f) Upon payment by any motor carrier of the assessment provided for, the Public Service Commission shall advise the Division of Motor Vehicles by notice in writing that such assessment has been paid, whereupon the Division of Motor Vehicles may issue motor vehicle license for the vehicles described in said notice.

(g) Prior to the beginning of any fiscal year the Public Service Commission, after taking into consideration any unexpended balance in the Motor Carrier Fund, the probable receipts to be received in the ensuing fiscal year, and the probable costs of administering and enforcing this chapter for the ensuing fiscal year, may fix the assessments provided for in this section for the ensuing fiscal year in amounts which, in the commission's judgment, will produce sufficient revenue to administer and enforce this chapter for said fiscal year: *Provided*, That in no event shall such assessments exceed the amounts set up in this section.

CHAPTER 24B. GAS PIPELINE SAFETY.

ARTICLE 5. EMPLOYEES OF COMMISSION; FUNDING.

§24B-5-2. Compensation to commissioners.

Each member of the commission shall receive a salary in the amount set forth in section three, article one, chapter twenty-four of this code as compensation for the administration of this chapter in addition to all other salary or compensation otherwise provided for by law, to be paid ~~in monthly installments~~ at least twice per month from the Public Service Commission Pipeline Safety Fund.

CHAPTER 25. DIVISION OF CORRECTIONS.

ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.

§25-1-19. Reports by ~~state commissioner of public institutions~~ Commissioner of Corrections and chief officers of institutions to Auditor.

The ~~state commissioner of public institutions~~ Commissioner of Corrections shall, from time to time, as may be necessary, make a report to the Auditor, which shall state the name of each person employed at any of the institutions named in section three of this article, his or her official designation and biweekly rate of compensation, ~~per month (or by the day or week, if employed for less than a month)~~ and out of what funds or appropriation the same is payable. The chief officer of any such institution, or other person who may have been appointed for the purpose by the ~~state commissioner of public institutions~~ Commissioner of Corrections, shall make out and certify to the Auditor at the end of each month a list of persons to whom any payments may be due, stating for what purpose due, the amount due each person, and the fund or appropriation from which payable; one copy whereof shall be filed in the office of the institution where made, and one in the office of the ~~state commissioner of public institutions~~ Commissioner of Corrections. If the Auditor finds such list correct and in accordance with the reports made to him or her by the ~~state commissioner of public institutions~~ Commissioner of Corrections, he or she may pay to the persons entitled thereto the amounts so certified as due each.

CHAPTER 31. CORPORATIONS.

ARTICLE 19. WEST VIRGINIA COMMUNITY INFRASTRUCTURE AUTHORITY.

§31-19-4. West Virginia Community Infrastructure Authority created; West Virginia Community Infrastructure Board created; organization of Authority and Board; appointment of board members; their term of office, compensation and expenses; duties and responsibilities of director and staff of authority.

(a) There is hereby created the West Virginia Community Infrastructure Authority. The authority is a governmental instrumentality of the state and a body corporate. The exercise by the authority of the powers conferred by this article and the carrying out of its purposes and duties are essential governmental functions and for a public purpose.

The authority shall be controlled, managed and operated by the five-member board known as the West Virginia Community Infrastructure Board, which is hereby created. The Director of the West Virginia Development Office, or her or his designee, the Director of the Division of Environmental Protection, or her or his designee, and the Commissioner of the Division of Highways, or her or his designee, are members ex officio of the board. The Executive Director of the West Virginia Development Office, or her or his designee, is the ex officio chair. Two members of the board shall be representative of the general public, one of which shall have had experience or a demonstrated interest in local government. The two members who are not ex officio members of the board shall be appointed by the Governor, by and with the advice and consent of the Senate, for initial terms of three and six years, respectively. The successor of each such appointed member shall be appointed for a term of six years in the same manner as the original appointments were made, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which her or his predecessor was appointed shall be appointed only for the remainder of such term. Each board member shall serve until the appointment and qualification of her or his successor. The two appointed board members shall not at any one time belong to the same political party. Appointed board members may be reappointed to serve additional terms, not to exceed two consecutive full terms. All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon her or his duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of \$20,000 in the manner provided in article two, chapter six of this code. The Governor may remove any board member for cause as provided in article six, chapter six of this code.

Annually the board shall elect one of its appointed members as chair, and shall appoint a secretary-treasurer, who need not be a member of the board. Three members of the board is a quorum and the affirmative vote of three members is necessary for any action taken by vote of the board. No vacancy in the membership of the board impairs the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority.

The person appointed as secretary-treasurer, including a board member if she or he is so appointed, shall give bond in the sum of \$50,000 in the manner provided in article two, chapter six of this code.

The Executive Director of the West Virginia Development Office or her or his designee, the Director of the Division of Environmental Protection or her or his designee, and the Commissioner of the Division of Highways or her or his designee, shall not receive any compensation for serving as board members. Each of the two appointed board members of the board shall receive an annual salary of \$5,000, payable ~~in monthly installments~~ at least twice per month. Each of the five board members shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of her or his duties as a member of such board. All such expenses incurred by the board are payable solely from funds of the authority or from funds appropriated for such purpose by the Legislature and no liability or obligation shall be incurred by the authority beyond the extent for which moneys are available from funds of the authority or from such appropriations.

(b) There shall be a director of the authority appointed by the board who shall supervise and manage the Community Infrastructure Authority, and the West Virginia Development Office shall serve as the staff for the authority. Except as otherwise provided in this section, the duties and responsibilities of the director and of the staff shall be established by the authority. At the board's discretion, it may provide for the position of general counsel, who shall be an employee of the authority, or for the appointment of special counsel. As the board deems necessary and desirable, it may at any time elect to change its decision on the employment or appointment of a counsel.

(c) The director, or her or his designee, may employ or appoint any staff members in addition to those provided by the West Virginia Development Office, including general or special counsel if the position is established by the board. The number of employees needed, the positions to be filled and their salaries or wages shall be determined by the director with the approval of the

board, unless the board elects to not require its approval. At any time the board may elect to change its decision concerning approval of additional staff hiring and salaries.

(d) The board shall meet at least quarterly, and more often as it deems necessary. The director and any other staff member or members as the director deems expedient shall attend board meetings.

CHAPTER 33. INSURANCE.

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-2. Compensation and expenses of commissioner and employees; location of office.

The commissioner shall receive an annual salary as provided in section two-a, article seven, chapter six of this code and actual expenses incurred in the performance of official business, which compensation shall be in full for all services. The office of the commissioner shall be maintained in the Capitol or other suitable place in Charleston. The commissioner may employ such persons and incur such expenses as may be necessary in the discharge of his or her duties and shall fix the compensation of such employees, but such compensation shall not exceed the appropriation therefor. The commissioner may reimburse employees for reasonable expenses incurred for job-related training and educational seminars and courses. All compensation for salaries and expenses of the commissioner and his or her employees shall be paid ~~monthly~~ at least twice per month out of the State Treasury by requisition upon the Auditor, properly certified by the commissioner.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.

§50-1-8. Magistrate court clerks; salaries; duties; duties of circuit clerk.

(a) In each county having three or more magistrates the judge of the circuit court or the chief judge of the circuit court, if there is

more than one judge of the circuit court, shall appoint a magistrate court clerk. In all other counties the judge may appoint a magistrate court clerk or may by rule require the duties of the magistrate court clerk to be performed by the clerk of the circuit court, in which event the circuit court clerk is entitled to additional compensation in the amount of \$2,500 per year. The magistrate court clerk serves at the will and pleasure of the circuit judge.

(b) Magistrate court clerks shall be paid ~~a monthly salary at least twice per month~~ by the state. Magistrate court clerks serving magistrates who serve less than seven thousand three hundred in population shall be paid up to \$39,552 per year and magistrate court clerks serving magistrates who serve seven thousand three hundred or more in population shall be paid up to \$44,712 per year: *Provided*, That after the effective date of this section, any general salary increase granted to all state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate court clerks. For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the population of each county. The salary of the magistrate court clerk shall be established by the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court, within the limits set forth in this section.

(c) In addition to other duties that may be imposed by the provisions of this chapter or by the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court, it is the duty of the magistrate court clerk to establish and maintain appropriate dockets and records in a centralized system for the magistrate court, to assist in the preparation of the reports required of the court and to carry out on behalf of the magistrates or chief magistrate if a chief magistrate is appointed, the administrative duties of the court.

(d) The magistrate court clerk, or if there is no magistrate court clerk in the county, the clerk of the circuit court, may issue all

manner of civil process and require the enforcement of subpoenas and subpoenas duces tecum in magistrate court.

(e) Notwithstanding any provision of this code to the contrary, the amendments made to this section during the 2013 first extraordinary session are effective upon passage and are retroactive to January 1, 2013.

(f) Beginning January 1, 2017, the annual salary of all magistrate court clerks is \$44,720. After the effective date of this section, a general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate court clerks.

§50-1-9. Magistrate assistants; salary; duties.

(a) In each county there shall be one magistrate assistant for each magistrate. Each magistrate assistant shall be appointed by the magistrate under whose authority and supervision and at whose will and pleasure he or she shall serve. The assistant shall not be a member of the immediate family of any magistrate and shall not have been convicted of a felony or any misdemeanor involving moral turpitude and shall reside in the State of West Virginia. For the purpose of this section, 'immediate family' means the relationships of mother, father, sister, brother, child or spouse.

(b) A magistrate assistant shall have the duties, clerical or otherwise, assigned by the magistrate and prescribed by the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court. In addition to these duties, magistrate assistants shall perform and are accountable to the magistrate court clerks with respect to the following duties:

- (1) The preparation of summons in civil actions;
- (2) The assignment of civil actions to the various magistrates;
- (3) The collection of all costs, fees, fines, forfeitures and penalties which are payable to the court;

(4) The submission of moneys, along with an accounting of the moneys, to appropriate authorities as provided by law;

(5) The daily disposition of closed files which are to be located in the magistrate clerk's office;

(6) All duties related to the gathering of information and documents necessary for the preparation of administrative reports and documents required by the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court;

(7) All duties relating to the notification, certification and payment of jurors serving pursuant to the terms of this chapter; and

(8) All other duties or responsibilities whereby the magistrate assistant is accountable to the magistrate court clerk as determined by the magistrate.

(c) Magistrate assistants shall be paid ~~a monthly salary~~ at least twice per month by the state. Magistrate assistants serving magistrates who serve less than seven thousand three hundred in population shall be paid up to \$36,048 per year and magistrate assistants serving magistrates who serve seven thousand three hundred or more in population shall be paid up to \$39,348 per year: *Provided*, That after the effective date of this section, any general salary increase granted to all state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate assistants. For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the population of each county. The salary of the magistrate assistant shall be established by the magistrate within the limits set forth in this section.

(d) Notwithstanding any provision of this code to the contrary, the amendments made to this section during the 2013 first extraordinary session are effective upon passage and are retroactive to January 1, 2013.

(e) Beginning January 1, 2017, the annual salary of all magistrate assistants is \$39,348. After the effective date of this section, a general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate assistants.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 7. OFFICIAL REPORTERS.

§51-7-3. Compensation for attending court and taking notes.

The official reporter shall receive, for his or her services and expenses in attending the court or judge and in taking the notes provided for in section two of this article, such salary or other compensation as the court or judge, in accordance with the rules of the Supreme Court of Appeals, may allow. If such salary be allowed, it shall be paid ~~monthly~~ at least twice per month, out of the State Treasury. If no such salary be allowed, such other compensation and expenses as may be allowed in civil cases shall be certified by the court or judge to the Auditor and the same shall be paid out of the State Treasury. Such other compensation and expenses in felony and, misdemeanor cases shall be certified to the Auditor and paid out of the State Treasury. The salary or other compensation provided for in this section shall not be deemed to include the making of typewritten transcripts as provided for in section four of this article.

§51-7-5. Salary in lieu of all other compensation.

If neither of the methods of compensation provided for in section three of this article be adopted, a salary may be allowed in lieu of all other compensation, which shall be paid ~~monthly~~ at least twice per month, out of the State Treasury, in such proportions as the court or judge may fix in accordance with the rules of the Supreme Court of Appeals. All fees for services rendered by the official reporter in the discharge of his or her duties as such, when he or she is allowed a salary under the provisions of this section, may be collected, and shall, when collected by the sheriff or official reporter, be paid into the State Treasury; and it shall be the duty of

such reporter to make out, sign and deliver to the sheriff a fee bill in every case, civil or criminal, giving the style thereof and the amount due, and from whom, which amount may be collected or levied for by the sheriff, and such fee bill shall have the force and effect of an execution when levied. An official reporter compensated under the provisions of this section shall collect the fees mentioned in section four of this article for any transcript of his or her shorthand notes of the testimony or proceedings furnished by him or her to any party, and shall pay the same over to the sheriff of the county in which the services were performed, to be by him or her accounted for and paid into the State Treasury.

ARTICLE 8. STATE AND COUNTY LAW LIBRARIES; LAW CLERKS.

§51-8-2. Librarian; bond; assistants; compensation.

The Supreme Court of Appeals, or the judges thereof in vacation, shall appoint a competent librarian to have immediate custody of the West Virginia Law Library under the direction of the court. Such librarian shall give bond in a penalty fixed by the court of not less than two nor more than \$5,000, with surety thereon, to be approved by the court, and conditioned as provided for official bonds. Such bond shall be deposited for safekeeping with the clerk of the court. The librarian shall be an officer of the court and shall hold his or her office and be removable at its pleasure. Vacancies in the office of librarian occurring during vacation of the court may be filled by appointment in writing made by the judges of the court, or any three of them. When, in the opinion of the court, other employees are needed for the proper protection and use of the library, it may employ such assistants as may be necessary for that purpose. The salary of the librarian and assistants shall be fixed by the court and shall be ~~payable in~~ monthly installments paid at least twice per month.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-5. Probation officers and assistants.

(a) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with its rules, is authorized to appoint one or more probation officers and clerical assistants.

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of said order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the ~~monthly~~ annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the probation officer or clerical assistants so appointed.

(c) The salary of probation officers and clerical assistants shall be paid ~~monthly or semimonthly~~ at least twice per month, as the Supreme Court of Appeals by rule may direct and they shall be reimbursed for all reasonable and necessary expenses actually incurred in the line of duty in the field. The salary and expenses shall be paid by the state from the judicial accounts thereof. The county commission shall provide adequate office space for the probation officer and his or her assistants to be approved by the appointing court. The equipment and supplies as may be needed by the probation officer and his or her assistants shall be provided by the state and the cost thereof shall be charged against the judicial accounts of the state.

(d) No judge may appoint any probation officer, assistant probation officer or clerical assistant who is related to him or her either by consanguinity or affinity.

(e) Subject to the approval of the Supreme Court of Appeals and in accordance with its rules, a judge of a circuit court whose circuit comprises more than one county may appoint a probation officer and a clerical assistant in each county of the circuit or may appoint the same persons to serve in these respective positions in two or more counties in the circuit.

(f) Nothing contained in this section alters, modifies, affects or supersedes the appointment or tenure of any probation officer, medical assistant or psychiatric assistant appointed by any court

under any special act of the Legislature heretofore enacted, and the salary or compensation of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

(g) In order to carry out the supervision responsibilities set forth in section twenty-six, article twelve, chapter sixty-two of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance with the court's procedures, is authorized to hire multijudicial-circuit probation officers, to be employed through the court's Division of Probation Services. Such officers may also supervise probationers who are on probation for sexual offences with the approval of the administrative director of the Supreme Court of Appeals or his or her designee."

The bill was ordered to third reading and put upon its passage.

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. 437**), 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: Folk and Walters.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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. 438**), 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: Folk and 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. 523) passed.

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

On this question, the yeas and nays were taken (**Roll No. 439**), 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: Folk, Robinson and Walters.

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. 523) 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. 533, Relating to taxes on wine and intoxicating liquors; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 535, Reorganizing Division of Tourism; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Cowles and Nelson, the bill was amended on page eight, section six, line eleven, by striking out the remainder of the subsection.

The bill was ordered to third reading.

S. B. 547, Modifying fees paid to Secretary of State; 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 nine, section two, line one hundred four, by striking out subsection (g) in its entirety and inserting in lieu thereof the following:

“(g) Any balance in the service fees and collections account established by this section which exceeds \$500,000 as of June 30, 2003, and each year thereafter, shall be expired to the state fund, General Revenue Fund.”

And, on page ten, section two-b, line four, by striking out “\$3000” and inserting in lieu thereof “\$1000.”

The bill was ordered to third reading.

S. B. 608, Clarifying lawful business structures are unaffected by enactment of prohibitory legislation; on second reading, coming up in regular order, was read a second time and ordered to third 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. 440**), 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: Folk and Walters.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

Delegate C. Miller requested to be excused from voting on the passage of S. B. 608 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 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. 441**), 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: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 608) passed.

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

On this question, the yeas and nays were taken (**Roll No. 442**), 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: Folk and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 608) 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. 622, Relating generally to tax procedures and administration; 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, following the enacting clause, by striking out the remainder of the bill in its entirety and inserting in lieu thereof the following:

“That §11-10-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §38-10C-2 be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 10. TAX PROCEDURE AND ADMINISTRATION ACT.

§11-10-12. Liens, release; subordination; foreclosure; withdrawal.

(a) *General.* — Any tax, additions to tax, penalties or interest due and payable under this article or any of the other articles of this chapter to which this article is applicable is a debt due this state. It is a personal obligation of the taxpayer and is a lien upon the real and personal property of the taxpayer.

(b) *Duration of lien.* — The lien created by this section continues until the liability for the tax, additions to tax, penalties and interest is satisfied or upon the expiration of ten years from the date the tax, additions to tax, penalties and interest are due and payable under section eight of this article or the date the tax return is filed, whichever is later.

(c) *Recordation.* — The lien created by this section is subject to the restrictions and conditions embodied in article ten-c, chapter thirty-eight of this code and any amendment made or which may hereafter be made thereto: *Provided,* That the notice of lien shall indicate the date the tax, additions to tax, penalties and interest are due and payable under section eight of this article or the date the tax return was filed and the lien expiration date.

(d) *Release or subordination.* — The Tax Commissioner, pursuant to rules prescribed by him or her, may issue his or her certificate of release of any lien created pursuant to this section when the debt is adequately secured by bond or other security. He or she shall issue his or her certificate of release when the debt secured has been satisfied. The certificate of release shall be issued in duplicate. One copy shall be forwarded to the taxpayer and the other copy shall be forwarded to the clerk of the county commission of the county wherein the lien is recorded. The clerk of the county commission shall record the release without payment of any fee and the recordation is a release and full discharge of the lien. The Tax Commissioner may issue his or her certificate of release of the lien as to all or any part of the property subject to the lien, or may subordinate the lien to any other lien or interest, but only if there is paid to the state an amount not less than the value of the interest of the state in the property, or if the interest of the state in the property has no value.

(e) *Foreclosure.* — The Tax Commissioner may enforce any lien created and recorded under this section, against any property subject to the lien by civil action in the circuit court of the county wherein the property is located, in order to subject the property to the payment of the tax secured by the lien. All persons having liens upon or having any interest in the property shall be made parties to the action. The court may appoint a receiver or commissioner who shall ascertain and report all liens, claims and interests in and upon the property, the validity, amount and priority of each. The court shall, after notice to all parties, proceed to adjudicate all matters involved therein, shall determine the validity, amount and priorities of all liens, claims and interests in and upon the property and shall decree a sale of the property by the sheriff or any commissioner to whom the action is referred, and shall decree distribution of the proceeds of the sale according to the findings of the court in respect to the interests of the parties.

(f) *Discharge of lien.* — A sale of property against which the state has a lien under this section, made pursuant to an instrument creating a lien on the property or made pursuant to a statutory lien on the property, or made pursuant to a judicial order to enforce any judgment in any civil action, shall be made subject to and without disturbing the state tax lien if the state tax lien was recorded more than thirty days before the sale, unless:

(1) The Tax Commissioner is made a party to the civil action;

(2) The Tax Commissioner is given notice of the sale in writing not less than fifteen days prior to sale; or

(3) The Tax Commissioner consents to the sale. The notice shall contain the name of the owner of the property and the Social Security number or federal employer identification number of the owner.

(g) *Withdrawal of lien.* — ~~Upon the determination of the~~

(1) The Tax Commissioner or the Tax Commissioner's designee that may withdraw a tax lien upon making one or more of the following determinations:

(A) The lien was recorded prematurely, inadvertently or otherwise erroneously; or

(B) The taxpayer voluntarily and through due diligence paid the lien, fulfilled a payment plan agreement, fulfilled the terms of an offer in compromise, timely provided supporting documentation or paid the lien in good faith.

(2) A withdrawal of the lien shall be issued in duplicate. One copy shall be forwarded to the taxpayer and the other copy shall be forwarded to the clerk of the county commission of the county wherein the lien is recorded. The clerk of the county commission shall record the withdrawal of lien without payment of any fee.

(h) Release of lien. — Subject to such rules as the Tax Commissioner may prescribe, pursuant to article three, chapter twenty-nine-a of this code, the Tax Commissioner shall issue a certificate of release of any lien imposed with respect to any tax or fee administered under this article not later than sixty days after the day on which the Tax Commissioner finds that the liability for the amount assessed, together with all interest and additions to tax in respect thereof, has been fully satisfied: *Provided*, That subject to such rules as the Tax Commissioner may prescribe pursuant to article three, chapter twenty-nine-a of this code, the Tax Commissioner shall withdraw, release or otherwise terminate any lien imposed with respect to any tax or fee administered under this article, upon the determining that the lien is unenforceable, or in accordance with such other criteria as the Tax Commissioner may prescribe pursuant to rule.

CHAPTER 38. LIENS.

ARTICLE 10C. STATE AND LOCAL TAX LIENS.

§38-10C-2. Notices of liens of state, political subdivisions and municipalities to be filed; indexes; withdrawal release.

It is the duty of the Tax Commissioner, or the proper officers of the political subdivisions of the state for its subdivisions and of the proper officers of the municipalities for the municipalities, having liens, to file a notice of the liens in the office of the clerk of

the county commission of the county in which the property of the taxpayer against whom the lien is claimed, is situate, stating in the notice what amount of money is owing to the State of West Virginia, the political subdivision or the municipality, on account of the lien from the taxpayer owing the money; and the clerk of the county commission of the county shall, upon the filing of notice, index the lien in the judgment or tax lien docket in his or her office as a tax lien against the taxpayer in favor of the State of West Virginia, the political subdivision or the municipality. Upon the determination of the Tax Commissioner or the Tax Commissioner's designee that the lien ~~was recorded prematurely, inadvertently or otherwise erroneously~~ should be withdrawn, a withdrawal of the lien shall be issued in duplicate. One copy shall be forwarded to the taxpayer, and the other copy shall be forwarded to the clerk of the county commission of the county wherein the lien is recorded. The clerk of the county commission shall record the withdrawal of lien without payment of any fee. Upon the satisfaction of the lien, a release of the lien for recordation shall be signed and delivered to the taxpayer by the proper officer. The signature of the Tax Commissioner or the Tax Commissioner's designee on the notice and on the release or withdrawal may be either a properly acknowledged manual signature or a facsimile signature authenticated pursuant to the filing of an affidavit and a manual signature with the Secretary of State in the manner specified in section two, article fourteen, chapter six of this code. The facsimile signature has the same legal effect as the manual signature.

~~All acts or parts of acts inconsistent or in conflict herewith are hereby repealed."~~

The bill was ordered to third reading.

Com. Sub. for S. B. 630, Establishing Accessibility and Equity in Public Education Enhancement Act; on second reading, coming up in regular order, was read a second time.

Delegate Ellington moved to amend the bill on page two, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §18-2-25 of the Code of West Virginia, 1931, as amended, be amended and reenacted and to amend said code 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 to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules ~~and regulations~~ by state board; incorporation; funds; participation by private and parochial schools and by home schooled students.

The county boards of education ~~are hereby granted and~~ shall exercise ~~the~~ control, supervision and regulation of all interscholastic athletic events, and other extracurricular activities of the students in public secondary schools, and of ~~said~~ those schools of their respective counties. The county board of education may delegate ~~such~~ control, supervision and regulation of interscholastic athletic events and band activities to the West Virginia Secondary School Activities Commission. ~~which is hereby established~~

The West Virginia Secondary School Activities Commission ~~shall be~~ is composed of the principals, or their representatives, of those secondary schools whose county boards of education have certified in writing to the state superintendent of Schools that they have elected to delegate the control, supervision and regulation of their interscholastic athletic events and band activities of the students in the public secondary schools in their respective counties to ~~said~~ the commission. The West Virginia Secondary School Activities Commission ~~is hereby empowered to~~ may exercise the control, supervision and regulation of interscholastic athletic events and band activities of secondary schools, delegated to it pursuant to this section. The rules ~~and regulations~~ of the West Virginia Secondary School Activities Commission shall contain a provision for a proper review procedure and review board and be promulgated in accordance with the provisions of chapter twenty-

nine-a of this code, but ~~shall~~ are, in all instances ~~be~~ subject to the prior approval of the state board. The West Virginia Secondary School Activities Commission, may, with the consent of the State Board of Education, incorporate under the name of 'West Virginia Secondary School Activities Commission, Inc.,' as a nonprofit, nonstock corporation under the provisions of chapter thirty-one of this code. County boards of education ~~are hereby authorized to~~ may expend moneys for and pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to ~~such~~ the commission, as well as moneys derived from any contest or other event sponsored by ~~said~~ the commission, ~~shall be~~ are quasi-public funds as ~~the same are~~ defined in article five, chapter eighteen, and ~~such~~ the funds of the commission ~~shall be~~ are subject to an annual audit by the State Tax Commissioner.

The West Virginia Secondary School Activities Commission shall promulgate reasonable rules ~~and regulations~~ providing for the control, supervision and regulation of the interscholastic athletic events and other extracurricular activities of ~~such~~ private and parochial secondary schools as that elect to delegate to ~~such~~ the commission ~~such~~ control, supervision and regulation, upon the same terms and conditions, subject to the same regulations and requirements and upon the payment of the same fees and charges as those provided for public secondary schools. Any such private or parochial secondary school shall receive any monetary or other benefits in the same manner and in the same proportion as any public secondary school.

Notwithstanding any other provision of this section or the commission's rules, the commission shall consider eligible for participation in extracurricular activities of secondary schools a student who is receiving home instruction pursuant to subsection (c), section one, article eight, chapter eighteen of this code and who:

(1) Has demonstrated satisfactory evidence of academic progress for two years in compliance with the provisions of that subsection: *Provided*, That the student's average test results are within or above the fourth stanine in all subject areas;

(2) Has not reached the age of nineteen by August 1 of the current school year;

(3) Is an amateur who receives no compensation, but participates solely for the educational, physical, mental and social benefits of the activity;

(4) Agrees to comply with all disciplinary rules and regulations of the West Virginia Secondary Schools Activities Commission and the county board in which the home-schooled student lives, applicable to all other athletes and activity participants; and

(5) Agrees to obey all rules of the West Virginia Secondary Schools Activities Commission governing awards, all-star games, parental consents, physical examinations and vaccinations applicable to all high school athletes.

Eligibility is limited to participation in interscholastic programs at the public secondary school serving the attendance zone in which the student lives: *Provided*, That home school students who leave a member school during the school year shall be subject to the same transfer protocols that apply to member-to-member transfers. Reasonable fees may be charged to the student to cover the costs of participation in interscholastic programs.

ARTICLE 5F. ACCESSIBILITY AND EQUITY IN PUBLIC EDUCATION ENHANCEMENT ACT.

§18-5F-1. Short title.

This article shall be known and may be cited as the Accessibility and Equity in Public Education Enhancement Act.

§18-5F-2. Legislative findings; purpose.

(a) The Legislature finds and declares that:

(1) County school districts have called for more local control and flexibility to meet the education needs of their communities;

(2) Students, parents and teachers are seeking alternatives to the traditional classroom delivery of education that better meets the educational needs of students;

(3) Public schools should be able to provide a variety of instructional delivery models;

(4) The county school districts can enhance education opportunities for students, using technology;

(5) Using technology to deliver instruction can provide flexibility and increase options for instruction;

(6) Giving county school districts the flexibility to create innovative programs will provide teachers with new instructional opportunities; and

(7) This Act is not intended to save money through the reduction of school personnel positions.

(b) The purpose of this article is to enhance access and equity in public education in West Virginia.

§18-5F-3. Definitions.

For the purposes of this article, unless a different meaning clearly appears from the context:

(a) ‘Blended program’ means a formal education program in which a student learns:

(1) At least in part through online learning, with some element of student control over time, place, path or pace;

(2) At least in part in a supervised setting outside the home; and

(3) In such a way that the modalities of each student’s learning path within a course or subject are connected to provide an integrated learning experience;

(b) ‘Eligible student’ means a student eligible for attendance in public schools in a school district that provides a virtual instruction

program, that is a member of a multicounty consortium providing a virtual instruction program or that does not provide a virtual instruction program and is not a member of a multicounty consortium, but participates through a collaborative agreement between the school district in which the student is enrolled and a school district or a multicounty consortium providing a virtual instruction program;

(c) ‘Multicounty consortium’ means a written arrangement where two or more county boards act in concert to establish a virtual school that will serve eligible students; and

(d) ‘Virtual instruction program’ means a program implemented by a county board or multicounty consortium that provides a full-time online or blended program of instruction for students enrolled in any composition of grades kindergarten through twelve.

§18-5F-4. County board policy adoption.

(a) A county board or a multicounty consortium may 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 and after adopting the policy may contract with virtual school providers. When there is a multicounty consortium, each county board in the consortium shall adopt a policy creating the virtual instruction program. The virtual instruction program may begin July 1, 2017, or at any point thereafter: *Provided*, That, notwithstanding any other provision of this article to the contrary, no eligible students in grades kindergarten through five may participate in a virtual instruction program until after the program has been in operation for one full school year.

(b) The policy adopted by the county board pursuant to this section shall govern the virtual instruction program offered by the county board or multicounty consortium.

(c) The policy shall be consistent with this article and may offer eligible students in grades kindergarten through twelve an online

pathway for earning a high school diploma and, at a minimum, shall include the following:

(1) The scope, instructional model and capacity for the virtual education program;

(2) Assessment protocol and specific requirements for monitoring performance that are consistent with section five, article two-e of this chapter;

(3) A plan for monitoring students receiving virtual instruction in accordance with pacing and completion of the required virtual coursework: *Provided*, That, virtual instruction that occurs in a public school classroom must have a teacher, employed by that county, present;

(4) Qualifications of faculty, which at a minimum shall include a teaching certificate issued pursuant to article three, chapter eighteen-a of this code and state board rules; and

(5) A requirement that any virtual school provider contracted with comply with state and federal privacy laws.

§18-5F-5. Compliance with existing state law

(a) An eligible student enrolled in a virtual instruction program shall:

(1) Be counted in the net enrollment of the school district in which the student resides for the purposes of calculating and receiving state aid;

(2) Be subject to the same state assessment requirements as other students in the school district; and

(3) Receive a diploma from the school district, upon completing the same coursework required of regular public school students in the district.

(b) An eligible student participating in a virtual instruction program, to the extent the program as delineated in the county board policy allows or requires instruction to occur outside of a

school building, is not required to comply with compulsory school attendance requirements set forth in article eight of this code or any other provision of law or state board rule relating to attendance.

(c) Neither the school district, the eligible student nor the parents of the student participating in a virtual instruction program, to the extent the program as delineated in the county board policy allows or requires instruction to occur outside of a school building, may incur any penalty or be held accountable for the absence of the student from the school building.

(d) For an eligible student participating in a virtual instruction program, neither the school district nor the student, to the extent the program as delineated in the county board policy is a learn at your own pace program, is required to comply with the instructional term requirement set forth in section forty-five, article five of this chapter or any other law or state board rule requiring a student to be receiving instruction for any set time.

(e) An eligible student participating in a virtual instruction program shall be considered to be attending the school in the attendance district created by the county board pursuant to section sixteen, article five of this chapter that the eligible student resides in unless otherwise transferred to another school pursuant to that section or any other provision of this code. The eligible student may participate in any cocurricular and extracurricular activities of that school, but is subject to the same participation requirements imposed on a traditional student attending the school. If the student transfers from a traditional school to the virtual model, he or she will be subject to the West Virginia Secondary Schools Athletic Commission transfer rules.

(f) A county board is exempt from any provision of law or state board rule that applies to the traditional delivery of instruction such as requirements relating to the physical presence of a student, student monitoring and security, the maximum teacher-pupil ratio set forth in section eighteen-a, article five of this chapter, instructional time requirements and physical education requirements to the extent any of the foregoing conflict with the delivery of the virtual instruction program.

(g) The virtual instruction program is not subject to online course restrictions imposed by the state board, state superintendent or the West Virginia Department of Education.

(h) Coursework offered through a virtual instruction program shall be aligned to the appropriate academic standards as required by state law and state board rule.

(i) The assessment results of a student shall be included in the assessment results of the school and the school district in which the student is considered enrolled pursuant to this section for purposes of accountability.

§18-5F-6. Report to Legislative Oversight Commission on Education Accountability.

At the end of the first year any virtual instruction program is implemented pursuant to this article, the West Virginia Department of Education, after consulting with the county board or boards implementing the program, shall report to the Legislative Oversight Commission on Education Accountability on all aspects of the program. The report, at least, shall include the grade levels of the students the program was offered to; the number of students who enrolled in the program; the number of students who were enrolled in the program full-time and number who participated in a blended program; the number of students who were homeschooled, enrolled in a private school and enrolled in a public school immediately preceding enrollment in the virtual instruction program; and how the students performed academically as compared with students in a traditional classroom setting.”

Delegate Westfall moved to amend the amendment, on page six, section four, line nineteen, after the word ‘coursework’, by striking out “*Provided that*, Virtual instruction that occurs in a public school classroom must have a teacher, employed by that county, present” and inserting in lieu thereof the following:

“*Provided*, That if virtual instruction occurs in a public school classroom then a teacher, professional personnel, professional

educator, or paraprofessional employed by that county must be present to monitor.”

Delegate Byrd arose to a point of order as to the germaneness of the strike and insert amendment.

To the point of order the Speaker replied, ruling that the amendment was germane to the fundamental purpose of the bill.

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. 443**), and there were—yeas 57, nays 40, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ambler, Anderson, Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Canestraro, Caputo, Cooper, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Harshbarger, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, R. Miller, Moye, Pethtel, Pyles, Rodighiero, Rohrbach, Sponaule, Thompson, Wagner and Williams.

Absent and Not Voting: Arvon, Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the amendment to the amendment was adopted.

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. 444**), and there were—yeas 53, nays 44, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ambler, Baldwin, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Cooper, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, R. Miller, Moye, Nelson, Pethtel, Phillips,

Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Storch, Thompson, Wagner and Williams.

Absent and Not Voting: Arvon, Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the amendment, as amended, was adopted.

An amendment, recommended by the Committee on Education, was reported by the Clerk on page five, section five, line twenty-seven, after the word “school”, by inserting the following, “If a student transfers from a traditional school to the virtual model, he or she will be subject to the West Virginia Secondary Schools Athletic Commission transfer rules.”

Whereupon,

Delegate Espinosa asked and obtained unanimous consent that the amendment be withdrawn.

An amendment, recommended by the Committee on Education, was reported by the Clerk on page four, section four, line nineteen, after the word “coursework”, by inserting the following:

“Provided, That, virtual instruction that occurs in a public school classroom must have a teacher, employed by that county, present.”

Whereupon,

Delegate Espinosa asked and obtained unanimous consent that the amendment be withdrawn.

An amendment was reported, offered by Delegate Westfall, amending the bill on page four, section four, line nineteen, after the word “coursework”, by inserting the following:

“Provided, That if virtual instruction occurs in a public school classroom then a teacher, professional personnel, professional educator, or paraprofessional employed by that county must be present to monitor.”

Whereupon,

Delegate Westfall asked and obtained unanimous consent that the amendment be withdrawn.

The bill was ordered to third reading.

Com. Sub. for S. B. 637, Relating to private club operations requirements; on second reading, coming up in regular order, was read a second time, advanced to third reading and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 656, Relating to Student Data Accessibility, Transparency and Accountability Act; 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 five-h, line one hundred eight, after the word “aid”, by striking out the word “and” and inserting in lieu thereof the word “or”.

An amendment recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page five, section five-h, line ninety-five, by striking out the following: “Except for subparagraph (iv) of this paragraph, the” and inserting in lieu thereof “The”.

On page five, section five-h, line one hundred eight, after the word “opportunities” by inserting the word “and”.

On page five, section five-h, line one hundred thirteen, by striking out the word “and”.

On page five, section five-h, lines one hundred fourteen through one hundred seventeen, by striking out subparagraph (iv).

An amendment recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page

five, section five-h, line one hundred five, by striking out the word “sixteen” and inserting in lieu thereof “fifteen”.

And,

On page five, section five-h, line one hundred six, by striking out the word “sixteen” and inserting the word “fifteen”.

The bill was then ordered to third 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. 445**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Marcum, Sobonya and White.

Absent and Not Voting: Folk and Walters.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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. 446**), and there were—yeas 91, nays 7, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Blair, Hamilton, Martin, Paynter, Robinson, Rowe and Upson.

Absent and Not Voting: Folk and 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. 656) passed.

An amendment to the title of the bill, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the title to read as follows:

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 a student access to employment, educational scholarships or financial aid, or post-secondary educational opportunities.”

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

S. B. 658, Establishing procedure for retitling mobile and manufactured homes; on second reading, coming up in regular order, was read a second time and ordered to third 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. 447**), 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: Folk and Walters.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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. 448**), 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: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 658) passed.

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

S. B. 667, Limiting authority of Attorney General to disclose certain information provided by Tax Commissioner; on second reading, coming up in regular order, was read a second time and ordered to third 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. 449**), 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: Folk, Queen and Walters.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

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. 450**), and there were—yeas 80, nays 18, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fluharty, Hornbuckle, Isner, Love, Lynch, Marcum, Miley, Robinson, Rowe, Sponaule and Williams.

Absent and Not Voting: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 667) passed.

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

On this question, the yeas and nays were taken (**Roll No. 451**), and there were—yeas 73, nays 24, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fluharty, Isner, Love, Lynch, Marcum, Miley, R. Miller, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Folk, R. Romine and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 667) takes effect from its passage.

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

S. B. 686, Exempting facilities governed by DHHR that provide direct patient care; 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, following the enacting section, by striking out the remainder of the bill in its entirety, and inserting in lieu thereof the following:

“ARTICLE 3. PURCHASING DIVISION.

§5A-3-3a. Exemption of facilities providing direct patient care services that are managed, directed, controlled and governed by the Secretary of the Department of Health and Human Resources.

Notwithstanding any provisions of sections one or three of this article to the contrary, the provisions of this article do not apply 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: *Provided*, That on or before July 1, 2020, the Legislative Auditor shall audit the purchasing procedures of the facilities described in this subdivision and report the results to the Joint Committee on Government and Finance on the effects of exempting said facilities from the provisions of this article, including but not limited to, any realized cost savings and changes in purchasing policies resulting from such exemption.”

And,

By striking out the enacting section in its entirety 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 §5A-3-3a to read as follows” and a colon.

The bill was ordered to third reading.

S. B. 687, Relating generally to coal mining, safety and environmental protection; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Energy, was reported by the Clerk and adopted, amending the bill on page forty-two, section three, line twenty-eight, by striking out “2018” and inserting “2017”, and after “2017”, by striking out the remainder of the sentence and inserting in lieu thereof “shall continue to serve for a minimum of three years until June 30, 2020.”

On page forty-eight, section six, on line three, by striking out “2018” and inserting “2017”, and by striking out the word “one” and inserting the word “three”, and after the word “term”, by inserting “until June 30, 2020”.

Delegates Fleischauer and Rowe moved to amend the bill on page thirty, section seven-b, lines forty-seven and forty-eight, by reinserting the words “(i) Supports a balanced aquatic community that is diverse in species composition” and a semicolon.

And,

On page thirty, section seven-b, line forty-eight, by striking out the “(i)” and reinserting in lieu thereof “(ii)”.

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. 452**), and there were—yeas 10, nays 89, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Fleischauer, Hornbuckle, Isner, Lynch, Miley, Moore, Pushkin, Pyles, Rowe and White.

Absent and Not Voting: Folk.

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.

S. B. 691, Relating to off-road vehicles; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page three, section two, line nine, after the word “Authority”, by inserting a comma and the words “or other regional recreation authorities” and a comma.

On page three, section two, line seventeen, after the words “Off-highway vehicle”, by inserting a comma and the words “off-highway recreational vehicle”.

On page three, section two, line twenty-six, after the word “Authority”, by inserting the words “or other regional recreation authorities”.

And,

On page four, section two, line twenty-seven, after subdivision seven, by inserting a new subdivision, designated subdivision eight, to read as follows:

“(8) Regional recreational authority” means the Hatfield-McCoy Regional Recreation Authority or any regional recreation authority established and organized pursuant to the provisions of article fourteen-a of this chapter; and”.

And,

By renumbering the remaining subdivisions.

The bill was ordered to third reading.

S. B. 694, Expiring funds to unappropriated surplus balance in General Revenue fund to Department of Administration; on second reading, coming up in regular order, was read a second time, advanced to third reading and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 27, Relating to microprocessor permit; on second reading, having been moved to the foot of the calendar in earlier proceedings, 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 everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 35. FARMERS MARKETS.

§19-35-5. Microprocessor permit.

(a) Notwithstanding any provision of chapter sixteen of this code or any rules promulgated pursuant to that chapter to the contrary, a farmer’s market vendor may apply for a microprocessor permit to sell certain foods at a farmer’s market. A home, farm, community or commercial kitchen may be used by a microprocessor. The microprocessor permit is required in addition to the farmer’s market vendor permit.

(b) A majority of all produce from a microprocessor's products shall be from his or her farm or garden. The microprocessor is required to keep production and food source records for a period of two years. The food shall be labeled in compliance with the West Virginia Department of Agriculture labeling standards and provide information about its content and sources. The label shall include the words 'MADE IN A WV KITCHEN – NOT FOR RESALE/ PROCESSED AND PREPARED WITHOUT STATE INSPECTION' in capital, bold, 10-point type or larger, with the blank space to state whether the product was made in a home, farm, community or commercial kitchen. The label shall also include:

(1) The name and address of the home-based processing operation;

(2) The common or usual name of the food product;

(3) Product ingredients that include potential food allergens such as, but not limited to, milk, eggs, peanuts, tree nuts, wheat and soy;

(4) The date the product was processed.

(c) A microprocessor permit is permitted to sell:

(1) Canned acidified foods, such as pickled products, sauces and salsas. Acidified foods are low-acid foods to which acid or acid foods are added with a water activity of greater than .085 and a finished equilibrium of pH 4.6 or below; and

(2) Frozen fruits and vegetables, which are not permitted to be vacuum-sealed.

(d) Nonpotentially hazardous foods, and those already exempted, do not require a microprocessor permit but require registration with the local health department. These include, but are not limited to:

(1) Breads, cakes and candies;

(2) Honey, maple syrup, apple butter and molasses;

(3) Standardized nondietary jams and jellies;

(4) Fermented products;

(5) Whole or chopped tomatoes, tomato sauce and tomato juice having a finished equilibrium of pH 4.6 or below;

(6) Exempted condiments; and

(7) Dehydrated fruits and vegetables.

(e) To qualify for a microprocessor permit, the applicant shall:

(1) If the microprocessor makes acidified foods, they are required to complete either a training program from the Better Control Process School for acidified foods, an approved program set up by the West Virginia University Extension Service or an approved training course approved by the Department of Agriculture;

(2) Pass a pre-opening inspection conducted by the local health department at the microprocessor's kitchen. The local health department may conduct an inspection during the processing season at the microprocessor's kitchen if a food born illness is reported. The local health department shall give the microprocessor at least forty-eight-hour notice prior to an inspection of a kitchen. The local health department may suspend operations or recall products for disease outbreaks, or violations of rules or regulations. Any inspection by a local health department shall be in compliance with rules promulgated by the West Virginia Department of Health and Human Resources pursuant to section four of this article;

(3) In addition to the pre-opening inspection, the microprocessor must complete an initial food manufacturing processing inspection by a district sanitarian, a West Virginia State University or a West Virginia University extension agent. No additional processing inspections are required unless an incorrect procedure has been reported or if a new product is introduced for sale;

(4) Possess a valid food handler's permit from the local health department, if required;

(5) Use a USDA or West Virginia University pre-approved and tested recipe; and

(6) Pay an annual permit fee of not more than \$40 to the local health department issuing the microprocessor permit.

(f) A person may not offer for sale microprocessed products over the Internet or interstate;

(g) A person who purchases a product made by a microproducer shall not resell the product;

(h) Microprocessors shall not sell more than five thousand units per year in the aggregate;

(i) The following prohibitions shall apply to persons microprocessing food for sale at a nonconsignment farmer's market pursuant to a permit granted by the provisions of this section:

(1) No animals are permitted in the microprocessor's kitchen or storage area at any time during the production, preparation, processing or packing of products;

(2) Smoking is not permitted in any portion of the microprocessor's home which is used for preparation, packaging, storage or handling of food and related ingredients or equipment while food is being prepared, packaged, stored or handled."

On motion of Delegate C. Miller, the amendment was amended on page three, section five, line sixty-one, by striking out the word "nonconsignment".

On motion of Delegate Summers, the amendment was amended on page one, section five, line nineteen, by striking out the word "permit".

On page two, section five, by striking out all of subdivisions two and three and inserting in lieu thereof a new subdivision two, to read as follows:

“(2) Pass a pre-opening permit inspection conducted by the local health department at the microprocessor’s kitchen. The local health department may conduct at least one annual operational inspection during the processing season at the microprocessor’s kitchen or when warranted. The local health department has the right to suspend operations or recall products for disease outbreaks, or violations of rules or regulations. Any inspection by a local health department shall be in compliance with rules promulgated by the West Virginia Department of Health and Human Resources pursuant to section four of this article” followed by a semicolon and, renumbering the remaining subdivisions.”

On page three, section five, line fifty-six, by striking out the word “interstate” and inserting in lieu thereof the words “in interstate commerce”.

On page three, section five, line fifty-nine, by striking out the word “five” and inserting in lieu thereof the word “three”.

The Health and Human Resources amendment, as amended, was then adopted.

The bill was ordered to third reading.

At 4:15 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 4:30 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. 412, on Second Reading, House Calendar, to the Special Calendar.

Second Reading

-continued-

Com. Sub. for S. B. 412, Relating to WV Jobs Act reporting requirements; 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, on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §21-1C-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

CHAPTER 21. LABOR.**ARTICLE 1C. WEST VIRGINIA JOBS ACT.****§21-1C-5. Applicability and scope of article; reporting requirements.**

(a) This article applies to expenditures for construction projects by any public authority for public improvements as defined by this article.

(b) For public improvement projects let pursuant to this article, the public authority shall file, or require an employer as defined in section two of this article to file, with the Division of Labor copies of the waiver certificates and certified payrolls pursuant to article five-a of this chapter or other comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation.

(c) The Division of Labor shall compile the information required by this section and submit it annually to the Joint Committee on Government and Finance by October 15. The joint committee may forward these reports to the Legislative Auditor to review and make comments regarding the usefulness of the information collected and to suggest changes to the division's method of reporting to ensure the information collected will prove

useful in evaluating the effectiveness of the provisions of this article.

(d) Each public authority ~~has the duty to~~ shall implement the reporting requirements of this article. Every public improvement contract or subcontract let by a public authority shall contain provisions conforming to the requirements of this article.

(e) The Division of Labor is ~~authorized to~~ may establish procedures for the efficient collection of data, collection of civil penalties prescribed in section six of this article and transmittal of data to the Joint Committee on Government and Finance.

(f) The Division of Labor, or any public authority to any other entity or person may not disclose any document filed or submitted pursuant to this section that includes records of actual wages paid to employees that contains any information contained in such documents pertaining to the wages of any individual to any other entity or person except to another governmental agency to the extent necessary for that agency to carry out its statutory functions. Any such document shall be deemed confidential and proprietary and shall not be considered a public record for the purposes of article one, chapter twenty-nine-b of this code unless such wage information is redacted before being disclosed.

(g) Nothing in this section shall prohibit the release of documents or information regarding actual wages paid pursuant to a court order from a court of competent jurisdiction, including but not limited to municipal court, family court, circuit court, and the West Virginia Supreme Court of Appeals.”

Delegate G. Foster moved to amend the amendment on page one, after the enacting clause, by striking out the enacting section and by striking out the remainder of the bill 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 §5-22-4; and that §21-1C-5 of said code be amended and reenacted, all to read as follows:

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

**ARTICLE 22. GOVERNMENT CONSTRUCTION
CONTRACTS.**

**§5-22-4. Prohibition on requiring submission of wage records;
exception.**

(a) A governmental entity that requires a private company, which has contracted with or is seeking to contract with a governmental entity for a construction project, to submit any document that includes records of actual wages paid to employees shall not disclose such document or information contained therein to any other entity or person except to another governmental agency to the extent necessary for that agency to carry out its statutory functions. Any such document shall be deemed confidential and proprietary and shall not be considered a public record for the purposes of article one, chapter twenty-nine-b of this code.

(b) For the purposes of this section, ‘governmental entity’ means the state and its subdivisions or any other entity or person acting on behalf of the state and its subdivisions.

(c) Nothing in this section shall prohibit the release of documents or information regarding actual wages paid pursuant to a court order from a court of competent jurisdiction, including but not limited to municipal court, family court, circuit court, and the West Virginia Supreme Court of Appeals.

CHAPTER 21. LABOR.

ARTICLE 1C. WEST VIRGINIA JOBS ACT.

§21-1C-5. Applicability and scope of article; reporting requirements.

(a) This article applies to expenditures for construction projects by any public authority for public improvements as defined by this article.

(b) For public improvement projects let pursuant to this article, the public authority shall file, or require an employer as defined in section two of this article to file, with the Division of Labor copies of the waiver certificates and certified payrolls pursuant to article five-a of this chapter or other comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation.

(c) The Division of Labor shall compile the information required by this section and submit it annually to the Joint Committee on Government and Finance by October 15. The joint committee may forward these reports to the Legislative Auditor to review and make comments regarding the usefulness of the information collected and to suggest changes to the division's method of reporting to ensure the information collected will prove useful in evaluating the effectiveness of the provisions of this article.

(d) Each public authority ~~has the duty to~~ shall implement the reporting requirements of this article. Every public improvement contract or subcontract let by a public authority shall contain provisions conforming to the requirements of this article.

(e) The Division of Labor ~~is authorized to~~ may establish procedures for the efficient collection of data, collection of civil penalties prescribed in section six of this article and transmittal of data to the Joint Committee on Government and Finance.

(f) Any document filed or submitted pursuant to this section that includes records of actual wages paid to employees shall not be disclosed by the Division of Labor or a public authority to any other entity or person except to another governmental agency to the extent necessary for that agency to carry out its statutory functions. Any such document and any information contained therein shall be deemed confidential and proprietary and shall not be considered a

public record for the purposes of article one, chapter twenty-nine-b of this code.

(g) Nothing in this section shall prohibit the release of documents or information regarding actual wages paid pursuant to a court order from a court of competent jurisdiction, including but not limited to municipal court, family court, circuit court, and the West Virginia Supreme Court of Appeals.”

Delegate Walters was addressing the House when Delegate Hicks arose to a point of order regarding the content of the remarks of the Delegate.

The Speaker reminded the Gentleman to confine his remarks to the matter before the House.

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. 453**), and there were—yeas 31, nays 67, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Ambler, Arvon, Atkinson, Blair, Butler, Cooper, Cowles, Deem, Ellington, Espinosa, Fast, G. Foster, N. Foster, Harshbarger, Higginbotham, Hollen, Householder, Howell, Kessinger, Maynard, C. Miller, Moore, O’Neal, Overington, C. Romine, Sobonya, Statler, Summers, Walters, Wilson and Zatezalo.

Absent and Not Voting: Folk and Lane.

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

Delegates Thompson and Hicks moved to amend the amendment on page one, by striking out the enacting section and inserting in lieu the following:

“That §21-1C-2 and §21-1C-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows” and a colon.

And,

On line one, by inserting the following:

“§21-1C-2. Definitions.

As used in this article:

(1) The term ‘construction project’ means any construction, reconstruction, improvement, enlargement, painting, decorating or repair of any public improvement let to contract in an amount equal to or greater than \$500,000. The term ‘construction project’ does not include temporary or emergency repairs;

(2) (A) The term ‘employee’ means any person hired or permitted to perform hourly work for wages by a person, firm or corporation in the construction industry;

(B) The term ‘employee’ does not include:

(i) Bona fide employees of a public authority or individuals engaged in making temporary or emergency repairs;

(ii) Bona fide independent contractors; or

(iii) Salaried supervisory personnel necessary to assure efficient execution of the employee’s work;

(3) The term ‘employer’ means any person, firm or corporation employing one or more employees on any public improvement and includes all contractors and subcontractors;

(4) The term ‘local labor market’ means every county in West Virginia and any county outside of West Virginia ~~if any portion of that county is within fifty miles of~~ which shares the border of with West Virginia;

(5) The term ‘public authority’ means any officer, board, commission or agency of the State of West Virginia and its subdivisions, including counties and municipalities. Further, the economic grant committee, economic development authority, infrastructure and jobs development council and School Building Authority shall be required to comply with the provisions of this article for loans, grants or bonds provided for public improvement construction projects;

(6) The term ‘public improvement’ includes the construction of all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports and all other structures that may be let to contract by a public authority, excluding improvements funded, in whole or in part, by federal funds.”

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. 454**), and there were—yeas 47, nays 51, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Capito, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Howell, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, Maynard, Miley, R. Miller, Moore, Moye, Pethel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, C. Romine, Rowe, Shott, Sponaule, Thompson, Ward and Williams.

Absent and Not Voting: Folk and Lane.

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

The amendment recommended by the Committee on Government Organization was then adopted.

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. 2195, Relating to requiring comprehensive drug awareness and prevention program in all public schools.

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. 2329, Prohibiting the production, manufacture or possession of fentanyl.

On motion of Delegate Cowles, House of Delegates refused to concur in the following Senate amendments and requested the Senate to recede therefrom:

“That §60A-1-101 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §60A-2-204 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §60A-4-414, all to read as follows:

ARTICLE 1. DEFINITIONS.

§60A-1-101. Definitions.

As used in this act:

(a) ‘Administer’ means the direct application of a controlled substance whether by injection, inhalation, ingestion or any other means to the body of a patient or research subject by:

(1) A practitioner (or, in his or her presence, by his or her authorized agent); or

(2) The patient or research subject at the direction and in the presence of the practitioner.

(b) 'Agent' means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c) 'Analogue' means a substance that, in relation to a controlled substance, has a substantially similar chemical structure.

(d) 'Bureau' means the 'Bureau of Narcotics and Dangerous Drugs, United States Department of Justice' or its successor agency.

(e) 'Controlled substance' means a drug, substance or immediate precursor in Schedules I through V of article two of this chapter.

(f) 'Counterfeit substance' means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(g) 'Imitation controlled substance' means: (1) A controlled substance which is falsely represented to be a different controlled substance; (2) a drug or substance which is not a controlled substance but which is falsely represented to be a controlled substance; or (3) a controlled substance or other drug or substance or a combination thereof which is shaped, sized, colored, marked, imprinted, numbered, labeled, packaged, distributed or priced so as to cause a reasonable person to believe that it is a controlled substance.

(h) 'Deliver' or 'delivery' means the actual, constructive or attempted transfer from one person to another of: (1) A controlled substance, whether or not there is an agency relationship; (2) a counterfeit substance; or (3) an imitation controlled substance.

(i) 'Dispense' means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering,

packaging, labeling or compounding necessary to prepare the substance for that delivery.

(j) ‘Dispenser’ means a practitioner who dispenses.

(k) ‘Distribute’ means to deliver, other than by administering or dispensing, a controlled substance, a counterfeit substance or an imitation controlled substance.

(l) ‘Distributor’ means a person who distributes.

(m) ‘Drug’ means: (1) Substances recognized as drugs in the official ‘United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary’, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in subdivision (1), (2) or (3) of this subdivision. It does not include devices or their components, parts or accessories.

(n) ‘Fentanyl analog or derivative’ means any substance which has a chemical structure which is substantially similar to the chemical structure of fentanyl, including any of its salts, isomers, or salts of isomers, including any chemical compound or mixture. For purposes of this chapter, the term ‘fentanyl derivative or analog’ includes any fentanyl analog that is not otherwise scheduled in this chapter.

~~(n)~~ (o) ‘Immediate derivative’ means a substance which is the principal compound or any analogue of the parent compound manufactured from a known controlled substance primarily for use and which has equal or similar pharmacologic activity as the parent compound which is necessary to prevent, curtail or limit manufacture.

~~(o)~~ (p) ‘Immediate precursor’ means a substance which is the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to

be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

~~(p)~~ (q) 'Manufacture' means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice; or

(2) By a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

~~(q)~~ (r) 'Marijuana' means all parts of the plant 'Cannabis sativa L.', whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, immediate derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, immediate derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

~~(r)~~ (s) 'Narcotic drug' means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, immediate derivative or preparation of opium or opiate.

(2) Any salt, compound, isomer, immediate derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) of this subdivision, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, immediate derivative or preparation of coca leaves and any salt, compound, isomer, immediate derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

~~(s)~~ (t) 'Opiate' means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section two hundred one, article two of this chapter, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does not include its racemic and levorotatory forms.

~~(t)~~ (u) 'Opium poppy' means the plant of the species 'Papaver somniferum L.', except its seeds.

~~(u)~~ (v) 'Person' means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~(v)~~ (w) 'Placebo' means an inert medicament or preparation administered or dispensed for its psychological effect, to satisfy a patient or research subject or to act as a control in experimental series.

~~(w)~~ (x) 'Poppy straw' means all parts, except the seeds, of the opium poppy after mowing.

~~(x)~~ (y) 'Practitioner' means:

(1) A physician, dentist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

~~(y)~~ (z) ‘Production’ includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

~~(z)~~ (aa) ‘State’, when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof and any area subject to the legal authority of the United States of America.

~~(aa)~~ (bb) ‘Ultimate user’ means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-2-204. Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (for purposes of subdivision ~~(34)~~ (35) of this subsection only, the term isomer includes the optical and geometric isomers):

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]—phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(—propanilido) piperidine);
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl-4-piperidinyl]—phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;

- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxeridine;

(29) Fentanyl analog or derivative, as that term is defined in article one of this chapter: *Provided*, That fentanyl remains a Schedule II substance, as set forth in section two hundred six of this article;

- ~~(29)~~ (30) Furethidine;
- ~~(30)~~ (31) Hydroxypethidine;
- ~~(31)~~ (32) Ketobemidone;
- ~~(32)~~ (33) Levomoramide;
- ~~(33)~~ (34) Levophenacymorphan;
- ~~(34)~~ (35) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- ~~(35)~~ (36) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidiny]—phenylpropanamide);
- ~~(36)~~ (37) Morpheridine;

- ~~(37)~~ (38) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- ~~(38)~~ (39) Noracymethadol;
- ~~(39)~~ (40) Norlevorphanol;
- ~~(40)~~ (41) Normethadone;
- ~~(41)~~ (42) Norpipanone;
- ~~(42)~~ (43) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
- ~~(43)~~ (44) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- ~~(44)~~ (45) Phenadoxone;
- ~~(45)~~ (46) Phenampromide;
- ~~(46)~~ (47) Phenomorphan;
- ~~(47)~~ (48) Phenoperidine;
- ~~(48)~~ (49) Piritramide;
- ~~(49)~~ (50) Proheptazine;
- ~~(50)~~ (51) Properidine;
- ~~(51)~~ (52) Propiram;
- ~~(52)~~ (53) Racemoramide;
- ~~(53)~~ (54) Thiofentanyl (N-phenyl-N-[1-(2-thienyl) ethyl-4-piperidinyl]-propanamide);
- ~~(54)~~ (55) Tilidine;
- ~~(55)~~ (56) Trimeperidine.

(c) *Opium derivatives.* — Unless specifically excepted or unless listed in another schedule, any of the following opium immediate derivatives, its salts, isomers and salts of isomers

whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except HCl Salt);
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myorphine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;

(22) Pholcodine;

(23) Thebacon.

(d) *Hallucinogenic substances.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term ‘isomer’ includes the optical, position and geometric isomers):

(1) Alpha-ethyltryptamine; some trade or other names: tryptamine; Monase; alpha-ethy-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

(2) 4-Bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-Bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-Bromo- 2,5-DMA;

(3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

(4)(A) N-(2-Methoxybenzyl)-4-bromo-2, 5-dimethoxyphenethylamine. The substance has the acronym 25B-NBOMe.

(B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe).

(C) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe)

(5) 2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;

(6) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;

(7) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

(8) 4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;

(9) 5-methoxy-3, 4-methylenedioxy-amphetamine;

(10) 4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; 'DOM'; and 'STP';

(11) 3,4-methylenedioxy amphetamine;

(12) 3,4-methylenedioxymethamphetamine (MDMA);

(13) 3,4-methylenedioxy-N-ethylamphetamine (also known as – ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);

(14) N-hydroxy-3,4-methylenedioxyamphetamine (also known as – hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and – hydroxy MDA);

(15) 3,4,5-trimethoxy amphetamine;

(15) (16) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);

(17) Alpha-methyltryptamine (other name: AMT);

(18) Bufotenine; some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(19) Diethyltryptamine; some trade and other names: N, N-Diethyltryptamine; DET;

(20) Dimethyltryptamine; some trade or other names: DMT;

(21) 5-Methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);

(22) Ibogaine; some trade and other names: 7-Ethyl-6, 6 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe iboga;

(23) Lysergic acid diethylamide;

(24) Marihuana;

(25) Mescaline;

(26) Parahexyl-7374; some trade or other names: 3-Hexyl -1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;

(27) Peyote; meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, immediate derivative, mixture or preparation of such plant, its seeds or extracts;

(28) N-ethyl-3-piperidyl benzilate;

(29) N-methyl-3-piperidyl benzilate;

(30) Psilocybin;

(31) Psilocyn;

(32) Tetrahydrocannabinols; synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, immediate derivatives and their isomers with similar chemical structure and pharmacological activity such as the following:

delta-1 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3,4 Cis or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

(33) Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(34) Pyrrolidine analog of phencyclidine; some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(35) Thiophene analog of phencyclidine; some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine; TPCP, TCP;

(36) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy.

(37) 4-methylmethcathinone (Mephedrone);

(38) 3,4-methylenedioxypropylvalerone (MDPV);

(39) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

(40) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)

(41) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)

(42) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)

(43) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)

(44) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)

(45) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)

(46) 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)

(47) 2-(2,5-Dimethoxy-

4-(n)-propylphenyl) ethanamine (2C-P)

(48) 3,4-Methylenedioxy-N-methylcathinone (Methylone)

(49) (2,5-dimethoxy-4-(n)-propyltghiofenethylamine (2C-T-7, itsoptical isomers, salts and salts of isomers

(50) 5-methoxy-N, N-dimethyltryptamine some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT(5-MeO-DMT)

(51) Alpha-methyltryptamine (other name: AMT)

(52) 5-methoxy-N ,N-diisopropyltryptamine (other name: 5-MeO-DIPT)

(53) Synthetic Cannabinoids as follows:

(A) 2-[(1R,3S)-3-hydroxycyclohexyl]-5- (2-methyloctan-2-yl) phenol {also known as CP 47,497 and homologues};

(B) rel-2-[(1S,3R)-3-hydroxycyclohexyl] -5-(2-methylnonan-2-yl) phenol {also known as CP 47,497-C8 homolog};

(C) [(6aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[c]chromen-1-ol)] {also known as HU-210}; (D) (dexanabinol);

(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzol[c]chromen-1-ol) {also known as HU-211};

(E) 1-Pentyl-3-(1-naphthoyl) indole {also known as JWH-018};

(F) 1-Butyl-3-(1-naphthoyl) indole {also known as JWH-073};

(G) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-015};

(H) (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-019};

(I) [1-[2-(4-morpholinyl) ethyl] -1H-indol-3-yl]-1-naphthalenyl-methanone {also known as JWH-200};

(J) 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone {also known as JWH-250};

(K) 2-((1S,2S,5S)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl)-5-(2-methyloctan-2-yl)phenol {also known as CP 55,940};

(L) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-122};

(M) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-398};

(N) (4-methoxyphenyl) (1-pentyl-1H-indol-3-yl)methanone {also known as RCS-4};

(O) 1-(1-(2-cyclohexylethyl) -1H-indol-3-yl) -2-(2-methoxyphenyl) ethanone {also known as RCS-8};

(P) 1-pentyl-3-[1-(4-methoxynaphthoyl)] indole (JWH-081);

(Q) 1-(5-fluoropentyl)-3-(1-naphthoyl) indole (AM2201); and

(R) 1-(5-fluoropentyl)-3-(2-iodobenzoyl) indole (AM694).

(54) Synthetic cannabinoids or any material, compound, mixture or preparation which contains any quantity of the following substances, including their analogues, congeners, homologues, isomers, salts and salts of analogues, congeners, homologues and isomers, as follows:

(A) CP 47,497 AND homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-YL) phenol);

(B) HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-6A,7,10, 10A-tetrahydrobenzo[C]chromen-1-OL)];

(C) HU-211, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-methyloctan-2-YL)-6A,7,10,10 atetrahydrobenzo [C]chromen-1-OL);

(D) JWH-018, 1-pentyl-3-(1-naphthoyl) indole;

(E) JWH-019, 1-hexyl-3-(1-naphthoyl) indole;

(F) JWH-073, 1-butyl-3-(1-naphthoyl) indole;

(G) JWH-200, (1-(2-morpholin-4-ylethyl) indol-3-yl)-Naphthalen-1-ylmethanone;

(H) JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl) indole.]

(55) Synthetic cannabinoids including any material, compound, mixture or preparation that is not listed as a controlled substance in Schedule I through V, is not a federal Food and Drug Administration approved drug or used within legitimate and approved medical research and which contains any quantity of the following substances, their salts, isomers, whether optical positional or geometric, analogues, homologues and salts of isomers, analogues and homologues, unless specifically exempted, whenever the existence of these salts, isomers, analogues, homologues and salts of isomers, analogues and homologues if possible within the specific chemical designation:

(A) Tetrahydrocannabinols meaning tetrahydrocannabinols which are naturally contained in a plant of the genus cannabis as well as synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis or synthetic substances, derivatives and their isomers with analogous chemical structure and or pharmacological activity such as the following:

(i) DELTA-1 CIS OR trans tetrahydrocannabinol and their optical isomers.

(ii) DELTA-6 CIS OR trans tetrahydrocannabinol and their optical isomers.

(iii) DELTA-3,4 CIS OR their trans tetrahydrocannabinol and their optical isomers.

(B) Naphthoylindoles or any compound containing a 3-(1-Naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include the following:

- (i) JWH 015;
- (ii) JWH 018;
- (iii) JWH 019;
- (iv) JWH 073;
- (v) JWH 081;
- (vi) JWH 122;
- (vii) JWH 200;
- (viii) JWH 210;
- (ix) JWH 398;
- (x) AM 2201;
- (xi) WIN 55,212.

(56) Naphylmethylindoles or any compound containing a 1-indol-3-yl-(1-naphthyl) methane structure with a substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 175 and JWH 184.

(57) Naphthoylpyrroles or any compound containing a 3-(1-Naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl

ring to any extent. This shall include, but not be limited to, JWH 147 and JWH 307.

(58) Naphthylmethylenes or any compound containing a Naphthylideneindene structure with substitution at the 3- Position of the indene ring whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 176.

(59) Phenylacetylindoles or any compound containing a 3-Phenylacetylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

- (A) RCS-8, SR-18 OR BTM-8;
- (B) JWH 250;
- (C) JWH 203;
- (D) JWH 251;
- (E) JWH 302.

(60) Cyclohexylphenols or any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with a substitution at the 5-Position of the phenolic ring whether or not substituted in the cyclohexyl ring to any extent. This shall include the following:

- (A) CP 47,497 and its homologues and analogs;
- (B) Cannabicyclohexanol;
- (C) CP 55,940.

(61) Benzoylindoles or any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

(A) AM 694;

(B) Pravadoline WIN 48,098;

(C) RCS 4;

(D) AM 679.

(62) [2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-benzoxazin-6-YL]-1-napthalenymethanone. This shall include WIN 55,212-2.

(63) Dibenzopyrans or any compound containing a 11-hydroxydelta 8-tetrahydrocannabinol structure with substitution on the 3-pentyl group. This shall include HU-210, HU-211, JWH 051 and JWH 133.

(64) Adamantoylindoles or any compound containing a 3-(-1-Adamantoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the adamantoyl ring system to any extent. This shall include AM1248.

(65) Tetramethylcyclopropylindoles or any compound containing A 3-tetramethylcyclopropylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent. This shall include UR-144 and XLR-11.

(66) N-(1-Adamantyl)-1-pentyl-1h-indazole-3-carboxamide. This shall include AKB48.

(67) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research. Since nomenclature of these substances is not internationally standardized, any immediate precursor or immediate derivative of these substances shall be covered.

(68) Tryptamines:

(A) 5- methoxy- N- methyl-N-isopropyltryptamine (5-MeO-MiPT)

(B) 4-hydroxy-N N-diisopropyltryptamine (4-HO-DiPT)

(C) 4-hydroxy-N-methyl-N-isopropyltryptamine (4-HO-MiPT)

(D) 4-hydroxy-N-methyl-N-ethyltryptamine (4-HO-MET)

(E) 4-acetoxy-N, N-diisopropyltryptamine (4-AcO-DiPT)

(F) 5-methoxy- α -methyltryptamine (5-MeO-AMT)

(G) 4-methoxy-N, N-Dimethyltryptamine (4-MeO-DMT)

(H) 4-hydroxy Diethyltryptamine (4-HO-DET)

(I) 5- methoxy- N,N- diallyltryptamine (5-MeO-DALT)

(J) 4-acetoxy-N, N-Dimethyltryptamine (4-AcO DMT)

(K) 4-hydroxy Diethyltryptamine (4-HO-DET)

(e) *Depressants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone;

(2) Methaqualone.

(f) *Stimulants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Aminorex; some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(2) Cathinone; some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(3) Fenethylamine;

(4) Methcathinone, its immediate precursors and immediate derivatives, its salts, optical isomers and salts of optical isomers; some other names: (2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-methylaminopropiofenone; monomethylpropion; 3,4-methylenedioxypropiofenone and/or mephedrone; 3,4-methylenedioxypropiofenone (MPVD); ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432;

(5) (+-) cis-4-methylaminorex; ((+)- cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(6) N-ethylamphetamine;

(7) N,N-dimethylamphetamine; also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(8) Alpha-pyrrolidinopentiophenone, also known as alpha-PVP, optical isomers, salts and salts of isomers.

(9) Substituted amphetamines:

(A) 2-Fluoroamphetamine

(B) 3-Fluoroamphetamine

(C) 4-Fluoroamphetamine

(D) 2-chloroamphetamine

(E) 3-chloroamphetamine

- (F) 4-chloroamphetamine
- (G) 2-Fluoromethamphetamine
- (H) 3-Fluoromethamphetamine
- (I) 4-Fluoromethamphetamine
- (J) 4-chloromethamphetamine

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers.

(2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

(3) N-benzylpiperazine, also known as BZP.

(h) The following controlled substances are included in Schedule I:

(1) Synthetic Cathinones or any compound, except bupropion or compounds listed under a different schedule, or compounds used within legitimate and approved medical research, structurally derived from 2-Aminopropan-1-one by substitution at the 1-position with Monocyclic or fused polycyclic ring systems, whether or not the compound is further modified in any of the following ways:

(A) By substitution in the ring system to any extent with Alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl or halide substituents whether or not further substituted in the ring system by one or more other univalent substituents.

(B) By substitution at the 3-position with an acyclic alkyl substituent.

(C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups.

(D) By inclusion of the 2-amino nitrogen atom in a cyclic structure.

(2) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research.

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-414. Unlawful production, manufacture or possession of fentanyl, its derivatives, or any Schedule I substance that is misrepresented.

(a) Except as authorized by this chapter, it is unlawful for any person to knowingly or intentionally manufacture, possess, distribute, dispense, or transport any quantity of fentanyl, or any fentanyl analog or derivative, with intent to manufacture, distribute, dispense, deliver, administer or use the fentanyl, or any fentanyl analog or derivative. Any person who violates this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two years nor more than twenty years or fined not more than \$10,000, or both imprisoned and fined.

(b) It is unlawful for any person to knowingly and intentionally sell or distribute any Schedule I controlled substance while misrepresenting the identity of the Schedule I controlled substance being sold or distributed as a legitimate pharmaceutical product. Any person who violates this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than one year nor more than five years or fined not more than \$2,500, or both imprisoned and fined.

(c) The offenses created in this section are separate offenses from others in this chapter.”

And,

By amending the title to read as follows:

Com. Sub. for H. B. 2329 – “A Bill to amend and reenact §60A-1-101 of the Code of West Virginia, 1931, as amended; to amend and reenact §60A-2-204 of said code; and to amend said code by adding thereto a new section, designated §60A-4-414, all relating to prohibiting the unlawful production, manufacture or possession of fentanyl and fentanyl analogs and derivatives; defining a fentanyl analog or derivative; classifying a fentanyl analog or derivative as a Schedule I drug; creating a felony offense and imposing criminal penalties for the unlawful production, manufacture or possession of fentanyl and fentanyl analogs or derivatives; and creating a separate felony offense and imposing penalties for misrepresenting the identity of a Schedule I controlled substance as a legitimate pharmaceutical product.”

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

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. 2348, Eliminating any requirement that class hours of students be consecutive.

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. 2364, Prohibiting electioneering within or near early voting locations during early voting periods.

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

“ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-37. Restrictions on presence and conduct at polls.

(a) Except as otherwise provided in this section, no person, other than the election officers and voters going to the election room to vote and returning therefrom, may be or remain within ~~three~~ one hundred feet of the outside entrance to the building housing the polling place while the polls are open. This subsection does not apply to persons who reside or conduct business within such distance of the entrance to the building housing the polling place, while in the discharge of their legitimate business, or to persons whose business requires them to pass and repass within ~~three~~ one hundred feet of such entrance.

(b) A person who is delivering a voter to a polling place by motor vehicle may drive such vehicle to a convenient and accessible location to discharge the voter, notwithstanding that the location is within ~~three~~ one hundred feet of the outside entrance to the building housing the polling place. Upon discharging such voter from the vehicle, the person shall remove the vehicle from within ~~three~~ one hundred feet of the entrance until such time as the voter is to be transported from the polling place or another voter delivered: *Provided*, That vehicles delivering voters who require assistance by reason of blindness, disability or advanced age may remain within ~~three~~ one hundred feet of the entrance until such time as the voter is to be transported from the polling place.

(c) The election commissions shall limit the number of voters in the election room so as to preserve order. No person may approach nearer than five feet to any booth or compartment while the election is being held, except the voters to prepare their ballots, or the poll clerks when called on by a voter to assist in the preparation of his or her ballot, and no person, other than election officers and voters engaged in receiving, preparing and depositing their ballots, may be permitted to be within five feet of any ballot box, except by authority of the board of election commissioners, and then only for the purpose of keeping order and enforcing the law.

(d) Not more than one person may be permitted to occupy any booth or compartment at one time. No person may remain in or

occupy a booth or compartment longer than may be necessary to prepare his or her ballot, and in no event longer than five minutes, except that any person who claims a disability pursuant to section thirty-four of this article shall have additional time up to ten additional minutes to prepare his or her ballot. No voter, or person offering to vote, may hold any conversation or communication with any person other than the poll clerks or commissioners of election, while in the election room.

(e) The provisions of this section do not apply to persons rendering assistance to blind voters as provided in section thirty-four of this article or to any child fourteen years of age or younger who accompanies a parent, grandparent or legal guardian who is voting. Any dispute concerning the age of a child accompanying a parent, grandparent or legal guardian who is voting shall be determined by the election commissioners.

ARTICLE 9. OFFENSES AND PENALTIES.

§3-9-9. Electioneering defined; Other unlawful acts at polling places; exceptions; penalties.

(a) As used in this section, 'electioneering' means the displaying of signs or other campaign paraphernalia, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question. 'Electioneering' does not include exit polling, so long as persons conducting exit polling are not otherwise engaging in electioneering activities described above, or bumper stickers or signs affixed to a person's vehicle which is parked within or passing through a distance of one hundred feet of the entrance to a polling place while such person is voting or transporting any voter to the polls.

(b) No officer of election may disclose to any person the name of any candidate for whom a voter has voted. No officer of election may do any electioneering on election day.

(c) No person may do any electioneering on election day within any polling place, or within ~~three~~ one hundred feet of the outside entrance to the building housing the polling place. No person may do any electioneering in the polling place or within one hundred feet of the outside entrance of any polling place where early voting is conducted during the period in which early voting is offered during the hours while such early voting is actually taking place. Nothing in this subsection shall prohibit a citizen from doing any electioneering upon his or her own private property, regardless of distance from the polling place, so long as that electioneering conforms to other existing laws and ordinances.

(d) No person may apply for or receive any ballot in any polling place, other than that in which ~~he~~ the person is entitled to vote, nor may any person examine a ballot which any voter has prepared for voting, or solicit the voter to show the same, nor ask, nor make any arrangement, directly or indirectly, with any voter, to vote an open ballot. No person, except a commissioner of election, may receive from any voter a ballot prepared by him or her for voting. No voter may receive a ballot from any person other than one of the poll clerks; nor may any person other than a poll clerk deliver a ballot to a commissioner of election to be voted by such commissioner. No voter may deliver any ballot to a commissioner of election to be voted, except the one he or she receives from the poll clerk. No voter may place any mark upon his or her ballot, or suffer or permit any other person to do so, by which it may be afterward identified as the ballot voted by him or her.

(e) Whoever violates any provision of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail for not more than one year, or both fined and confined.”

And, by amending the title of the bill to read as follows:

Com. Sub. for H. B. 2364 – “A Bill to amend and reenact §3-1-37 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-9-9 of said code, all relating to restrictions on presence and conduct at or within one hundred feet of polls; prohibiting persons other than voters and election officials from being or remaining within one hundred feet of entrance of polling place while polls open; permitting person delivering voter to polling place to discharge voter

within one hundred feet of entrance of polling place; requiring person delivering voter to remove vehicle one hundred feet until the voter is to be transported from polling place or another voter delivered; permitting vehicles delivering voters who require assistance to remain within one hundred feet of entrance until voter is to be transported from polling place; defining electioneering; prohibiting electioneering in or within one hundred feet of polling place on election day; prohibiting electioneering in or within one hundred feet of early voting polling places during early voting periods; providing exceptions to electioneering prohibitions for persons upon his or her private property; clarifying that electioneering on private property near polling places must conform to other existing laws and ordinances; and making stylistic changes to outdated language.”

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. 455**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin, Eldridge and Rowe.

Absent and Not Voting: Folk and Lane.

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. 2364) 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 amendment, a bill of the House of Delegates, to take effect from passage, as follows:

H. B. 2446, Relating to the requirement that all executive branch agencies maintain a website that contains specific information.

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

On page one, section five, line two, after the word “information”, by inserting a comma and the words “if applicable”.

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. 456**), and there were—yeas 74, nays 24, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Boggs, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Fluharty, Hornbuckle, Iaquina, Isner, Longstreth, Lynch, Marcum, Miley, R. Miller, Moye, Pushkin, Robinson, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Folk and Lane.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2446) passed.

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

On this question, the yeas and nays were taken (**Roll No. 457**), and there were—yeas 84, nays 14, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Canestraro, E. Evans, Fluharty, Hornbuckle, Iaquina, Longstreth, Lynch, Marcum, Pushkin, Rowe, Sponaugle and Williams.

Absent and Not Voting: Folk and Lane.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2446) 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:

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

Com. Sub. for H. B. 2494 – “A Bill to amend and reenact §18-2E-4 of the Code of West Virginia, 1931, as amended, relating to school, school district and statewide school report cards; modifying state board duties pertaining to the report cards; modifying information to be included in the school and school district report cards; removing requirement for school report cards to mailed directly to the parents; and requiring school and school district report cards be made easily accessible on, or through a report card icon or link on, the county board website and provided in paper form upon request of the parent, guardian or custodian.”

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

On this question the yeas and nays were taken (**Roll No. 458**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Upson.

Absent and Not Voting: Folk and Lane.

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.

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. 2503, Relating to the rulemaking authority for Board of Osteopathic Medicine.

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. 2603, Relating to municipal policemen's or firemen's pension and relief funds that are funded at one hundred and twenty-five percent or more.

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. 2619, Risk Management and Own Risk and Solvency Assessment Act.

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 the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated 33-40B-1, §33-40B-2, §33-40B-3, §33-40B-4, §33-40B-5, §33-40B-6, §33-40B-7, §33-40B-8, §33-40B-9, §33-40B-10 and §33-40B-11, all to read as follows:

ARTICLE 40B. RISK MANAGEMENT AND OWN RISK AND SOLVENCY ASSESSMENT ACT.

§33-40B-1. Purpose and Scope.

(a) The purpose of this article is to provide requirements for maintaining a risk management framework and completing an own risk and solvency assessment (ORSA) and provide guidance and instructions for filing an ORSA summary report with the Insurance Commissioner of this state.

(b) The requirements of this article apply to all insurers domiciled in this state unless exempt pursuant to section six of this article.

(c) The Legislature finds and declares that the ORSA summary report shall contain confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or insurance group filing the report. This information shall include proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. It is the intent of this Legislature that the ORSA summary report shall be a confidential document filed with the commissioner, that the ORSA summary report may be shared only as stated herein and to assist the commissioner in the performance of his or her duties, and that in no event shall the ORSA summary report be subject to public disclosure.

§33-40B-2. Definitions.

(a) 'Commissioner' means the Insurance Commissioner of the State of West Virginia, his or her deputies or the insurance department, as appropriate.

(b) 'Insurance group' means, for the purpose of conducting an ORSA, those insurers and affiliates included within an insurance holding company system as defined in article twenty-seven of this chapter.

(c) 'Insurer' has the same meaning as set forth in section two, article one of this chapter, except that it does not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia or a state or political subdivision of a state.

(d) 'NAIC' means the National Association of Insurance Commissioners.

(e) 'Own risk and solvency assessment' or 'ORSA' means a confidential internal assessment, appropriate to the nature, scale and complexity of an insurer or insurance group, conducted by that insurer or insurance group of the material and relevant risks associated with the insurer or insurance group's current business plan and the sufficiency of capital resources to support those risks.

(f) 'ORSA Guidance Manual' means the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the NAIC

and as amended from time to time. A change in the ORSA Guidance Manual shall be effective on the January 1 following the calendar year in which the changes have been adopted by the NAIC.

(g) ‘ORSA summary report’ means a confidential high-level summary of an insurer or insurance group’s ORSA.

§33-40B-3. Risk Management Framework.

An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing and reporting on its material and relevant risks. This requirement may be satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

§33-40B-4. ORSA Requirement.

Subject to section six of this article, an insurer, or the insurance group of which the insurer is a member, shall regularly conduct an ORSA consistent with a process comparable to the ORSA Guidance Manual. The ORSA shall be conducted no less than annually but also at any time when there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

§33-40B-5. ORSA Summary Report.

(a) Upon the commissioner’s request, and no more than once each year, an insurer shall submit to the commissioner an ORSA summary report or any combination of reports that together contain the information described in the ORSA Guidance Manual, applicable to the insurer and/or, the insurance group of which it is a member. Notwithstanding any request from the commissioner, if the insurer is a member of an insurance group, the insurer shall submit the report(s) required by this subsection if the commissioner is the lead state commissioner of the insurance group as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.

(b) The report(s) shall include a signature of the insurer or insurance group’s chief risk officer or other executive having responsibility for the oversight of the insurer’s enterprise risk management process attesting to the best of his or her belief and knowledge that the insurer applies the enterprise risk management

process described in the ORSA summary report and that a copy of the report has been provided to the insurer's board of directors or the appropriate committee thereof.

(c) An insurer may comply with subsection (a) of this section by providing the most recent and substantially similar report(s) provided by the insurer or another member of an insurance group of which the insurer is a member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the ORSA Guidance Manual. Any report in a language other than English must be accompanied by a translation of that report into the English language.

§33-40B-6. Exemption.

(a) An insurer is exempt from the requirements of this article, if

(1) The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500 million; and

(2) The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$1 billion.

(b) If an insurer qualifies for exemption pursuant to subdivision (1), subsection (a) of this section, but the insurance group of which the insurer is a member does not qualify for exemption pursuant to subdivision (2), subsection (a) of this section, then the ORSA summary report that may be required pursuant to section five shall include every insurer within the insurance group. This requirement may be satisfied by the submission of more than one ORSA summary report for any combination of insurers provided any combination of reports includes every insurer within the insurance group.

(c) If an insurer does not qualify for exemption pursuant to subdivision (1), subsection (a) of this section, but the insurance

group of which it is a member qualifies for exemption pursuant to subdivision (2), subsection (a) of this section, then the only ORSA summary report that may be required pursuant section five of this article is the report applicable to that insurer.

(d) An insurer that does not qualify for exemption pursuant to subsection (a) of this section may apply to the commissioner for a waiver from the requirements of this article based upon unique circumstances. In deciding whether to grant the insurer's request for waiver, the commissioner may consider the type and volume of business written, ownership and organizational structure, and any other factor the commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

(e) Notwithstanding the exemptions stated in this section:

(1) The commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA summary report based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests; and

(2) The commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA summary report if the insurer has risk-based capital for company action level event as set forth in section three, article forty of this chapter, meets one or more of the standards of an insurer considered to be in hazardous financial condition as defined in section three-a, article thirty-four of this chapter, or otherwise exhibits qualities of a troubled insurer as determined by the commissioner.

(f) If an insurer that qualifies for an exemption pursuant to subsection (a) of this section subsequently no longer qualifies for that exemption due to changes in premium as reflected in the insurer's

most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer has one year following the year the threshold is exceeded to comply with the requirements of this article.

§33-40B-7. Contents of ORSA Summary Report.

(a) The ORSA summary report shall be prepared consistent with the ORSA Guidance Manual, subject to the requirements of subsection (b) of this section. Documentation and supporting information shall be maintained and made available upon examination or upon request of the commissioner.

(b) The review of the ORSA summary report, and any additional requests for information, shall be made using similar procedures currently used in the analysis and examination of multistate or global insurers and insurance groups.

§33-40B-8. Confidentiality.

(a) Documents, materials or other information, including the ORSA summary report, in the possession of or control of the Insurance Commissioner that are obtained by, created by or disclosed to the commissioner or any other person under this article, is recognized by this state as being proprietary and to contain trade secrets. All such documents, materials or other information shall be confidential by law and privileged, shall not be subject to article one, chapter twenty-nine-b of this code, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer.

(b) Neither the commissioner nor any person who received documents, materials or other ORSA-related information, through examination or otherwise, while acting under the authority of the commissioner or with whom the documents, materials or other

information are shared pursuant to this article shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

(c) In order to assist in the performance of the commissioner's regulatory duties, the commissioner:

(1) May, upon request, share documents, materials or other ORSA-related information, including the confidential and privileged documents, materials or information subject to subsection (a) of this section, including proprietary and trade secret documents and materials with other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in section six-a, article twenty-seven of this chapter, with the NAIC and with any third-party consultants designated by the commissioner: *Provided*, That the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;

(2) May receive documents, materials or other ORSA-related information, including otherwise confidential and privileged documents, materials or information, including proprietary and trade-secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college as defined in section six-a, article twenty-seven of this chapter, and from the NAIC, and shall maintain as confidential or privileged any documents, materials or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information;

(3) Shall enter into a written agreement with the NAIC or a third-party consultant governing sharing and use of information provided pursuant to this article, consistent with this subsection that shall:

(A) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC or a third-party consultant pursuant to this article, including procedures and protocols for sharing by the NAIC with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;

(B) Specify that ownership of information shared with the NAIC or a third-party consultant pursuant to this article remains with the commissioner and the NAIC's or a third-party consultant's use of the information is subject to the direction of the commissioner;

(C) Prohibit the NAIC or third-party consultant from storing the information shared pursuant to this article in a permanent database after the underlying analysis is completed;

(D) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or a third-party consultant pursuant to this article is subject to a request or subpoena to the NAIC or a third-party consultant for disclosure or production;

(E) Require the NAIC or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this article; and

(F) If there is an agreement involving a third-party consultant, provide for the insurer's written consent.

(d) The sharing of information and documents by the commissioner pursuant to this article shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution and enforcement of the provisions of this article.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade-secret materials or other ORSA-related information shall occur as a result of disclosure of such ORSA-related information or documents to the commissioner under this section or as a result of sharing as authorized in this article.

(f) Documents, materials or other information in the possession or control of the NAIC or a third-party consultant pursuant to this article shall be confidential by law and privileged, shall not be subject to article one, chapter twenty-nine-b of this code, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action.

§33-40B-9. Sanctions.

Any insurer failing, without just cause, to timely file the ORSA summary report as required in this article shall, after notice and hearing, pay a penalty of \$2,500 for each day's delay, to be recovered by the commissioner and the penalty so recovered shall be paid into the General Revenue Fund of this state. The maximum penalty under this section is \$75,000. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

§33-40B-10. Severability.

The provisions of this article are severable and accordingly, if any part of this article is adjudged to be unconstitutional or invalid, that determination does not affect the continuing validity of the remaining provisions of this article.

§33-40B-11. Effective Date.

The requirements of this article shall become effective on January 1, 2018. The first filing of the ORSA summary report shall be in 2018 pursuant to section five of this article.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2619 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-40B-1, §33-40B-2, §33-40B-3, §33-40B-4, §33-40B-5, §33-40B-6, §33-40B-7, §33-40B-8, §33-40B-9, §33-40B-10 and §33-40B-11, all relating to insurer risk management and solvency assessment; setting forth the purpose and scope of the article; defining terms; setting forth the requirement that insurers must maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing and reporting on its material and relevant risks; setting forth and providing requirements for the own risk and assessment summary report; providing exemptions to the summary report requirements; providing confidentiality requirements related to the summary report; providing sanctions for failing to submit the summary report; providing for severability; and providing the effective date of this article.”

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. 459**), 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: Folk and Lane.

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. 2619) passed.

Delegate Cowles moved that the bill take effect January 1, 2018.

On this question, the yeas and nays were taken (**Roll No. 460**), 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: Folk and Lane.

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. 2619) takes effect January 1, 2018.

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:

H. B. 2691, Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber.

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. 2709, Authorizing the City of South Charleston to levy a special district excise tax.

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. 2792, Requiring the Library Commission to survey the libraries of the state.

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. 2797, Codifying statutory immunity for government agencies and officials from actions of third-parties using documents or records.

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. 2833, Specifying the contents and categories of information for inclusion in annual reports.

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. 2839, Updating the procedures for legislative review of departments and licensing boards.

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

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. 2961, Relating generally to charitable bingo games and charitable raffles.

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

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 creating a process by which parties may appeal certain administrative actions taken by the Tax Commissioner, affecting certain charitable bingo or charitable raffle licensees, to the Office of Tax Appeals.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 461**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Eldridge, Marcum, Sobonya and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Folk, G. Foster and Lane.

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.

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. 3037, Removing the Division of Energy as an independent agency.

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 section and inserting in lieu thereof the following:

“CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2F. DIVISION OFFICE OF ENERGY.

§5B-2F-2. Purpose; ~~office of Director for Energy Development; director to be member of Public Energy Authority; division Office of Energy; office to develop energy policy and development plan; contents of energy policy and development plan; and division office to promote energy initiatives.~~

(a) Effective July 1, ~~2007~~ 2017, the Division of Energy is created as a state agency under the Department of Commerce, hereby continued, but shall be designated and known as the Office of Energy, and shall be organized within the Development Office of the Department of Commerce. All references throughout this code to the Division of Energy shall be construed to refer to the Office of Energy. The division office may receive federal funds.

~~The division shall be administered by a director, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall continue to serve until his or her successor is appointed and qualified as provided. The director shall be selected with special preference and consideration given to his or her training, experience, capacity and interest in energy policy and development activities.~~

(b) ~~Creation of the division~~ The office is intended to provide leadership for developing energy policies emphasizing the increased efficiency of energy use, the increased development and production of new and existing domestic energy sources, the increased awareness of energy use on the environment and the economy, dependable, efficient and economical statewide energy systems capable of supporting the needs of the state, increased energy self-sufficiency where the ratio of indigenous to imported energy use is increased, reduce the ratio energy consumption to economic activity and maintain low-cost energy. The energy policies and development plans shall also provide direction for the private sector.

(c) ~~The director shall administer the daily operations of the Public Energy Authority provided under the provisions of chapter five d of this code. The director shall also have authority over the Office of Coalfield Community Development, created by the provisions of article two a of this chapter, and~~ The office shall have authority over the energy efficiency program existing under the West Virginia Development Office, ~~which are hereby transferred to the division. The director shall effectuate coordination of these entities relative to the purposes provided in this article.~~

(d) ~~The division~~ office shall develop an energy policy and shall report the same back to the Governor and the Joint Committee on Government and Finance before December 1, 2007. The energy policy shall be a five-year plan setting forth the state's energy policies and shall provide a direction for the private sector. Prior to the expiration of the energy policy, the ~~division~~ office shall begin review of the policy and submit a revised energy policy to the Governor and the Joint Committee on Government and Finance six months before the expiration of the policy.

~~(e) The director shall be a member of the Public Energy Authority and as such shall attend and participate in all official meetings and public hearings conducted under the auspices of the authority.~~

(f) ~~(e)~~ The division office shall prepare and submit an annual energy development plan to the Governor and the Joint Committee on Government and Finance on or before December 1 of each year. The development plan shall relate to the division's office's implementation of the energy policy and the activities of the division office during the previous year. The development plan shall include any recommended legislation. The Public Energy Authority, the Office of Coalfield Community Development, the energy efficiency program, the Department of Environmental Protection and the Public Service Commission, in addition to their other duties prescribed by this code, shall assist the ~~division and the director~~ office in the development of an energy policy and related development plans. The energy development plan shall set forth the plans for implementing the state's energy policy and shall provide a direction for the private sector. The energy development plan shall recognize the powers of the Public Energy Authority as to development and financing of projects under its jurisdiction and shall make such recommendations as are reasonable and practicable for the exercise of such powers.

~~(g)~~ (f) The division office shall hold public hearings and meetings with notice to receive public input regarding proposed energy policies and development plans. The energy policy and development plans required by subsections (d) and ~~(e)~~ (f) of this section shall address increased efficiency of energy use, traditional and alternative energy, water as a resource and a component of energy production, energy distribution systems, the siting of energy facilities, the increased development and production of new and existing domestic energy sources, increased awareness of energy use on the environment and the economy, energy infrastructure, the development and implementation of renewable, clean, technically innovative and advanced energy projects in this state. Projects may include, without limitation, solar and wind energy, low-impact hydro power, geothermal, biomass, landfill

gas, fuel cells, renewable hydrogen fuel technologies, waste coal, coal mine methane, coal gasification to ultraclean fuels, solid waste to fuel grade ethanol and coal liquefaction technologies.

~~(h)~~ (g) The ~~division office~~ may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code designed to implement an energy policy and development plan in accordance with the provisions of this chapter.

~~(i)~~ (h) The energy policy and development plans required by subsections (d) and ~~(f)~~ (e) of this section shall identify and report on the energy infrastructure in this state and include without limitation energy infrastructure related to protecting the state's essential data, information systems and critical government services in times of emergency, inoperativeness or disaster. In consultation with the Director of the Division of Homeland Security and Emergency Management, the ~~director of the division office~~ shall encourage the development of energy infrastructure and strategic resources that will ensure the continuity of governmental operations in situations of emergency, inoperativeness or disaster.

~~(j)~~ (i) In preparing or revising the energy policy and development plan, the ~~division office~~ may rely upon internal staff reports or the advice of outside advisors or consultants and may procure such services with the consent of the Secretary of Commerce. The ~~division office~~ may also involve national, state and local government leadership and energy experts.

~~(k)~~ (j) The ~~division office~~ shall prepare an energy use database, including without limitation, end-use applications and infrastructure needs for different classes of energy users including residential, commercial and industrial users, data regarding the interdependencies and sources of electricity, oil, coal, water and gas infrastructure, data regarding energy use of schools and state-owned facilities and collect data on the impact of the energy policy and development plan on the decisions and strategies of energy users of the state.

~~(4)~~ (k) The ~~division~~ office shall promote collaboration between the state's universities and colleges, private industry and nonprofit organizations to encourage energy research and leverage available federal energy research and development resources.

~~(m)~~ (l) The ~~division~~ office shall promote initiatives to enhance the nation's energy security through research and development directed at transforming the state's energy resources into the resources that fuel the nation.

~~(n)~~ The ~~Performance Evaluation and Research Division of the Legislative Auditor's office~~ shall perform an agency review of the ~~Division of Energy in 2010 as part of its review of the Department of Commerce as set forth in article four, chapter ten of this code.~~

~~(o)~~ (m) The ~~division~~ office shall work with the President of the United States and his or her administration to develop a plan that would allow West Virginia to become the leader in transitioning the United States to a new energy future.

~~(p)~~ (n) The ~~division~~ office is to determine the best way for West Virginia to utilize its resources and any federal funding to develop the technologies that are necessary for such a transition.

~~(q)~~ (o) The ~~division~~ office is to clearly articulate West Virginia's position on an energy solution for the United States that encompasses clean coal, natural gas, transtech energy technologies and renewable energy technologies.

~~(r)~~ (p) The ~~division~~ office shall develop and distribute an informational program and policies that emphasize the importance of West Virginia energy resources and their positive impact on the eastern seaboard and the nation.

~~(s)~~ (q) The ~~division~~ office shall monitor legal challenges to the energy industries in the state and submit a report quarterly to the Joint Committee on Government and Finance. The report shall contain information relating to any litigation that challenges any statute that could affect the production, distribution and utilization of natural resources of the state.

CHAPTER 5D. PUBLIC ENERGY AUTHORITY ACT.**ARTICLE 1. PUBLIC ENERGY AUTHORITY OF THE STATE OF WEST VIRGINIA.****§5D-1-4. West Virginia Public Energy Authority continued; West Virginia Public Energy Board continued; organization of authority and board; appointment of board members; term, compensation and expenses; director of authority; appointment.**

(a) The West Virginia Public Energy Authority is continued. The authority is a governmental instrumentality of the state and a body corporate. The exercise by the authority of the powers conferred by this article and the carrying out of its purposes and duties are essential governmental functions and for a public purpose.

(b) The authority shall be controlled, managed and operated by a seven-member board known as the West Virginia Public Energy Authority Board, which is continued. The seven members include the ~~Director of the Division of Energy~~ Secretary of the Department of Commerce or designee; the Secretary of the Department of Environmental Protection or designee; the Director of the Economic Development Authority or designee; and four members representing the general public. The public members are appointed by the Governor, by and with the advice and consent of the Senate, for terms of one, two, three and four years, respectively.

(c) On June 30, 2007, the terms of all appointed members shall expire. Not later than July 1, 2007, the Governor shall appoint the public members required in subsection (b) of this section to assume the duties of the office immediately, pending the advice and consent of the Senate.

(d) The successor of each appointed member is appointed for a four-year term. A vacancy is filled by appointment by the Governor in the same manner as the original appointment. A member appointed to fill a vacancy serves for the remainder of the

unexpired term. Each board member serves until a successor is appointed.

(e) No more than three of the public members may at any one time belong to the same political party. No more than two public members may be employed by or associated with any industry the authority is empowered to affect. One member shall be a person with significant experience in the advocacy of environmental protection. Board members may be reappointed to serve additional terms.

(f) All members of the board shall be citizens of the state. Before engaging in their duties, each member of the board shall comply with the requirements of article one, chapter six of this code and give bond in the sum of \$25,000 in the manner provided in article two of said chapter. The Governor may remove any board member as provided in section four, article six of said chapter.

(g) ~~The Director of the Division of Energy shall serve~~ Secretary of the Department of Commerce or his or her designee shall serve as chair. The board annually elects one of its members as vice chair and appoints a secretary-treasurer who need not be a member of the board.

(h) Four members of the board constitute a quorum and the affirmative vote of the majority of members present at any meeting is necessary for any action taken by vote of the board. A vacancy in the membership of the board does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority.

(i) The person appointed as secretary-treasurer, including a board member if so appointed, shall give bond in the sum of \$50,000 in the manner provided in article two, chapter six of this code.

(j) Each public member shall be reimbursed for reasonable expenses incurred in the discharge of official duties. All expenses incurred by the board shall be paid in a manner consistent with guidelines of the Travel Management Office of the Department of

Administration and are payable solely from funds of the authority or from funds appropriated for such purpose by the Legislature. Liability or obligation is not incurred by the authority beyond the extent to which moneys are available from funds of the authority or from such appropriations.

(k) In addition to such other duties and responsibilities as may be prescribed in this code, the ~~Director of the Division~~ Office of Energy is responsible for managing and administering the daily functions of the authority and for performing all other functions necessary to the effective operation of the authority.”

And,

By amending the title of the bill to read as follows:

H. B. 3037 – “A Bill to amend and reenact §5B-2F-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5D-1-4 of said code, all relating to the Division of Energy generally; providing that the division be continued, but shall be designated and known as the Office of Energy, and shall be organized within the Development Office of the Department of Commerce; modifying requirements and duties; modifying composition of the West Virginia Public Energy Authority Board; and designating the Secretary of Commerce or his or her designee as the chair of the West Virginia Public Energy Authority Board.”

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. 462**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Eldridge.

Absent and Not Voting: Folk and Lane.

So, a majority of the members elected to the House of Delegates 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.

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. 3053, Relating to motor vehicle lighting.

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. 15, Requesting Congress to fully support the National Park Service's recommendations to extend the Lewis and Clark National Historic Trail to include additional sites along the Expedition's Eastern Legacy.

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. 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting.

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

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 §30-7-6b; to amend said code by adding thereto a new section, designated §30-7A-6a; 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 advance practice registered nurses, licensed practical nurses and chiropractors.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 463**), 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: Folk and Lane.

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.

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 amendment, and the passage, as amended, of

Com. Sub. for S. B. 386, Creating WV Medical Cannabis Act.

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

On page five, section one, subsection (a), subdivision (32), by striking out the word “A” and inserting in lieu thereof the words “means a”.

On page twenty-three, section three, subsection (d), subdivision (5), by striking out the word “Bureau” and inserting in lieu thereof the word “departments”.

On page forty-one, section two, by striking out the words “promulgate rules” and inserting in lieu thereof the words “propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code”.

On page fifty-three, section two, by striking out all of subsections (a) and (b) and inserting in lieu thereof the following:

“(a) *Financial interests*— A public official, 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 a public official and for one year following termination of the individual’s status as a public official.

(b) *Employment*—No public official, 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 a public official and for one year following termination of the individual’s status as a public official.

(c) For purposes of this section, ‘public official’ and ‘immediate family’ shall have the same definitions as those phrases are defined in section three, article one, chapter six-b of this code.”

On page fifty-four, section five, by striking out the word “Bureau” and inserting in lieu thereof the word “Department”.

On page fifty-five, section six, subdivision (1), by striking out the words “Bureau of Human Services” and inserting in lieu thereof the words “Department of Health and Human Resources”.

And,

On page fifty-five, section six, subdivision (2), by striking out the words “Bureau of Human Services” and inserting in lieu thereof the words “Department of Health and Human Resources”.

And,

By amending the title of the bill to read as follows:

Com. Sub. for S. B. No. 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 to medical cannabis generally; authorizing under limited conditions the use, possession, growing, processing and dispensing of cannabis for serious medical conditions; creating the West Virginia Medical Cannabis Act; defining terms; establishing medical cannabis program; placing the medical cannabis program within the Department of Health and Human Resources and under the direction of the Bureau of Public Health; listing duties of the bureau of public health in the implementation and administration of the medical cannabis program; establishing lawful use and forms of medical cannabis; ensuring patient confidentiality; designating certain records as public records; authorizing reciprocity agreements to allow terminally ill cancer patients to obtain medical

cannabis in other states; requiring registration of physicians who may issue certificates to patients allowing them to obtain medical cannabis; establishing requirements for certified physicians; placing limits on physician practices related to medical cannabis; authorizing issuance of certificates to medical cannabis patients and establishing conditions required for issuance of certificates; establishing limits on duration of certification and on amounts of medical cannabis which may be dispensed to a patient; authorizing issuance of identification cards to patients and caregivers and setting forth content of identification cards; establishing fees for patients, caregivers, physicians, growers, processors and dispensers; authorizing patients to have caregivers and establishing requirements for caregivers; requiring the bureau of public health to verify information supplied by patients and caregivers; authorizing minors to obtain medical cannabis through caregivers and establishing qualifications for minors' caregivers; prohibiting certain actions and behaviors by patients while they are using medical cannabis; authorizing and defining medical cannabis organizations; establishing permitting processes for growers, processors and dispensers of medical cannabis; requiring criminal background checks for caregivers, growers, processors and dispensers of medical cannabis; establishing terms for permits; authorizing renewal of permits and establishing requirements for renewal; authorizing the bureau to suspend or revoke permits of medical cannabis growers, processors, and dispensers for violations; establishing limits on who may hold permits; establishing limits on who may hold positions or employment with growers, processors and dispensers; setting limits on number of permits that may be issued; requiring medical cannabis inventory tracking systems; requiring reporting by medical cannabis organizations; requiring rules for storage and transportation of medical cannabis; requiring medical cannabis organizations to contract with laboratories for testing of medical cannabis; requiring the bureau and the Department of Revenue to monitor the prices of medical cannabis; authorizing counties to prohibit medical cannabis organizations from being located within their county; establishing requirements for dispensaries; providing for imposition and collection of a tax; establishing the medical cannabis program fund; allocating monies placed in the fund;

establishing the Office of Medical Cannabis within Bureau of Public Health; requiring reporting by medical cannabis organizations; authorizing the bureau to notify law enforcement of violations of the act; authorizing rule-making; establishing the medical cannabis advisory board; establishing requirements for advisory board membership; establishing terms for advisory board members; establishing duties of the advisory board; establishing criminal offenses related to medical cannabis and setting penalties therefor; establishing confidentiality requirements for advisory board members and employees; authorizing civil penalties and setting amounts thereof for violations of the medical cannabis act; authorizing research in medical cannabis by the bureau; authorizing medical cannabis advisory board to issue recommendations as to forms of cannabis use and other issues; authorizing the bureau to implement recommendations of the advisory board; requiring publication of bureau actions and decisions in the State Register; authorizing academic research regarding medical cannabis and its uses; establishing requirements to be an academic research institution; exempting medical cannabis manufacture, distribution, possession and processing in compliance with the act from the provisions of the Uniform Controlled Substances Act; limiting persons who may hold an interest in medical cannabis organizations or employment thereby; clarifying that insurance companies are not required to provide medical cannabis coverage; limiting the arrest, prosecution, imposition of penalty, denial of any right or privilege for lawful use, manufacture, sale or dispensing of medical cannabis; requiring the Department of Education to promulgate rules regarding possession and use of medical cannabis in schools; requiring the bureau to promulgate rules regarding possession and use of medical cannabis in day-care centers; authorizing zoning restrictions on medical cannabis organizations; requiring notice to the bureau of zoning restrictions; requiring publication in the state register of permits and authorizations issued; requiring issuance of permits and authorizations only after publication of same in the state register; and establishing effective dates.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 464**), and there were—yeas 74, nays 24,

absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: 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, Sypolt and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Folk and Lane.

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.

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

S. B. 493, Providing increase in compensation for conservation officers.

Com. Sub. for H. B. 2948, Establishing timelines for taking final action on certain permits, still being in possession of the Clerk, was taken up for further consideration.

On motion of Delegate Shott, the title of the bill was amended to read 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 the issuance of permits; establishing timelines for taking final action on certain permits; modifying procedures for the issuance of permits by the Public Service Commission for activities related to the commercial transportation of coal; modifying procedures for the issuance of permits by the Division of Forestry for activities related to growing or dealing ginseng; modifying procedures for the issuance of permits by the Commissioner of Agriculture to operate a public market; modifying procedures for the issuance of permits by the Commissioner of Agriculture to feed garbage to swine; modifying procedures for the issuance of permits by the Commissioner of Agriculture for activities related to noxious weeds; modifying procedures for the issuance of permits by the Commissioner of Agriculture for activities related to the manufacture or distribution of fertilizer; modifying procedures for the issuance of permits by the Dangerous Wild Animals Board; modifying procedures for the issuance of uniform farmers market vendor permits by local health departments; modifying procedures for the issuance of burning permits by the Director of the Division of Forestry; modifying procedures for the issuance of permits by the Director of the Division of Natural Resources for the excavation or removal of archaeological, paleontological, prehistoric and historic features; modifying procedures for the issuance of permits by the Division of Labor to operate an amusement ride or attraction, a commercial bungee jumping site, or a zipline or canopy tour; modifying procedures for the issuance of permits by the Public Service Commission to operate as a contract carrier by motor vehicle; modifying procedures for the issuance of permits by the State Fire Marshal; modifying procedures for the issuance of permits by a nonprofit youth organization; and modifying permit fees and procedures for the issuance of permits by the Commissioner of the Division of Labor for activities related to the regulation and control of bedding and upholstery businesses.”

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

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. 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,

Com. Sub. for H. C. R. 75, Increasing the speed limit on highways to 75 miles per hour,

H. C. R. 111, Study of the Office of Technology and the Information Services and Communications Division,

H. C. R. 112, Study of occupational licensing requirements,

H. C. R. 113, Study of the Alcohol Beverage Control Administration,

H. C. R. 114, Study of the West Virginia Division of Labor,

H. C. R. 115, Study of the Board of Examiners for Registered Professional Nurses and the Board of Examiners for Licensed Practical Nurses,

H. C. R. 116, Study of the Real Estate Division within the Department of Administration,

H. C. R. 117, Study of the Fleet Management Office and Travel Management Office,

H. C. R. 121, Feasibility study for transfer of the Division of Forestry to the Department of Agriculture,

H. C. R. 122, Interim study for increase of funding for West Virginia's Medicaid program,

H. C. R. 127, Interim study relating to public schools,

And,

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 they each be adopted.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Folk.

Miscellaneous Business

Delegate Eldridge asked and obtained unanimous consent that the remarks of Delegate Walters on today regarding the anniversary of World War I be printed in the Appendix to the Journal and the remarks of Delegates Love, Phillips, Cooper and Martin regarding S. B. 621 on yesterday, be printed in the Appendix of the Journal.

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Lynch regarding his amendment to S. B. 621 be printed in the Appendix to the Journal.

Delegate Butler asked and obtained unanimous consent that the remarks of Delegate Frich, regarding the amendment offered to Com. Sub. for S. B. 437 prior to Roll No. 249 on March 28, 2017 be printed in the Appendix to the Journal.

Delegate Williams asked and obtained unanimous consent that the debate on the amendment offered to Com. Sub. for S. B. 412 by Delegate G. Foster be printed in the Appendix to the Journal.

Delegate Wilson announced that he was absent on today when the vote was taken on Roll No. 420, and that had he been present, he would have voted “Yea” thereon.

Delegate Zatezalo noted to the Clerk that he was absent on today when the vote was taken on S. B. 235 and had he been present, he would have voted “Yea” thereon.

Delegate Rodighiero noted to the Clerk that he was absent on today when the votes were taken on S. B. 240, S. B. 345 and S. B. 441, and had he been present, he would have voted “Yea” thereon.

At 6:55 p.m., the House of Delegates adjourned until 9:00 a.m., Friday, April 7, 2017.

Friday, April 7, 2017

FIFTY-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.

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Sponaugle regarding former Speaker of the House Clyde See be printed in the Journal.

Delegate Sponaugle. Yesterday, one of my very good friends and mentors died with cancer, and he is an icon of Hardy County, West Virginia. Clyde See, former Speaker of this House and he was one of the youngest speakers ever elected to this body, and just an original icon of this state, and I'll just be real brief, Speaker. He had a sense of humor like no other. People would normally ask him, "Why did you get out of politics so young?" and he said, "I got ill." And they'd ask him, "What, what do you mean?" and he said, "Well, the voters got sick of me." So, he coined the phrase, "Fat possums travel late at night." That's his phrase. He...the reason this body even have offices on the east wing, he kicked the Supreme Court out of it...used to be here at these seats. So, he is a titan of this body and in the State of West Virginia and I'd ask that we have a moment of silence for him.

The Clerk proceeded to read the Journal of Thursday, April 6, 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 S. B. 25, Com. Sub. for S. B. 219, Com. Sub. for S. B. 412 and Com. Sub. for S. B. 687, on Third Reading, Special Calendar, to the House Calendar; Com. Sub. for S. B. 76 to the foot of the Calendar; and Com. Sub. for S. B. 239, on Third Reading, House Calendar to the foot of the Special Calendar.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on April 6, 2017, he approved **Com. Sub. for S. B. 127** and **Com. Sub. for S. B. 306**.

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. 2579, Increasing the penalties for transporting controlled substances.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following Senate amendments and requested the Senate to recede therefrom:

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

“ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-409. Prohibited acts – Transportation of controlled substances into state; penalties.

(a) Except as otherwise authorized by the provisions of this code, it ~~shall be~~ is unlawful for any person to transport or cause to be transported into this state a controlled substance with the intent

to deliver the same or with the intent to manufacture a controlled substance.

(b) Any person who violates this section with respect to:

(1) A controlled substance classified in Schedule I or II, which is a narcotic drug, shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than ~~one year~~ a determinate term of not less than one nor more than fifteen years, or fined not more than \$25,000, or both;

(2) Any other controlled substance classified in Schedule I, II or III shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for a determinate term of not less than one year nor more than five ten years, or fined not more than \$15,000, or both: *Provided*, That for the substance marihuana, as scheduled in subdivision (24) subsection (d), section two hundred four, article two of this chapter, the penalty, upon conviction of a violation of this subsection, shall be that set forth in subdivision (3) of this subsection.

(3) A substance classified in Schedule IV shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for a determinate term of not less than one year nor more than three five years, or fined not more than \$10,000, or both;

(4) A substance classified in Schedule V shall be guilty of a misdemeanor and, upon conviction, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in article ten of this chapter, the penalties established in said article apply.

(c) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one kilogram or more of heroin, five kilograms or more of cocaine or cocaine base, one hundred grams or more of phencyclidine, ten grams or more of lysergic acid diethylamide, or fifty grams or more of methamphetamine or five

hundred grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than thirty years.

(d) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one hundred but fewer than 1000 grams of heroin, not less than five hundred but fewer than 5,000 grams of cocaine or cocaine base, not less than ten but fewer than ninety-nine grams of phencyclidine, not less than one but fewer than ten grams of lysergic acid diethylamide, or not less than five but fewer than fifty grams of methamphetamine or not less than fifty grams but fewer than five hundred grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than twenty years.

(e) Notwithstanding the provisions of subsection (b) of this section, any person violating or attempting to violate the provisions of subsection (a) of this section involving not less than ten grams nor more than one hundred grams of heroin, not less than fifty grams nor more than five hundred grams of cocaine or cocaine base, not less than two grams nor more than ten grams of phencyclidine, not less than two hundred micrograms nor more than one gram of lysergic acid diethylamide, or not less than four hundred ninety nine milligrams nor more than five grams of methamphetamine or not less than twenty grams nor more than fifty grams of a substance or material containing a measurable amount of methamphetamine is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than fifteen years.

(e)(f) The offense established by this section shall be in addition to and a separate and distinct offense from any other offense set forth in this code.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2579 – “A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to the offense of transporting illegal substances into the state generally; increasing penalties for illegal transportation of controlled substances into the state; clarifying that causing illegal transportation of controlled substances into the state is prohibited; treating marihuana as a Schedule IV controlled substance for penalty purposes; and creating enhanced criminal penalties for transporting certain controlled substances into the state based on quantity.”

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

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. 2585, Creating felony crime of conducting financial transactions involving proceeds of criminal activity.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following Senate amendments and requested the Senate to recede therefrom:

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 §61-15-1, §61-15-2, §61-15-3 and §61-15-4, all to read as follows:

ARTICLE 15. MONEY LAUNDERING.

§61-15-1. Definitions.

As used in this article, unless the context clearly indicates otherwise:

(1) ‘Conducts’ includes, but is not limited to, initiating, concluding, participating in, or assisting in a transaction.

(2) ‘Criminal activity’ means a violation of:

(A) The felony provisions of section eleven, article forty-one, chapter thirty-three of this code;

(B) Felony violations of chapter sixty-a of this code;

(C) Felony violations of article two of this chapter;

(D) The provisions of sections one, two, three, four, five, eleven, twelve, subsection (a), section thirteen, fourteen, eighteen, nineteen, twenty, twenty-a, twenty-two, twenty-four, twenty-four-a, twenty-four-b and twenty-four-d, article three of this chapter;

(E) Felony provisions of article three-c, three-e and four of this chapter;

(F) The provisions of section eight, article eight of this chapter; and

(G) The felony provisions of articles eight-a, eight-c and fourteen of this chapter.

(3) ‘Cryptocurrency’ means digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, and which operate independently of a central bank.

(4) ‘Financial institution’ means a financial institution as defined in 31 U. S. C. §5312 which institution is located in this state.

(5) ‘Financial transaction’ means a transaction which effects intrastate, interstate or foreign commerce, and:

(A) Involves the movement of funds by wire or other means;

(B) Involves the use of a monetary instrument;

(C) Involves the transfer of title to real or personal property; or

(D) Involves the use of a financial institution which is engaged in, or the activities of which effect intrastate, interstate or foreign commerce.

(6) ‘Gift card’ means a card, voucher or certificate which contains or represents a specific amount of money issued by a retailer or financial institution to be used as an alternative to cash purposes.

(7) ‘Knowing’ means actual knowledge. For purposes of this article, a person may be considered to have actual knowledge if the belief is based upon representations of a law-enforcement officer engaged in his or her official duties while acting in an undercover capacity or a person acting at the direction of a law-enforcement officer engaged in his or her official duties.

(8) ‘Monetary instruments’ means coin or currency of the United States or of any other country, travelers’ checks, personal checks, bank checks, gift cards, prepaid credit cards, money orders, cryptocurrency, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.

(9) ‘Proceeds’ means property or monetary instrument acquired or derived, directly or indirectly, from, produced through, realized through, or caused by an act or omission and includes property, real or personal, of any kind.

(10) ‘Property’ means anything of value, and includes any interest therein, including any benefit, privilege, claim or right with respect to anything of value, whether real or personal, and monetary instruments.

(11) ‘Transaction’ means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition. With respect to a financial institution, ‘transaction’ includes a deposit, withdrawal, transfer

between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safety deposit box, or any other payment, transfer, or delivery by, through or to a financial institution, by whatever means effected.

§61-15-2. Laundering through financial transactions.

(a) It is unlawful for any person to conduct or attempt to conduct a financial transaction involving the proceeds of criminal activity knowing that the property involved in the financial transaction represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity:

(1) With the intent to promote the carrying on of the criminal activity; or

(2) Knowing that the transaction is designed in whole or part:

(i) To conceal or disguise the nature, location, source, ownership, or control of the proceeds of the criminal activity; or

(ii) To avoid any transaction reporting requirement imposed by law.

(b) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction is less than \$1,000 is guilty of a misdemeanor and, upon conviction, shall be confined in jail for not more than one year or fined not more than \$1,000, or both confined and fined.

(c) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction is not less than \$1,000 nor more than \$20,000 is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than one nor more than five years, or fined not less than \$1,000 nor more than \$10,000, or both imprisoned and fined.

(d) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction in excess of

\$20,000 is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than two nor more than ten years, or fined not less than \$5,000 nor more than \$25,000, or both imprisoned and fined.

§61-15-3. Forfeiture; disgorgement.

(a) Any property or monetary instruments involved in a violation of this article, and any property or monetary instruments traceable to the violation, may be seized and forfeited consistent with the procedures in the West Virginia Contraband Forfeiture Act, as provided in article seven, chapter sixty-a of this code: *Provided, That in any forfeiture proceeding pursuant to this section, the burden of proof shall be by clear and convincing evidence.*

(b) Notwithstanding subsection (a) of this section, the court, as part of sentencing for a violation under this article, may direct the disgorgement to a victim of any property or monetary instruments involved in the violation and any property or monetary instruments traceable to the violation.

§61-15-4. Distinguishing transactions for prosecution purposes.

(a) Notwithstanding any other provision to the contrary, each transaction committed in violation of this article constitutes a separate offense.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2585 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-15-1, §61-15-2, §61-15-3 and §61-15-4, all relating to laundering of proceeds from specified criminal activities generally; defining terms; creating misdemeanor and felony offenses of conducting financial transactions involving proceeds of criminal activity; distinguishing between offenses based on monetary value of transaction; providing for penalties; providing

for seizure and forfeiture of property or monetary instruments; establishing the burden of proof in a forfeiture proceeding; authorizing sentencing court to order disgorgement at disposition; and clarifying conduct that constitutes separate offenses.”

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

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. 2589, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county’s vocational school.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following Senate amendments and requested the Senate to recede therefrom:

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 §18-5-15g; and that said code be amended 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:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-15g. Vocational education classes for homeschooled and private schooled students.

County boards shall permit students who are homeschooled or attend private schools to enroll and take classes at the county’s vocational schools, if the county offers vocational classes either itself or through a joint vocational program or service with another county or counties. These students may not be charged more than public school students of compulsory school age.

**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

(5) 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.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2589 – “A Bill to amend and Code of West Virginia, 1931, as 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 relating to vocational education; requiring county boards to permit students who are homeschooled or attend private schools to enroll and take classes at the county’s vocational schools; creating the Middle School Technical Education Program Act; setting forth findings and purpose; requiring participating middle schools to use existing resources to implement the pilot program; providing for instructor qualifications; allowing principals or vice-principals, on a voluntary basis, to participate as a guest instructor or speaker; requiring pilot program to be a one semester elective course except middle schools with alternative scheduling systems can adapt the program to meeting scheduling needs; requiring certain entities within fifty miles that receive state funding to provide speakers upon request; requiring guest speakers to be scheduled weekly to introduce students to a particular career and to prepare students to pursue the featured career by providing information on certain

specified topics; allowing organization of field trips to introduce students to potential career paths; requiring course to include instruction on certain minimum skill sets required to discover and take advantage of employment opportunities; requiring course to include instruction on certain minimum skill sets required to discover and take advantage of educational opportunities; requiring as condition of successful course completion, students to outline his or her plan to become employable following high school or post-secondary school; requiring State Board of Education to establish guidelines for middle schools to submit a request for the schools admission; allowing state board to admit middle schools into the program; requiring admission on first come, first serve basis; declaring goal that a minimum of ten middle schools participate each year; allowing state board to solicit additional middle schools to participate under certain condition; prohibiting the state board from requiring participation; requiring students to receive a West Virginia STEP Certificate upon successful completion; and requiring annual report to the legislative oversight commission on education accountability.”

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

Resolutions Introduced

Delegates Ellington, Arvon, Atkinson, Baldwin, Bates, Criss, Dean, Fleischauer, Fluharty, Hill, Hollen, Love, Pushkin, Queen, Robinson, Rohrbach, Rowan, Sobonya, Summers and White offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 129 – “Requesting the Joint Committee on Government and Finance study the progress of the West Virginia Office on Drug Policy.”

Whereas, Low education levels, high rates of unemployment and job-related injuries are closely linked to abuse of alcohol, illicit drugs and prescription medications and West Virginia meets that criteria; and

Whereas, West Virginia continues to be among the states that lead the country in drug overdoses, and overdose deaths per capita; and

Whereas, In West Virginia, 28.9 per every 100,000 people suffer prescription drug overdose fatalities; and

Whereas, During the 2017 legislative session the State Legislature created the Office on Drug Policy; and

Whereas, The Office on Drug Policy has been charged with devising a plan to reduce the prevalence of drug and alcohol abuse by at least ten percent; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Health and Human Resources is hereby requested to study and assess the progress of the Office on Drug Policy; 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 need to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare a report and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Ellington, Arvon, Atkinson, Criss, Dean, Hill, Hollen, Householder, Longstreth, Queen, Rodighiero, Rowan and Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 130 – “Requesting the Joint Committee on Government and Finance study the feasibility of selling West Virginia’s state owned mental health facilities.”

Whereas, West Virginia owns two mental health facilities - William R. Sharpe Hospital and Mildred Mitchell-Bateman Hospital; and

Whereas, In 1982, the West Virginia Supreme Court found that it was contrary to West Virginia Mental Health Law for the Department of Health and Human Resources to “warehouse” individuals in state mental institutions; and

Whereas, After several years of improvements, court monitoring and aggressive oversight the DHHR continues to lag in court orders regarding understaffing and patient care; and

Whereas, The State of West Virginia continues to dedicate large amounts of its budget attempting to comply with ongoing orders and legal fees; and

Whereas, It is the Legislature’s intent to review the current status of state mental hospitals and determine all available options in order to maintain a financially sound yet responsible approach in meeting patient needs; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study and assist in the conclusion of the “Hartley Case” as it affects the state’s two psychiatric hospitals; 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, prepare a report and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Ellington, Arvon, Atkinson, Bates, Criss, Dean, Fleischauer, Hill, Hollen, Householder, Iaquina, Longstreth, Queen, Rodighiero, Rohrbach, Sobonya, Summers and White offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 131 – “Requesting the Joint Committee on Government and Finance study the possibilities of introducing legislation aimed at reforming preauthorization procedures.”

Whereas, Physicians and their staff must spend an ample amount of time each day completing prior authorization requests instead of seeing patients; and

Whereas, Some physicians have even reported that they have had to hire staff for the sole purpose of completing prior authorization requests; and

Whereas, A weekly per-physician average of 37 prior-authorization requirements consume an average of 16 hours of practice time, according to a December 2016 survey of 1,000 practicing physicians; and

Whereas, Other states, including ones bordering West Virginia, have begun to enact laws that require insurance companies to respond to prior authorization requests in a timely manner; and

Whereas, At least sixteen other states have implemented a common electronic prior authorization form in an effort to create a uniform form that is familiar to all medical professionals and insurance providers, and to expedite the present lengthy process of receiving a response from insurance companies; and

Whereas, Loosening prior authorization protocols will enable sufferers of opioid addiction to obtain medication to treat their problem in a quicker fashion; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the possibilities of introducing legislation aimed at reforming preauthorization procedures; 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.

Delegates Rohrbach, Cowles, Maynard, Walters and Westfall offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 132 – “Requesting the Joint Committee on Government and Finance to study the feasibility of the creation of an ‘Advisory Council on Rare Diseases’.”

Whereas, Rare disease is defined as one in ten Americans or ten percent of the U.S. population are living with a rare disease. Approximately fifty percent of the people affected by a rare disease are children and eighty percent of rare diseases are genetic in origin, and thus present throughout a person’s life; and

Whereas, The advisory councils intent would be to improve the lives of millions of people with one of the seven thousand devastating rare diseases by developing a unique collaborative partnership between patients, providers, scientists, agencies and industry; and

Whereas, The advisory council would advise on coordinating statewide efforts for the study on the incidence of rare diseases within the state and the status of the rare disease community; and

Whereas, The advisory council shall also ensure the citizens of West Virginia by investigating and recommending changes to existing structures or policies within the state that could better serve West Virginians and their families, care givers, medical providers, researchers, therapeutics concerning rare diseases; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the feasibility of creating an advisory council on rare diseases; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on 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, prepare a report and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Howell, Ellington, Arvon and Butler offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 133 – “Requesting the Joint Committee on Government and Finance study tobacco/smoking harm reduction policies as a strategy for reducing smoking-attributable death and disease and the associated health care costs in West Virginia.”

Whereas, For decades, West Virginia has pursued policies intended to encourage residents who smoke to quit and to discourage others who do not smoke from starting. 25.7 percent of the adult population smoke, and their smoking-attributable disease and death cost West Virginia \$277.3 million in Medicaid costs each year; and

Whereas, Numerous public health organizations, such as the Institute of Medicine, the Royal College of Physicians, Public Health England, University of Victoria’s Centre for Addictions Research, and Cancer Research UK, have recognized that there is a continuum of risk among tobacco product types; and

Whereas, The 2014 Surgeon General Report stated, “The burden of death and disease from tobacco use in the United States

is overwhelmingly caused by cigarettes and other combusted tobacco products; rapid elimination of their use will dramatically reduce this burden”; and

Whereas, Because of the smoke and harmful constituents associated with smoke, the risks associated with cigarette use are substantially greater than those associated with the use of smokeless tobacco products and vapor products; and

Whereas, While abstaining from all tobacco is the most effective way for smokers to reduce their risk of disease and premature death, as no tobacco product has been shown to be safe, over ninety percent of smokers who attempt to quit fail; and

Whereas, For those who cannot abstain from smoking, they can substantially reduce their risk of disease and premature death by switching from cigarettes to a less harmful source of nicotine, such as smokeless tobacco products, vapor products, and nicotine replacement therapies (NRTs); and

Whereas, Eighty percent of smokers believe nicotine causes cancer, and seventy-four percent of smokers do not believe smokeless tobacco products are less harmful than cigarettes; and

Whereas, Misconceptions about the harmfulness of nicotine prevents the use of NRTs. and in the two-thirds of people who believe NRT is harmful only thirty percent of them had used NRT in the past; and

Whereas, Sixty percent of youth who use smokeless tobacco also smoke cigarettes, and there is evidence that indicates anti-smokeless campaigns push dual users to sole cigarette use; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Joint Committee on Government and Finance to study tobacco/smoking harm reduction policies as a strategy for reducing smoking-attributable death and disease and the associated health care costs in West Virginia; 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 any recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare a report and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Ellington and Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 134 – “Requesting the Joint Committee on Government and Finance to conduct a study on the feasibility of dividing the Department of Health and Human Resources into more than one distinct agency, and restructuring Medicaid.”

Whereas, When Governor Gaston Caperton became Governor in 1989, he persuaded the Legislature to adopt a sweeping executive branch reform initiative that expanded the Governor’s control over agencies, with the intent of making agencies more streamlined and efficient; and

Whereas, One of the positions created was the position of Cabinet Secretary of the Department of Health and Human Resources; and

Whereas, Since then, the Department of Health and Human Resources has grown tremendously with an increased staff of over 6,000 employees responsible for well over 25 expansive and critical programs which serve the entire state; and

Whereas, The Department of Health and Human Resource budget has grown to well over \$3.5 billion and has easily become the most comprehensive agency in state government; and

Whereas, With this immense growth and responsibility, the Department has developed system-wide problems which need rapid corrections; and

Whereas, Although the Secretary of the Department of Health and Human Resources has proven himself or herself to be quite capable, with the responsibility for all of the employees and programs offered by the agency, he or she cannot realistically focus on any one program in a profound way; and

Whereas, As a direct result of lack of resources and adequate focus, the Department of Health and Human Resources has been taken to court regularly by community groups and clients for its inability to meet the huge expectations of the agency; and

Whereas, The State of West Virginia can no longer ignore the problems and continuing questions about DHHR's effectivity any longer; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the feasibility of dividing the Department of Health and Human Resources into more than one entity and to determine the benefits and risks from both a financial perspective and a programmatic perspective of such a division; 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 Ellington, Arvon, Atkinson, Bates, Criss, Dean, Fleischauer, Hill, Hollen, Householder, Love, Queen, Rodighiero,

Rohrbach and Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 135 – “Requesting the Joint Committee on Government and Finance study the structure and duties of the West Virginia Medical Examiner’s Office.”

Whereas, Currently there is one autopsy center in West Virginia to handle an increasing number of forensic autopsies a year – with one currently unstaffed branch located in Morgantown; and

Whereas, The primary function of the Office of the Chief Medical Examiner is to perform death investigations, establish cause and manner of death, formulate conclusions, opinions or testimony in judicial proceedings, and to be available for consultations as necessary; and

Whereas, In 2015, the West Virginia Medical Examiner’s office completed 1,236 autopsies; and

Whereas, There continues to be a shortage of pathologists in the State to provide adequate services for timely autopsies; and

Whereas, Autopsy cases require time-consuming transports from throughout WV to Charleston to be handled; and

Whereas, An autopsy can take anywhere from forty-five minutes to two days - once the autopsy is completed, more time is needed to write the report. There are further delays in any case in which the medical examiner has to consult with another agency or professional, such as toxicologists, the fire marshal, the Drug Enforcement Administration or the FBI; and

Whereas, Grand jury trial delays occur due to delay in autopsy reports; and

Whereas, The National Association of Medical Examiners recommends that each doctor perform no more than 250 autopsies per year; and

Whereas, A 2009 study by the National Academy of Sciences found that there were fewer than 500 licensed forensic pathologists in the country; 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 and duties of the West Virginia Medical Examiner's Office; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on 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, prepare a report and draft necessary legislation to be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegate Rowan offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 136 – “Requesting the Joint Committee on Government and Finance to study the issues, needs and challenges facing senior citizens in this state and to study the feasibility of developing and providing additional effective tools, resources and best practices to address the health, safety, welfare and other concerns of our senior citizens.”

Whereas, West Virginia has the second largest percentage of senior population in the nation; over sixteen percent of West Virginians are senior citizens sixty-five years of age or older and it has been projected that by 2035, the senior citizen population will constitute almost one fourth of the state's total population; and

Whereas, It is well known that many of our seniors lack adequate resources and have limited financial ability to meet their needs for increased services for the necessities of life, such as personal care, health care, housing, utilities, nutrition, transportation and mobility needs and ultimately, long term care

which they need and have the decreasing ability to provide for themselves as they mature; and

Whereas, Findings from recent studies reveal several negative trends of seniors in this state: Approximately forty-five percent of West Virginia seniors have a disability, compared to thirty-seven percent nationally; one in three elder state residents is in fair to poor health; for approximately one in three seniors, Social Security is the sole source of income; and relatively few of those seniors eligible take advantage of other supports like the SNAP program or utility assistances; and

Whereas, The increasing demand for current public, as well as private senior services in West Virginia already has become an increasing topic of concern by public as well as private agencies and service providers serving seniors in the state as well as various private senior advocacy groups; and

Whereas, There is an increase of children being raised in this state by senior grandparents who assume the responsibility to care for these children because of unstable parents; these seniors in many instances face difficulties or are denied the ability to attend to the child's educational needs and may be denied other public benefits available for the child as a result of not having proper legal guardianship or custody, thereby resulting in increased physical, emotional and financial strain on these senior grandparents; and

Whereas, These senior demographic trends are going to have increasing consequences for senior citizens and their families as well as on the many state and local programs that provide senior services; and

Whereas, The Legislature finds that these emerging complex issues facing seniors today and in the immediate future in this state need to be addressed by a comprehensive study and examination; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the issues, needs and challenges facing senior citizens in this state and to study the feasibility of developing and

providing additional effective tools, resources and best practices to address the health, safety, welfare and other concerns of our senior citizens; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of 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.

Petitions

Delegates Fleischauer and Pyles presented a petition signed by constituents to request presidential candidates on the West Virginia ballot to release ten years of tax returns and that the information be made public; which was referred to the Committee on the Judiciary.

Special Calendar

Unfinished Business

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; coming up in regular order, as unfinished business, was reported 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. 465**), 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 resolution (H. R. 13) adopted.

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

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,

Com. Sub. for H. C. R. 75, Increasing the speed limit on highways to 75 miles per hour,

H. C. R. 111, Study of the Office of Technology and the Information Services and Communications Division,

H. C. R. 112, Study of occupational licensing requirements,

H. C. R. 113, Study of the Alcohol Beverage Control Administration,

H. C. R. 114, Study of the West Virginia Division of Labor,

H. C. R. 115, Study of the Board of Examiners for Registered Professional Nurses and the Board of Examiners for Licensed Practical Nurses,

H. C. R. 116, Study of the Real Estate Division within the Department of Administration,

H. C. R. 117, Study of the Fleet Management Office and Travel Management Office,

H. C. R. 121, Feasibility study for transfer of the Division of Forestry to the Department of Agriculture,

H. C. R. 122, Interim study for increase of funding for West Virginia's Medicaid program,

And,

H. C. R. 127, Interim study relating to public schools.

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

Action on Senate Messages

Com. Sub. for H. B. 2839, Updating the procedures for legislative review of departments and licensing boards; 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 10. PERFORMANCE REVIEW ACT.

§4-10-3. Definitions.

As used in this article, unless the context clearly indicates a different meaning:

(a) ‘Agency’ or ‘state agency’ means a state governmental entity, including any bureau, department, division, commission, agency, committee, office, board, authority, subdivision, program, council, advisory body, cabinet, panel, system, task force, fund, compact, institution, survey, position, coalition or other entity in the State of West Virginia.

(b) ‘Agency review’ means a review performed on agencies of a department pursuant to the provisions of this article.

(c) ‘Committee’ means the Joint Committee on Government Operations.

(d) ‘Compliance review’ means a review for compliance with recommendations contained in a previous agency review or regulatory board review conducted pursuant to the provisions of this article and may include further inquiry of other issues as directed by the President, the Speaker, the Legislative Auditor, the committee or the joint standing committee.

(e) 'Department' means the departments created within the executive branch, headed by a secretary appointed by the Governor, as authorized by the Code of West Virginia.

(f) 'Department presentation' means a presentation by a department pursuant to the provisions of this article.

(g) 'Division' means the Performance Evaluation and Research Division, the Post Audit Division, of the Legislative Auditor or any division of the Legislative Auditor's Office.

(h) 'Joint standing committee' means the Joint Standing Committee on Government Organization.

(i) 'Privatize' means a contract to procure the services of a private vendor to provide a service that is similar to, and/or in lieu of, a service provided by a state agency.

(j) 'Regulatory Board' means a board that regulates professions and occupations, created under the provisions of chapter thirty of this code.

(k) 'Regulatory Board Review' means a review performed on a regulatory board pursuant to the provisions of this article.

§4-10-6. Department presentation and schedule; timing and scope.

~~(a) During the 2007 legislative interim period, each department shall make a presentation pursuant to the provisions of this section to the joint standing committee and the committee.~~

~~(b) The department shall provide to the joint standing committee and the committee a written copy of the presentation.~~

(a) During the calendar year in which a department is scheduled for an agency review pursuant to section eight of this article, and upon notification from the joint standing committee or the division, the department shall prepare and present a department presentation to the joint standing committee and the committee. The purpose of the presentation is to inform the Legislature as to the programs, activities and financial situation of the department and to update

and amend any information previously presented to the joint standing committee or committee pursuant to this section. The presentation shall include:

(1) A departmental chart designating each agency under the purview of the department;

(2) An analysis of the department's internal performance measures and self-assessment systems; and

(3) For each agency under the purview of the department, the following:

(A) The mission, goals and functions of the agency;

(B) The statutory or other legal authority under which the agency operates;

(C) The number of employees of the agency for the immediate past ten years;

(D) The budget for the agency for the immediate past ten years;

(E) Any potential or actual loss of revenue due to operations, changes in law or any other reason;

(F) The extent to which the agency has operated in the public interest;

(G) The extent to which the agency has complied with state personnel practices, including affirmative action requirements;

(H) The extent to which the agency has encouraged public participation in the making of its rules and decisions and has encouraged interested persons to report to it on the impact of its rules and decisions on the effectiveness, economy and availability of services that it has provided;

(I) The efficiency with which public inquiries or complaints regarding the activities of the agency have been processed and resolved;

(J) The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency to better serve the interests of the public and to comply with the factors enumerated in this subsection; and

(K) A recommendation as to whether the agency should be continued, consolidated or terminated.

~~(c) The schedule for the presentations by the departments shall be as follows:~~

~~(1) May, 2007, Department of Administration;~~

~~(2) June, 2007, Department of Education and the Arts;~~

~~(3) July, 2007, Department of Education, including the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education;~~

~~(4) August, 2007, Department of Revenue;~~

~~(5) September, 2007, Department of Environmental Protection;~~

~~(6) October, 2007, Department of Health and Human Resources, including the Bureau of Senior Services;~~

~~(7) November, 2007, Department of Commerce;~~

~~(8) December, 2007, Department of Military Affairs and Public Safety; and~~

~~(9) January, 2008, Department of Transportation.~~

§4-10-7. Agency review.

(a) The committee and the Joint Standing Committee shall conduct agency reviews, or authorize the division to conduct agency reviews as one of its duties in addition to its other duties prescribed by law, in accordance with generally accepted government auditing standards (GAGAS) as promulgated by the U.S. Government Accountability Office, on one or more of the agencies under the purview of a department, during the year in

which the department is scheduled for review under the provisions of this article.

(b) The agency review may include, but is not limited to:

(1) An identification and description of the agency under review;

(2) The number of employees of the agency for the immediate past ten years;

(3) The budget for the agency for the immediate past ten years;

(4) Whether the agency is effectively and efficiently carrying out its statutory duties or legal authority;

(5) Whether the activities of the agency duplicate or overlap with those of other agencies and, if so, how these activities could be consolidated;

(6) A cost-benefit analysis, as described in subsection (e) of this section, on state services that are privatized or contemplated to be privatized;

~~(7) An analysis of the extent to which agency websites are accurate, updated and user friendly;~~

~~(8)~~ (7) An assessment of the utilization of information technology systems within the agency, including interagency and intra-agency communications;

~~(9)~~ (8) An analysis of any issues raised by the presentation made by the department pursuant to the provisions of this article;

~~(10)~~ (9) An analysis of any other issues as the committee or the Joint Standing Committee may direct; and

~~(11)~~ (10) A recommendation as to whether the agency under review should be continued, consolidated or terminated.

(c) The committee or the Joint Standing Committee may vote on the recommendation as to whether the agency under review

should be continued, consolidated or terminated. Recommendations of the committee or the Joint Standing Committee shall be given considerable weight in determining if an agency should be continued, consolidated or terminated.

(d) An agency may be subject to a compliance review pursuant to the provisions of this article.

(e) A cost-benefit analysis authorized by this section may include:

(1) The tangible benefits of privatizing the service;

(2) Any legal impediments that may limit or prevent privatization of the service;

(3) The availability of multiple qualified and competitive private vendors; and

(4) A cost comparison, including total fixed and variable, direct and indirect, costs of the current governmental operation and the private vendor contract.

§4-10-8. Schedule of departments for agency review.

(a) Each department shall make a presentation, pursuant to the provisions of this article, to the Joint Standing Committee and the committee during the first interim meeting after the regular session of the year in which the department is to be reviewed pursuant to the schedule set forth in subsection (b) of this section.

(b) An agency review shall be performed on one or more agencies under the purview of each department at least once every seven years, as follows:

~~(1) 2013, the Department of Transportation;~~

~~(2) 2014, the Department of Administration;~~

~~(3) 2015, the Department of Education, including the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education;~~

~~(4) 2016, the Department of Veterans' Assistance and the Department of Education and the Arts;~~

~~(5) 2017, the Department of Revenue and the Department of Commerce;~~

~~(6) 2018, the Department of Environmental Protection and the Department of Military Affairs and Public Safety;~~

~~(7) 2019, the Department of Health and Human Resources, including the Bureau of Senior Services; and~~

~~(8) 2020, the Department of Transportation.~~

(1) 2017: The Department of Revenue and the Department of Commerce;

(2) 2018: The Department of Environmental Protection and the Department of Military Affairs and Public Safety;

(3) 2019: The Department of Health and Human Resources, including the Bureau of Senior Services;

(4) 2020: The Department of Transportation;

(5) 2021: The Department of Administration;

(6) 2022: The Department of Education, the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education; and

(7) 2023: The Department of Veterans' Assistance and the Department of Education and the Arts.

§4-10-10. Regulatory board review schedule.

(a) A regulatory board review is required for all regulatory boards.

(b) A regulatory board review shall be performed on each regulatory board at least once every twelve years, commencing as follows:

~~(1) Two thousand eight: Board of Acupuncture; Board of Barbers and Cosmetologists; and Board of Examiners in Counseling.~~

~~(2) Two thousand nine: Board of Hearing Aid Dealers; Board of Licensed Dietitians; and Nursing Home Administrators Board.~~

~~(3) Two thousand ten: Board of Dental Examiners; Board of Medicine; and Board of Pharmacy.~~

~~(4) Two thousand eleven: Board of Chiropractic Examiners; Board of Osteopathy; and Board of Physical Therapy.~~

~~(5) Two thousand twelve: Board of Occupational Therapy; Board of Examiners for Speech Language Pathology and Audiology; and Medical Imaging and Radiation Therapy Board of Examiners.~~

~~(6) Two thousand thirteen: Board of Professional Surveyors; Board of Registration for Foresters; and Board of Registration for Professional Engineers.~~

~~(7) Two thousand fourteen: Board of Examiners for Licensed Practical Nurses; Board of Examiners for Registered Professional Nurses; and Massage Therapy Licensure Board.~~

~~(8) Two thousand fifteen: Board of Architects; Board of Embalmers and Funeral Directors; and Board of Landscape Architects.~~

~~(9) Two thousand sixteen: Board of Registration for Sanitarians; Real Estate Appraiser Licensure and Certification Board; and Real Estate Commission.~~

~~(10) Two thousand seventeen: Board of Accountancy; Board of Respiratory Care Practitioners; and Board of Social Work Examiners.~~

~~(11) Two thousand eighteen: Board of Examiners of Psychologists; Board of Optometry; and Board of Veterinary Medicine.~~

(1) 2017: Board of Accountancy; Board of Respiratory Care Practitioners; and Board of Social Work Examiners.

(2) 2018: Board of Examiners of Psychologists; Board of Optometry; and Board of Veterinary Medicine.

(3) 2019: Board of Acupuncture; Board of Barbers and Cosmetologists; and Board of Examiners in Counseling.

(4) 2020: Board of Hearing Aid Dealers; Board of Licensed Dietitians; and Nursing Home Administrators Board.

(5) 2021: Board of Dental Examiners; Board of Medicine; and Board of Pharmacy.

(6) 2022: Board of Chiropractic Examiners; Board of Osteopathy; and Board of Physical Therapy.

(7) 2023: Board of Occupational Therapy; Board of Examiners for Speech-Language Pathology and Audiology; and Medical Imaging and Radiation Therapy Board of Examiners.

(8) 2024: Board of Professional Surveyors; Board of Registration for Foresters; and Board of Registration for Professional Engineers.

(9) 2025: Board of Examiners for Licensed Practical Nurses; Board of Examiners for Registered Professional Nurses; and Massage Therapy Licensure Board.

(10) 2026: Board of Architects; Board of Embalmers and Funeral Directors; and Board of Landscape Architects; and

(11) 2027: Board of Registration for Sanitarians; Real Estate Appraiser Licensure and Certification Board; and Real Estate Commission.

§4-10-14. Nullifying agency and regulatory board termination under prior law. Provision for other reviews; consolidation, termination and reorganization of agencies or programs.

~~No agency or regulatory board terminates pursuant to references to this article.~~

(a) The specifications of schedules for, and the scope of, agency and regulatory board reviews in this article shall not preclude a legislative review or reevaluation of any agency or program at other times. The Joint Standing Committee may request a review of the performance, purpose, efficiency and effectiveness of any agency or program any time that circumstances may require, including, but not limited to, the following:

(1) Expressed or implied statutory expiration of an agency or program;

(2) Creation of new, or the amendment of existing, federal law affecting the agency or program;

(3) Redundant purposes or functions in more than one agency or program or within an agency;

(4) Completion or satisfaction of agency or program objectives;

(5) Persistent inefficiencies in the delivery of services or in the accomplishment, or lack thereof, of statutory objectives;

(6) Fiscal constraints requiring changes in staffing, resources or goals; and

(7) Changes in legislative policy or direction.

(b) Following the completion of a review by the division and the Joint Standing Committee, with responses and comment from the subject agency or regulatory board, the Joint Standing Committee may recommend or propose the consolidation, termination or reassignment of the agency, program or regulatory board reviewed.

(c) Nothing in this article shall be construed as limiting or interfering with the right of any member of the Legislature to introduce, or of the Legislature to enact, any bill that would terminate, consolidate or reorganize one or more state agencies or programs without a review conducted under the terms of this article.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2839 – “A Bill to amend and reenact §4-10-3, §4-10-6, §4-10-7, §4-10-8, §4-10-10 and §4-10-14 of the Code of West Virginia, 1931, as amended, all relating to generally the West Virginia Performance Review Act; modifying the definition of the term ‘division’; modifying the timing and scope of department presentations; updating the schedules of department presentations, agency reviews and regulatory board reviews; eliminating the requirement that an agency review include an analysis of agency websites; and authorizing the Joint Standing Committee on Government Organization to request a review of any agency or program and to recommend or propose the consolidation, termination or reassignment of the agencies or programs reviewed.”

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. 466**), 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 elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2839) passed.

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

Special Calendar

Third Reading

Com. Sub. for S. J. R. 6, Roads to Prosperity Amendment of 2017; on third reading, coming up in regular order, was read a third time.

On the adoption of the resolution, the yeas and nays were taken (**Roll No. 467**), and there were—yeas 90, nays 8, absent and not voting 2, with the yeas, nays and absent and not voting being as follows:

Yeas: Ambler, Anderson, Avon, Atkinson, Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Capito, Caputo, Cooper, Cowles, Criss, Dean, Diserio, Eldridge, Ellington, Espinosa, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, G. Foster, N. Foster, Frich, Hamilton, Hamrick, Hanshaw, Harshbarger, Hartman, Hicks, Higginbotham, Hill, Hollen, Hornbuckle, Householder, Howell, Iaquina, Isner, Kelly, Lane, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, Miley, C. Miller, R. Miller, Moore, Moye, Nelson, O'Neal, Overington, Pethtel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, C. Romine, R. Romine, Rowan, Rowe, Shott, Sobonya, Sponaugle, Statler, Storch, Summers, Sypolt, Thompson, Upson, Wagner, Ward, Westfall, Williams, Wilson, Zatezalo and Mr. Speaker (Mr. Armstead).

Nays: Deem, Fast, Folk, Gearheart, Kessinger, Martin, McGeehan and Paynter.

Absent and Not Voting: Walters and White.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the resolution (Com. Sub. for S. J. R. 6) adopted, 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.”

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at a special election to be held at a date set by the Governor in 2017 and proclaimed in accordance with section three, article eleven, chapter three of the Code of West Virginia, which proposed amendment is that article X thereof be amended by adding thereto a new section, designated section twelve, to read as follows:

“ARTICLE X. TAXATION AND FINANCE.

Roads to Prosperity Amendment of 2017.

(a) The Legislature shall have power to authorize the issuing and selling of state bonds not exceeding in the aggregate \$1.6 billion. The proceeds of said bonds are hereby authorized to be issued and sold over a four-year period in the following amounts:

- (1) July 1, 2017, an amount not to exceed \$800 million;
- (2) July 1, 2018, an amount not to exceed \$400 million;
- (3) July 1, 2019, an amount not to exceed \$200 million; and
- (4) July 1, 2020, an amount not to exceed \$200 million.

Any bonds not issued under the provisions of subdivisions (1) through (3), inclusive, of this subsection may be carried forward and issued in any subsequent year before July 1, 2022.

(b) The proceeds of the bonds shall be used and appropriated for the following purposes:

- (1) Matching available federal funds for highway and bridge construction in this state; and
- (2) General highway and secondary road and bridge construction or improvements in each of the fifty-five counties.

(c) When a bond issue as aforesaid is authorized, the Legislature shall at the same time provide for the collection of an annual state tax, as well as certain fees, which shall be in a sufficient amount to pay the interest on such bonds and the principal thereof as such may accrue within and not exceeding twenty-five years, which tax and fees may include, but shall not be limited to: (1) increases to fees charged by the Division of Motor Vehicles; (2) additional fees on motor vehicles fueled, in part or entirely, by alternative fuels or electricity; and (3) increases to the motor fuel excise tax. Such taxes and fees shall be levied in any year only to the extent that the moneys in the state road fund irrevocably set aside and appropriated for and applied to the payment of the interest on and the principal of said bonds becoming due and payable in such year are insufficient therefor. Any interest that accrues on the issued bonds prior to payment shall only be used for the purposes of the bonds.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such proposed amendment is hereby numbered ‘Amendment No. 1’ and designated as the ‘Roads to Prosperity Amendment of 2017’ and the purpose of the proposed amendment is summarized as follows: ‘To provide for the improvement and construction of safe roads in the state by the issuance of bonds not to exceed \$1.6 billion in the aggregate to be paid for from the State Road Fund by the collection of annual state taxes and fees, which may include, but are not limited to: increases in fees charged by the Division of Motor Vehicles, additional fees charged by the Division of Motor Vehicles, and increases to the motor fuel excise taxes as provided by the Legislature by general law’.”

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. 27, Relating to microprocessor 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. 468**), and there were—yeas 95, nays 3, absent

and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fast, Iaquinta and Moye.

Absent and Not Voting: Sponaugle 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. 27) passed.

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

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 a microprocessor; establishing permit requirements; establishing permit limitations; clarifying types of microprocessor kitchens; requiring percentage from garden or farm; requiring recordkeeping; requiring labeling; setting forth labeling requirements; clarifying foods requiring permit; exempting certain foods; setting forth permit inspections; establishing fees; allowing suspension of products; permitting recalls; setting forth production prohibitions and limiting sales.”

Com. Sub. for S. B. 40, Requiring inclusion of protocols for response to after-school emergencies in school crisis response plans; 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. 469**), 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: Sponaugle 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. 40) passed.

An amendment to the title of the bill, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the title to read as follows:

Com. Sub. for S. B. 40 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25b, relating to emergency action plans for athletics; providing that the West Virginia Secondary Athletics Commission promulgate rules to establish guidelines for emergency action plans by August 1, 2017; establishing parameters for said rules; requiring all member schools to submit emergency action plans to the commission and their county boards of education by December 31, 2017; providing that a copy of the plan be provided to local response agencies identified in the plan; setting forth a limit of liability; and providing for an effective date.”

Delegate Cowles moved that the bill take effect August 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 470**), 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: R. Romine, Sponaugle 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. 40) takes effect August 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. 116, Authorizing MAPS 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. 471**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Love and Walters.

Absent and Not Voting: R. Romine 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. 116) passed.

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

Com. Sub. for S. B. 116 - “A Bill to amend and reenact §64-6-1, §64-6-2 and §64-6-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain Department of Military Affairs and Public Safety legislative rules; authorizing certain agencies to promulgate certain legislative rules as presented to the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain Department of Military and Public Service; legislative rules authorizing the Governor’s Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law-enforcement training and certification standards; authorizing the State Fire Marshal to promulgate a legislative rule relating to the regulation of fireworks and related explosive material; and authorizing the Division of Justice and Community Services to promulgate a legislative rule relating to the William R. Laird, IV- second chance driver’s license program.”

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

On this question, the yeas and nays were taken (**Roll No. 472**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: A. Evans, Folk, R. Romine 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. 116) 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. 174, Exempting transportation of household goods from PSC jurisdiction; on third reading, coming up in regular order, was read a third time.

Delegate Pushkin requested to be excused from voting on the passage of S. B. 174 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. 473**), and there were—yeas 66, nays 31, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Brewer, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Hicks, Higginbotham, Hornbuckle, Iaquina, Lane, Longstreth, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Upson and Williams.

Absent and Not Voting: A. Evans, R. Romine and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 174) passed.

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

S. B. 174 – “A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, all relating generally to the jurisdiction of the Public Service Commission over motor carriers;

exempting vehicles engaged in nonemergency transportation of Medicaid members from permit requirements; and exempting the transportation of household goods from the jurisdiction of the Public Service Commission.”

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. 202, Relating to pawnbrokers generally; 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. 474**), and there were—yeas 69, nays 28, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ambler, Byrd, Eldridge, E. Evans, Fluharty, Folk, Frich, Gearheart, Hartman, Hicks, Hill, Howell, Love, Lynch, Marcum, Martin, McGeehan, Moye, Paynter, Pushkin, Robinson, Rowe, Statler, Storch, Thompson, Upson, Wagner and Wilson.

Absent and Not Voting: A. Evans, R. Romine 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. 202) passed.

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

Com. Sub. for S. B. 202 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §47-26-2a, relating generally to pawnbrokers; limiting pawnbrokers from purchasing, accepting in pawn, receiving in trade, accepting in exchange for goods any general-use prepaid card, gift certificate or store gift card; creating misdemeanor offense of pawnbrokers purchasing, accepting in pawn, receiving in trade or exchanging for goods a general-use prepaid card, gift certificate or store gift card; defining terms; creating exceptions; and establishing penalties.”

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. 220, Relating to offenses and penalties under Uniform Controlled Substances Act; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

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

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §60A-4-414, to read as follows:

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-414. Drug delivery resulting in death.

(a) Any person who knowingly and willfully delivers a controlled substance or counterfeit controlled substance in violation of the provisions of section four hundred one, article four of this chapter with the intent to cause an intoxicated, euphoric or stupefied state, and the use, ingestion or consumption of the controlled substance or counterfeit controlled substance alone or in combination with one or more other controlled substances, proximately causes the death of a person using, ingesting or consuming the controlled substance, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than three nor more than fifteen years.

(b) Any person who:

(1) Is present and views another individual ingest a controlled substance;

(2) Is also participating in the use of a controlled substance;

(3) Knows that the other person has manifested an adverse physical reaction to a controlled substance;

(4) Fails to render, seek or ensure timely medical assistance has been provided to the person having the adverse reaction; and

(5) The person having the adverse reaction subsequently dies due to that ingestion, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than three years nor more than fifteen years.”

On motion of Delegates Kessinger and Hanshaw, the Judiciary Committee amendment was amended on page one, following the enacting section, by inserting the following:

“CHAPTER 15. PUBLIC SAFETY.

ARTICLE 9C. CONTROLLED SUBSTANCES DATA COLLECTION.

§15-9C-1. Office of Drug Control and Data Collection.

(a) Within the Division of Justice and Community Services, there shall be a designated office known as the Office of Drug Control, Programming and Data Collection. The purpose of the office is to provide administrative support, research, coordination, planning, and management of funding relating to the prevention, prosecution, reduction and treatment of substance abuse in the state. As an office within the Division of Justice and Community Services, the office shall be deemed a law enforcement entity capable to receive and share law enforcement information.

(b) The office shall be operated, supervised and controlled by the Director of the Division of Justice and Community Services and shall utilize staff of the Division, as needed, to perform its functions, including, but not limited to its office of research and

strategic planning: *Provided*, That if grant funding, federal funds or other funding is obtained in furtherance of the purposes of the office of drug control policy, such funds may be utilized to hire additional staff, including but not limited to an Executive Director, and other resources and equipment as may be necessary for the efficient operation of the office.

(c) The Office of Drug Control, Programming and Data Collection shall be charged with executive and administrative responsibility to:

(1) Collect, compile and analyze crime, justice and overdose data in the state relating to substance abuse, generating statistical and analytical products for criminal justice professionals and policy makers to establish a basis for sound policy and practical considerations for the criminal justice system.

(2) Apply for, receive, and disburse grants and other funding from federal or state programs, foundations, corporations and organizations consistent with the purpose of the office;

(3) Establish mechanisms to administer, coordinate, and oversee the distribution of grant funding to support prevention, treatment, reduction, prosecution, or education programs in furtherance of the purpose of the office;

(4) Annually, on or before the first day of February, publish a public report of the data collected provide a copy of the report and analysis to the Governor and to the Joint Committee on Government and Finance: *Provided*, That nothing shall prevent the publication of such data with greater frequency than annually;

(5) Provide recommendations to the Governor and Legislature as to policies and statutory changes in furtherance of the purpose of the office of drug control, programming and data collection;

(6) Enter into agreements and memorandums of understanding with other entities for the purpose of data collection, data analysis, data sharing, research and law enforcement needs in furtherance of the purpose of the office; and

(7) Promulgate rules for legislative approval pursuant to article three, chapter twenty-nine-a of this code which may be necessary to fulfill the functions and responsibilities of the office.

§15-9C-2. Collection of criminal statistics

(a) Purpose- In order to timely and effectively address the growing abuse of controlled substances in this state, as well as to develop data-driven policies and responses to the abuse of controlled substances, the Legislature finds that the collection of data as to criminal offenses and the dispositions of prosecutions is important and necessary information.

(b) The prosecuting attorney for each county shall compile and report data, in accordance with subsection (c) of this section, as to the criminal charges, substance, weight, disposition, and other requested information of each criminal matter involving a violation of the uniform controlled substances act contained in chapter sixty-a of this code that has been charged in the prosecuting attorney's county.

(c)(1) On or before July 1, 2017, the Division of Justice and Community Services shall establish a reporting form to allow the county prosecuting attorney to provide, at a minimum, the following information for each criminal charge involving a violation of the controlled substances act contained in chapter sixty-a of this code that has been charged in the prosecuting attorney's county:

(A) Specific statutory violation charged;

(B) The controlled substance(s) involved;

(C) The weight of such controlled substance(s), if known; and

(D) The disposition of such matter, including whether a pre-trial diversion or an alternative sentence was utilized.

(2) A form shall be completed for each criminal matter and shall be submitted to the Office of Drug Control, Programming and Data Collection no later than thirty days after disposition of the

criminal matter. The Division of Justice and Community Services shall allow reporting of the required information by electronic data transfer where feasible, and where not feasible, on reporting forms promulgated by the Division.

(3) The form shall not require, nor shall the prosecuting attorney provide, the name, social security number, or other personally identifiable information about the specific defendant. The form may request information that does not contain the specific name or identity of the defendant if such information is collected for data or research purposes.

§15-9C-3. Collection of overdose statistics

(a) Purpose- (1) Both fatal and nonfatal drug overdoses, caused by abuse and misuse of prescription and illicit drugs, have emerged as a vital health crisis in the State of West Virginia. The day-to-day response to this crisis is dealt with by a number of entities throughout the state, including law enforcement agencies, emergency medical services, hospitals and medical examiners. The Legislature finds that the collection of data as to fatal and nonfatal overdoses and collection in a central repository is an important step to combat and reverse this trend.

(b) The Office of Drug Control, Programming and Data Collection shall implement a program in which a central repository is established and maintained that shall contain information required by this section. In implementing this program, the Office of Drug Control Policy shall consult with affected entities, including law-enforcement agencies, health care providers, emergency response providers, hospitals, and medical examiners.

(c) The program authorized by this section shall be designed to minimize inconvenience to all entities maintaining possession of the relevant information while effectuating the collection and storage of the required information. The Office of Drug Control, Programming and Data Collection shall allow reporting of the required information by electronic data transfer where feasible, and where not feasible, on reporting forms promulgated by the Division of Justice and Community Services.

(d) On or before July 1, 2017, the Division of Justice and Community Services shall establish a form or mechanism whereby the following shall be reported to the Office of Drug Control, Programming and Data Collection:

(1) An emergency medical or law-enforcement response to a suspected or reported overdose, or a response in which an overdose is identified by the responders;

(2) Medical treatment for an overdose;

(3) The dispensation or provision of an opioid antagonist; and

(4) Death attributed to overdose or ‘drug poisoning’.

(e) The following entities shall be required to report information contained in subsection (d) of this section:

(1) Hospitals in this state;

(2) Health care providers;

(3) Medical examiners;

(4) Law enforcement agencies, including state, county and local police departments; and

(5) Emergency response providers.

(f) The Division of Justice and Community Services shall provide by rule the manner and mechanism in which reporting is to take place: *Provided*, That the rule shall require that if an opioid antagonist is administered upon a person by a law enforcement officer or first responder and such person thereafter refuses medical treatment, the officer or first responder shall be required to report the administration of the antagonist.

(g) Any reporting made pursuant to this section shall not require, nor shall the person making the report provide, the name, social security number, or other personally identifiable information about the specific individual involved in the overdose incident. The form may request information that does not contain the specific

name or identity of the defendant if such information is collected for data or research purposes.

§15-9C-4. Rulemaking

The Division of Justice and Community Service may promulgate such additional legislative rules to effectuate the purposes of this article in accordance with the provisions of chapter twenty-nine-a of this code.”

And,

On page one, following the enacting clause, 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 §15-9C-1, §15-9C-2, §15-9C-3 and §15-9C-4; and that said code be amended by adding thereto a new section, designated §60A-4-414, all to read as follows” and a colon.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was read a third time.

At the request of Delegate Cowles, and by unanimous consent, further consideration of the bill was postponed until completion of resolutions.

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 considering resolutions.

Resolutions Introduced

Delegates A. Evans, R. Romine, Overington, Hamilton, Ambler, Anderson, Arvon, Atkinson, Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Capito, Caputo, Cooper, Cowles, Criss, Dean, Deem, Diserio, Eldridge, Ellington, Espinosa, E. Evans, Fast, Ferro, Fleischauer, Fluharty, Folk, G.

Foster, N. Foster, Frich, Gearheart, Hamrick, Hanshaw, Harshbarger, Hartman, Hicks, Higginbotham, Hill, Hollen, Hornbuckle, Householder, Howell, Iaquina, Isner, Kelly, Kessinger, Lane, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, Maynard, McGeehan, Miley, C. Miller, R. Miller, Moore, Moye, Mr. Speaker (Mr. Armstead), Nelson, O'Neal, Paynter, Pethtel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, C. 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. 18 – “Memorializing the life of the Honorable Otis Anderson Leggett, dedicated husband, father, grandfather, educator, administrator, statesman and public servant.”

Whereas, Otis A. Leggett was born on September 2, 1919, in Oxford, West Virginia, the youngest of seven sons and two daughters born to the late Columbus N. and Bertha Smith Leggett; and

Whereas, In 1934, Otis married the love of his life, Anerl, and they shared 72 wonderful years together. Otis and Anerl were the parents of one daughter, Cheryl Ann Parsons, the grandparents of Brian D. Parsons, Esquire, and Dr. Ashley Parsons Kahan, and great-grandparents to Fox, Molly and Eli Parsons; and

Whereas, Otis showed an early interest in education. From traveling four miles to catch the bus to a one room school to ultimately graduating from Glenville State College with a B.A. and West Virginia University with a Master's Degree, his journey in education was only beginning. He went on to teach in a one room school in Doddridge County and later served as a teacher in schools in Ritchie, Wood and Pleasants counties. As his career progressed, Otis served as principal of McFarland Elementary School, Pleasant Valley Elementary School, Park School and St. Marys Elementary School. He also served as the Superintendent of Ritchie County Schools, ultimately retiring after forty years of faithful service; and

Whereas, In 1986, Otis sought a seat in the West Virginia House of Delegates from Pleasants County. He won that first election and would go on to win every election until his retirement in 2006. During his years in the Legislature, Otis served on various committees including the Committees on Education, Finance, Government Organization, Rules, Agriculture and Natural Resources and Roads and Transportation. He was a champion for his constituents, well respected by his peers and valued for his vast experience in the field of education. As a member of the House of Delegates, Otis Leggett served with distinction and in 2006 received from Governor Joe Manchin the highest honor the Governor can issue for a native West Virginian, the Distinguished West Virginian Award; and

Whereas, Otis was a Life Member of the National Education Association Retired Teachers Association, Past President of the Pleasants County Retired School Employees, and a member of the St. Marys Lions Club, Pleasants County Farm Bureau, NRA, National Principal's Association, and the Pleasants County Heart Association. He was also a member of the Harrisville City Council; and

Whereas, Otis was a long time member of the St. Marys Methodist Church and he dearly loved his farm "The Summers Place" in Doddridge County. He also loved fishing and began a family tradition of fishing in Canada for more than 50 consecutive years; and

Whereas; Sadly, the Honorable Otis A. Leggett passed away on Monday, January 30, 2017; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby memorializes the life of the Honorable Otis Anderson Leggett, dedicated husband, father, grandfather, educator, administrator, statesman and public servant; and, be it

Further Resolved, That the House of Delegates hereby extends its sincere sympathy at the passing of the Honorable Otis A. Leggett; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the family of the Honorable Otis A. Leggett.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 18) to a committee was dispensed with, and it was taken up for immediate consideration.

The question 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. 475**), 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: Hicks, Marcum and Maynard.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. R. 18) adopted.

Mr. Speaker (Mr. Armstead) and Delegates Hanshaw, Ambler, Baldwin, Hill, Atkinson, Anderson, Arvon, 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, Harshbarger, Hartman, Hicks, Higginbotham, 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, Pethtel, 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. 19 – “Recognizing and honoring the heroic efforts of West Virginia first responders during the state’s unprecedented and historic flooding of June 2016.”

Whereas, On June 23, 2016, thunderstorms brought torrential rain to much of West Virginia, resulting in accumulations of up to 10 inches in less than 24 hours in many areas. According to the National Weather Service, the rainfall qualified as a 1,000-year event for parts of Clay, Fayette, Greenbrier, Kanawha and Nicholas counties and the towns of Alderson, Clendenin, Rainelle, Richwood, Rupert and White Sulphur Springs; and

Whereas, In Kanawha County the Elk River crested at 33.37 feet, rising more than 27 feet in less than 24 hours, marking its highest crest in 125 years of records; and

Whereas, In Greenbrier County, seven inches of rain fell in less than three hours; and

Whereas, In addition to the torrential rain, the storms produced an EF1 tornado in Jackson County; and

Whereas, During that 24-hour period in June 2016, 23 lives were lost, thousands of homes were destroyed or damaged, dozens of roads and bridges collapsed, thousands were left homeless or without the basic necessities of life; and

Whereas, In the wake of the floods, Governor Earl Ray Tomblin declared a state of emergency for 44 of the state’s 55 counties. On June 25, President Barack Obama declared West Virginia a major disaster area; and

Whereas, Governor Earl Ray Tomblin also ordered the deployment of 400 members of the West Virginia National Guard. Search and rescue teams were deployed across the state to assist stranded residents. Numerous swift water and rooftop rescues were conducted. A volunteer firefighter and other residents of White Sulphur Springs used front-end loaders and other heavy machinery

to move through debris-laden floodwaters during the overnight of June 23–24 to save 60 people; and

Whereas, In the immediate aftermath of the absolute devastation, destruction of property, and the loss of life caused by the June 23 flooding, the state relied on the rapid response and hard work of its firefighters, emergency medical services teams, police, rescue squads, West Virginia National Guard and emergency management officials. Despite risks to their own safety, these brave men and women entered into the depths of destruction to search for survivors and administer aid to the good citizens of the counties, who were so severely affected by the unprecedented flooding. The unyielding resolve of these men and women in the most desperate of hours served as an inspiration and a point of hope for the citizens of not only the counties and communities who were so adversely and unmercifully affected, but all citizens of West Virginia; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates recognizes and honors the heroic efforts of West Virginia first responders during the state's unprecedented and historic flooding of June 2016; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to representatives of the West Virginia Fire Departments, the West Virginia Volunteer Fire Departments, the Offices of Emergency Management of the County Commissions; the West Virginia County Sheriffs' Association, the West Virginia State Police, the West Virginia Municipal Police Departments, the West Virginia National Guard, and the West Virginia Division of Homeland Security and Emergency Services and the West Virginia Municipal League.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 19) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

Having been postponed in earlier proceedings, Com. Sub. for S. B. 220 was taken up for further consideration.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 476**), 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, McGeehan and Pushkin.

Absent and Not Voting: Baldwin 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. 220) passed.

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

Com. Sub. for S. B. 220 - “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 offenses and penalties under the Uniform Controlled Substances Act; creating the felony offense of delivering controlled substances or counterfeit controlled substances resulting in the death of another person and providing criminal penalties therefor; creating felony offense of failing to render, seek, or ensure timely medical assistance to another person who has manifested an adverse physical reaction to a controlled substance and who subsequently dies; and providing criminal penalties therefor.”

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. 288, Increasing penalty for crime of child abuse causing death by parent, guardian, custodian or other person; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 477**), 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: Baldwin.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 288) passed.

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

S. B. 333, Requiring all DHHR-licensed facilities access WV 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. 478**), 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: Baldwin.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 333) passed.

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

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 members, prescribers and residents enrolled in a degree program at the school where the dean serves;

allowing access to designated physician reviewers for medical provider employers; providing access to a physician reviewer designated by an employer of medical providers for monitoring prescribing practices of physicians, advance practice registered nurses or physician assistants in their employ; providing access to chief medical officers of a hospital or a physician designated by the chief executive officer of a hospital who does not have a chief medical officer for monitoring prescribing practices of prescribers who have admitting privileges to the hospital; providing that information obtained from accessing the West Virginia Controlled Substances Monitoring Program database shall be documented in a patient's medical record maintained by a private prescriber or any inpatient facility licensed pursuant to Public Health; 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 duly authorized agents of the Office of Health Facility Licensure and Certification to access the database for use in certification, licensure and regulation of health facilities; providing that a failure to report drugs of concern may be considered a violation of the practice act of the prescriber and may result in discipline by the appropriate licensing board; 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."

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. 388, Relating to dangerous weapons; 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. 479**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Lane, Longstreth, Pyles and Rowe.

Absent and Not Voting: Baldwin.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 388) 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. 433, Permitting counties increase excise tax on privilege of transferring real property; on third reading, coming up in regular order, was read a third time.

Delegates N. Foster, Kelly and Cowles requested to be excused from voting on the passage of S. B. 433 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. 480**), and there were—yeas 63, nays 37, absent and not voting none, with the nays being as follows:

Nays: Anderson, Arvon, Barrett, Caputo, Criss, Diserio, Eldridge, A. Evans, E. Evans, Fast, Folk, G. Foster, Frich, Gearheart, Hamrick, Hartman, Householder, Howell, Iaquina, Isner, Kessinger, Love, Martin, Maynard, McGeehan, Miley, R. Miller, Moye, Overington, Paynter, Phillips, Queen, Rodighiero, Sobonya, Thompson, Upson and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 433) passed.

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

Com. Sub. for S. B. 440, Relating to use of Regional Jail and Correctional Facility Authority funds; 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. 481**), 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. 440) 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. 440 – “A Bill to amend and reenact §31-20-10 of the Code of West Virginia, 1931, as amended, relating to mandating that investment of certain Regional Jail and Correctional Facility Authority special funds be with the West Virginia Board of Treasury Investments; and eliminating obsolete language.”

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

At 12:20 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 2:00 p.m.

* * * * *

Afternoon Session

* * * * *

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

Third Reading

-continued-

S. B. 444, Establishing Court Advanced Technology Subscription 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. 482**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Gearheart and Martin.

Absent and Not Voting: Moore and Paynter.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 444) 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. 444 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-1-22, relating to authorizing the West Virginia Supreme Court of Appeals to charge fees from subscribers using advanced technology systems pursuant to a schedule of fees published pursuant to administrative order of the Court; establishing the Court Advanced Technology Subscription Fund; requiring one half of all moneys collected from subscribers be credited to the fund and used to pay the costs associated with maintaining and administering the court’s advanced technology systems; requiring one half of all moneys collected from subscribers be deposited into the general revenue fund; limiting the imposition of certain subscriber fees pending condition precedent; and prescribing legislative appropriations of the fund.”

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. 515, Relating to parole requirements for hearings and release; 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. 483**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Fast and Sobonya.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 515) passed.

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

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred S. B. 687, on Third reading, House Calendar, to the Special Calendar.

Com. Sub. for S. B. 533, Relating to taxes on wine and intoxicating liquors; 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. 533 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. 484**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Fast.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 533) passed.

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

Com. Sub. for S. B. 535, Reorganizing Division of Tourism; 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. 485**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Blair, Folk, McGeehan and Sobonya.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 535) passed.

On motion of Delegates Cowles and Nelson, the title of the bill was amended to read as follows:

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 tourism promotion generally; continuing the West Virginia Division of Tourism Office; creating the West Virginia Tourism Act of 2017; creating the position of Executive Director of the West Virginia Tourism Office and setting forth the authority of the executive director; authorizing the Governor to appoint the executive director and set his or her salary; clarifying that the executive director shall serve as Commissioner of Tourism until establishment of the West Virginia Tourism Office; making the position of executive director one of will and pleasure; establishing qualifications for the position of executive director; establishing powers and duties of the West Virginia Tourism Office; authorizing the West Virginia Tourism Office to enter into private-public agreements and to change and collect fees for goods and services it supplies; authorizing the West Virginia Tourism Office to retain services necessary to carry out its duties; establishing criteria for retaining services; authorizing

the executive to employ necessary personnel and to contract for professional, technical and consulting services and purchase equipment and supplies; authorizing the executive director, at the consent of the Secretary of Commerce, to compile a list on classified service exempt positions; requiring the West Virginia Tourism Office to publish and disseminate an annual report; directing the West Virginia Tourism office and its director to collaborate with the West Virginia Development Office; authorizing cancellation of contracts and joint venture agreements without further obligation of the state and setting the conditions precedent therefor; continuing the Tourism Promotion Fund in the State Treasury; directing that moneys in the fund be spent solely for tourism promotion; defining terms; exempting unspent moneys in fund from reverting to the General Revenue Fund; eliminating the Tourism Advertising Partnership Program effective July 1, 2017, with exceptions for resolution of outstanding obligations; directing the establishment of a cooperative advertising program within the West Virginia Tourism Office; authorizing the West Virginia Tourism Office to establish a fee schedule for participants in the cooperative advertising program; continuing an independent Tourism Commission within the Department of Commerce; establishing membership of Tourism Commission; requiring that gubernatorial appointments to the board be subject to the advice and consent of the Senate; setting forth qualifications of board members; establishing duties of the commission; and providing that documents, data and other writings related to furnishing assistance to businesses, other than agreements entered into by the West Virginia Tourism Office or West Virginia Development Office which obligate public funds, are exempt from disclosure under the Freedom of Information Act.”

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

S. B. 547, Modifying fees paid to Secretary of 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. 486**), and there were—yeas 87, nays 13, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Folk, Gearheart, Howell, Marcum, Martin, McGeehan, Paynter, Summers, Thompson, Upson, Walters and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 547) 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. 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 fees to be paid to the Secretary of State; increasing certain fees for corporations; providing that fees remain until legislative rules to approve new fees are approved by Legislature; creating a new fee for expedited service; reducing fees on certain election related services; and creating new fees for certain election services.”

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. 622, Relating generally to tax procedures and administration; 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. 487**), 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. 622) 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. 630, Establishing Accessibility and Equity in Public Education Enhancement 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. 488**), and there were—yeas 68, nays 32, absent and not voting none, with the nays being as follows:

Nays: Anderson, Baldwin, Barrett, Bates, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hicks, Iaquina, Isner, Kelly, Longstreth, Love, Lovejoy, Lynch, Marcum, R. Miller, Moye, Pethtel, Pushkin, Robinson, Rodighiero, Rohrbach, Sponaugle, 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. 630) passed.

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

On this question, the yeas and nays were taken (**Roll No. 489**), and there were—yeas 67, nays 33, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Brewer, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Sponaugle, Summers, Thompson, Wagner and Williams.

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. 630) takes effect from its passage.

Com. Sub. for S. B. 637, Relating to private club operations requirements; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 490**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Isner, Marcum and Thompson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 637) passed.

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

S. B. 686, Exempting facilities governed by DHHR that provide direct patient care; 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. 491**), 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. 686) 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. 686 - “A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-3a, 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.”

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

S. B. 687, Relating generally to coal mining, safety and environmental protection; 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. 492**), and there were—yeas 94, nays 6, absent and not voting none, with the nays being as follows:

Nays: Fleischauer, Isner, Moore, Pushkin, Pyles and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 687) passed.

An amendment to the title of the bill, recommended by the Committee on Energy, was reported by the Clerk as follows:

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 natural resources; 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 guaranteed term limits for certain board and commission members, 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.”

Whereupon,

Delegate Zatezalo asked and obtained unanimous consent that the amendment be withdrawn.

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

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 natural resources; 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 guaranteed term limits for certain board and commission members, 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.”

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

On this question, the yeas and nays were taken (**Roll No. 493**), and there were—yeas 71, nays 29, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, E. Evans, Ferro, Fleischauer, Fluharty, Hornbuckle, Iaquina, Isner, Longstreth, Lovejoy, Lynch, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Rodighiero, Rowe, Sponaugle and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 687) 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. 691, Relating to off-road vehicles; 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. 494**), 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. 691) passed.

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

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 terms; creating digital road map for certain roads and vehicles, including off-highway vehicles; 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.

S. B. 694, Expiring funds to unappropriated surplus balance in General Revenue fund to Department of Administration; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 495**), 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. 694) passed.

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

On this question, the yeas and nays were taken (**Roll No. 496**), 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 (S. B. 694) 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. 239, Limiting use of wages by employers and labor organizations for political activities; 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. 497**), 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, Cowles, Criss, Diserio, Eldridge, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaule, Storch, 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 S. B. 239) passed.

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

Com. Sub. for S. B. 239 – “A Bill to amend and reenact §3-8-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-1A-4 of said code; to amend and reenact §21-5-1 of said code; and to amend and reenact §21-5-3, all relating to withholding or diverting an employee’s wages or salary; prohibiting any person from coercing or intimidating any employee into making a political contribution or engaging in any form of political activity; prohibiting employers and any other persons responsible for the disbursement of wages and salaries from withholding or diverting any portion of an employee’s wages or salary for political activities without express, written authorization; providing that the prohibition against withholding or diverting wages for political activities applies to any written or oral contract or agreement entered into, modified, renewed or extended on or after July 1, 2017, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2017; setting forth requirements for employees to provide written authorization for disbursement of wages and salaries by an employer or other person for political activities; defining the term ‘agency shop fees’; modifying definition of ‘deductions’ to include only those amounts required by law or Court order to be withheld and employer-sponsored or employer-provided plan; modifying the definition of ‘deductions’ to exclude amounts for union or club dues, charities and other withholdings that are not employer-sponsored or employer-provided plans; making it an unfair labor practice under the Labor-Management Relations Act for the Private Sector for a labor organization to use agency shop fees paid by nonmembers for political activities, unless expressly authorized by the individual; removing the requirement that an assignment or order be acknowledged by the party making the same before a notary public or other official authorized to take acknowledgments; requiring that an assignment or order shall be in writing; and providing that the changes made to the assignment of wages during the 2017 West Virginia Legislature apply to any written or oral contract or agreement entered into, modified, renewed or extended on or after July 1, 2017, and shall not otherwise apply or abrogate

a written or oral contract or agreement in effect on or before June 30, 2017.”

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

At 4:58 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 6:30 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, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2509, Relating to the practice of telemedicine.

The following Senate amendments were reported by the Clerk:

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

“**ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.**

§30-3-13a. Telemedicine practice; requirements; exceptions; definitions; rulemaking.

(a) *Definitions* – For the purposes of this section:

(1) ‘Chronic nonmalignant pain’ means pain that has persisted after reasonable medical efforts have been made to relieve the pain

or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. ‘Chronic nonmalignant pain’ does not include pain associated with a terminal condition or illness or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition or illness.

(2) ‘Physician’ means a person licensed by the West Virginia Board of Medicine to practice allopathic medicine in West Virginia.

(3) ‘Store and forward telemedicine’ means the asynchronous computer-based communication of medical data or images from an originating location to a physician or podiatrist at another site for the purpose of diagnostic or therapeutic assistance.

(4) ‘Telemedicine’ means the practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication, or other means of interaction between a physician or podiatrist in one location and a patient in another location, with or without an intervening health care provider.

(5) ‘Telemedicine technologies’ means technologies and devices which enable secure electronic communications and information exchange in the practice of telemedicine, and typically involve the application of secure real-time audio/video conferencing or similar secure video services, remote monitoring or store and forward digital image technology to provide or support health care delivery by replicating the interaction of a traditional in-person encounter between a physician or podiatrist and a patient.

(b) *Licensure* –

(1) The practice of medicine occurs where the patient is located at the time the telemedicine technologies are used.

(2) A physician or podiatrist who practices telemedicine must be licensed as provided in this article.

(3) This section does not apply to:

(A) An informal consultation or second opinion, at the request of a physician or podiatrist who is licensed to practice medicine or podiatry in this state, provided that the physician or podiatrist requesting the opinion retains authority and responsibility for the patient's care; and

(B) Furnishing of medical assistance by a physician or podiatrist in case of an emergency or disaster, if no charge is made for the medical assistance.

(c) *Physician-patient or Podiatrist-patient relationship through telemedicine encounter –*

(1) A physician-patient or podiatrist-patient relationship may not be established through:

(A) Audio-only communication;

(B) Text-based communications such as e-mail, Internet questionnaires, text-based messaging or other written forms of communication; or

(C) Any combination thereof.

(2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient or podiatrist-patient relationship may only be established:

(A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient or podiatrist-patient encounter; or

(B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient or podiatrist-patient relationship has been established, either through an in-person encounter or in accordance with subdivision (2) of this subsection, the physician or podiatrist may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

(d) *Telemedicine practice* – A physician or podiatrist using telemedicine technologies to practice medicine or podiatry shall:

(1) Verify the identity and location of the patient;

(2) Provide the patient with confirmation of the identity and qualifications of the physician or podiatrist;

(3) Provide the patient with the physical location and contact information of the physician;

(4) Establish or maintain a physician-patient or podiatrist-patient relationship that conforms to the standard of care;

(5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine or podiatry is to be rendered;

(6) Obtain from the patient appropriate consent for the use of telemedicine technologies;

(7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation; ~~and~~

(8) Create and maintain health care records for the patient which justify the course of treatment and which verify compliance with the requirements of this section; ~~and~~

(9) The requirements of subdivisions (1) through (8), inclusive, of this subsection ~~of subsection (d) in this section~~ do not apply to the practice of pathology or radiology medicine through store and forward telemedicine.

(e) *Standard of care* –

The practice of medicine or podiatry provided via telemedicine technologies, including the establishment of a physician-patient or podiatrist-patient relationship and issuing a prescription via electronic means as part of a telemedicine encounter, are subject to the same standard of care, professional practice requirements and scope of practice limitations as traditional in-person physician-patient or podiatrist-patient encounters. Treatment, including issuing a prescription, based solely on an online questionnaire, does not constitute an acceptable standard of care.

(f) *Patient records* –

The patient record established during the use of telemedicine technologies shall be accessible and documented for both the physician or podiatrist and the patient, consistent with the laws and legislative rules governing patient health care records. All laws governing the confidentiality of health care information and governing patient access to medical records shall apply to records of practice of medicine or podiatry provided through telemedicine technologies. A physician or podiatrist solely providing services using telemedicine technologies shall make documentation of the encounter easily available to the patient, and subject to the patient's consent, to any identified care provider of the patient.

(g) *Prescribing limitations* –

(1) A physician or podiatrist who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act: Provided, That the prescribing limitations do not apply when a physician is providing treatment to patients who are minors, or if eighteen years of age or older, who are enrolled in a primary or secondary education program who are diagnosed with intellectual or developmental disabilities, neurological disease, Attention Deficit Disorder, Autism, or a traumatic brain injury in accordance with guidelines as set forth by organizations such as the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry or the American Academy of Pediatrics:

Provided, however, That the physician must maintain records supporting the diagnosis and the continued need of treatment.

(2) A physician or podiatrist may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.

(3) A physician or health care provider may not prescribe any drug with the intent of causing an abortion. The term ‘abortion’ has the same meaning ascribed to it in section two, article two-f, chapter sixteen of this code.

(h) *Exceptions –*

This article does not prohibit the use of audio-only or text-based communications by a physician or podiatrist who is:

(1) Responding to a call for patients with whom a physician-patient or podiatrist-patient relationship has been established through an in-person encounter by the physician or podiatrist;

(2) Providing cross coverage for a physician or podiatrist who has established a physician-patient or podiatrist-patient relationship with the patient through an in-person encounter; or

(3) Providing medical assistance in the event of an emergency situation.

(i) *Rulemaking –*

The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine may propose joint rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement standards for and limitations upon the utilization of telemedicine technologies in the practice of medicine and podiatry in this state.

(j) *Preserving traditional physician-patient or podiatrist-patient relationship –*

Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities incident to the physician-patient or podiatrist-patient relationship, nor is it meant or intended to change in any way the personal character of the physician-patient or podiatrist-patient relationship. This section does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-12d. Telemedicine practice; requirements; exceptions; definitions; rulemaking.

(a) *Definitions.* – For the purposes of this section:

(1) ‘Chronic nonmalignant pain’ means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. ‘Chronic nonmalignant pain’ does not include pain associated with a terminal condition or illness or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition or illness.

(2) ‘Physician’ means a person licensed by the West Virginia Board of Osteopathic Medicine to practice osteopathic medicine in West Virginia.

(3) ‘Store and forward telemedicine’ means the asynchronous computer-based communication of medical data or images from an originating location to a physician at another site for the purpose of diagnostic or therapeutic assistance.

(4) ‘Telemedicine’ means the practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication or other means of interaction between a physician in one location and a patient in another location, with or without an intervening health care provider.

(5) ‘Telemedicine technologies’ means technologies and devices which enable secure electronic communications and information exchange in the practice of telemedicine, and typically involve the application of secure real-time audio/video conferencing or similar secure video services, remote monitoring or store and forward digital image technology to provide or support health care delivery by replicating the interaction of a traditional in-person encounter between a physician and a patient.

(b) *Licensure* –

(1) The practice of medicine occurs where the patient is located at the time the telemedicine technologies are used.

(2) A physician who practices telemedicine must be licensed as provided in this article.

(3) This section does not apply to:

(A) An informal consultation or second opinion, at the request of a physician who is licensed to practice medicine in this state, provided that the physician requesting the opinion retains authority and responsibility for the patient’s care; and

(B) Furnishing of medical assistance by a physician in case of an emergency or disaster if no charge is made for the medical assistance.

(c) *Physician-patient relationship through telemedicine encounter.*

(1) A physician-patient relationship may *not* be established through:

(A) Audio-only communication;

(B) Text-based communications such as e-mail, Internet questionnaires, text-based messaging or other written forms of communication; or

(C) Any combination thereof.

(2) If an existing physician-patient relationship is not present prior to the utilization of telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient relationship may only be established:

(A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient encounter; or

(B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient relationship has been established, either through an in-person encounter or in accordance with subdivision (2) of this subsection, the physician may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

(d) *Telemedicine practice* – A physician using telemedicine technologies to practice medicine shall:

(1) Verify the identity and location of the patient;

(2) Provide the patient with confirmation of the identity and qualifications of the physician;

(3) Provide the patient with the physical location and contact information of the physician;

(4) Establish or maintain a physician-patient relationship which conforms to the standard of care;

(5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine is to be rendered;

(6) Obtain from the patient appropriate consent for the use of telemedicine technologies;

(7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation; ~~and~~

(8) Create and maintain health care records for the patient which justify the course of treatment and which verify compliance with the requirements of this section; and

(9) The requirements of subdivisions (1) through (7), inclusive, of this subsection ~~of subsection (d) in this section~~ do not apply to the practice of pathology or radiology medicine through store and forward telemedicine.

(e) *Standard of care* –

The practice of medicine provided via telemedicine technologies, including the establishment of a physician-patient relationship and issuing a prescription via electronic means as part of a telemedicine encounter, are subject to the same standard of care, professional practice requirements and scope of practice limitations as traditional in-person physician-patient encounters. Treatment, including issuing a prescription, based solely on an online questionnaire does not constitute an acceptable standard of care.

(f) *Patient records* –

The patient record established during the use of telemedicine technologies shall be accessible and documented for both the physician and the patient, consistent with the laws and legislative rules governing patient health care records. All laws governing the confidentiality of health care information and governing patient access to medical records shall apply to records of practice of medicine provided through telemedicine technologies. A physician solely providing services using telemedicine technologies shall make documentation of the encounter easily available to the patient, and subject to the patient's consent, to any identified care provider of the patient.

(g) *Prescribing limitations* –

(1) A physician who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act: Provided, That the prescribing limitations do not apply when a physician is providing treatment to patients who are minors, or if eighteen years of age or older, who are enrolled in a primary or secondary education program who are diagnosed with intellectual or developmental disabilities, neurological disease, Attention Deficit Disorder, Autism or a traumatic brain injury in accordance with guidelines as set forth by organizations such as the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry or the American Academy of Pediatrics: Provided, however, That the physician must maintain records supporting the diagnosis and the continued need of treatment.

(2) A physician may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substances Act as part of a course of treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.

(3) A physician or health care provider may not prescribe any drug with the intent of causing an abortion. The term ‘abortion’ has the same meaning ascribed to it in section two, article two-f, chapter sixteen of this code.

(h) *Exceptions –*

This section does not prohibit the use of audio-only or text-based communications by a physician who is:

(1) Responding to a call for patients with whom a physician-patient relationship has been established through an in-person encounter by the physician;

(2) Providing cross coverage for a physician who has established a physician-patient or relationship with the patient through an in-person encounter; or

(3) Providing medical assistance in the event of an emergency situation.

(i) *Rulemaking* –

The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine may propose joint rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement standards for and limitations upon the utilization of telemedicine technologies in the practice of medicine in this state.

(j) *Preservation of the traditional physician-patient relationship.*

Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities incident to the physician-patient relationship, nor is it meant or intended to change in any way the personal character of the physician-patient relationship. This section does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2509 – “A Bill to amend and reenact §30-3-13a of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-12d of said code, all relating to the practice of telemedicine generally; prohibiting the prescribing of a drug with the intent of causing an abortion; and allowing a physician to prescribe controlled substances on Schedule II of the Uniform Controlled Substances Act in certain circumstances.”

Delegate Cowles moved that the House concur in the Senate amendments.

On the adoption of the Senate amendments, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 498**), and there were—yeas 92, nays 8, absent and not voting none, with the nays being as follows:

Nays: Caputo, Diserio, Fleischauer, Hornbuckle, Pethtel, Pushkin, Robinson and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the House concurred in the Senate amendments.

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. 499**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Fleischauer, Pushkin, Robinson and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2509) passed.

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

On this question, the yeas and nays were taken (**Roll No. 500**), and there were—yeas 87, nays 13, absent and not voting none, with the nays being as follows:

Nays: Brewer, Caputo, Diserio, Eldridge, Ferro, Fleischauer, Hornbuckle, Iaquina, Longstreth, Pethtel, Pushkin, Robinson and Rowe.

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. 2509) 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.

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. 2628, Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine.

On motion of Delegate Cowles, the House of Delegates concurred in the Senate amendments.

On pages eighteen and nineteen, by striking out all of section eleven and inserting in lieu thereof the following:

“§30-14-11. Refusal, suspension or revocation of license; suspension or revocation of certificate of authorization.

~~(a) The board may either refuse to issue or may suspend or revoke any license for any one or more of the following causes:~~

(a) The board may refuse to issue a license, suspend or revoke a license, fine a licensee, order restitution or rehabilitative action by a licensee, or order a combination thereof for any one or more of the following causes:

(1) Conviction of a felony, as shown by a certified copy of the record of the trial court: Provided, That if the conviction is for an offense that involves the transfer, delivery or illicit possession of a prescription drug, then the board shall revoke or refuse to issue the license of the convicted physician or physician’s assistant for a period of time until the physician or physician’s assistant demonstrates a record of rehabilitation and that he or she has the integrity, moral character and professional competence to practice in this state;

(2) Conviction of a misdemeanor involving moral turpitude;

(3) Violation of any provision of this article regulating the practice of osteopathic physicians and surgeons;

(4) Fraud, misrepresentation or deceit in procuring or attempting to procure admission to practice;

(5) Gross malpractice;

(6) Advertising by means of knowingly false or deceptive statements;

(7) Advertising, practicing or attempting to practice under a name other than one's own;

(8) Habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other habit-forming drugs; or

(9) Knowingly failing to report to the board any act of gross misconduct committed by another licensee of the board.

(b) The board shall also have the power to suspend or revoke for cause any certificate of authorization issued by it. It shall have the power to reinstate any certificate of authorization suspended or revoked by it.

(c) An osteopathic physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.”

And,

By amending the title of the bill to read as follows:

H. B. 2628 – “A Bill to amend and reenact §30-3-12 and §30-3-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-11 and §30-14-12a of said code, all relating generally to the regulation and licensing of medical professionals; modifying powers and duties of the Board of Medicine and the Board of Osteopathic Medicine with regard to evidence of serious misconduct of individuals subject to the boards' jurisdictions; authorizing the Board of Medicine to deny or refuse to reissue a license to any person convicted of a felony; authorizing the Board of Medicine to take disciplinary action against a licensee or applicant for licensure who knowingly fails to report any act of gross misconduct committed by another licensee; authorizing the Board of Medicine to revoke a license or other authorization to practice or prescribe or dispense controlled

substances for any period of time, including for the life of the licensee; authorizing the Board of Osteopathic Medicine to refuse to issue a license, suspend or revoke a license, fine a licensee, or order restitution or rehabilitative action by a licensee for certain causes; requiring the Board of Osteopathic Medicine to revoke or refuse to reissue the license of a physician or physician's assistant convicted of a felony involving prescription drugs; authorizing the Board of Osteopathic Medicine to take disciplinary action against a licensee or applicant for licensure who knowingly fails to report any act of gross misconduct committed by another licensee; and requiring the Board of Medicine and the Board of Osteopathic Medicine to report certain credible information received to appropriate authorities.”

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. 501**), 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 (H. B. 2628) passed.

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

Messages from the Executive

The Speaker laid before the House of Delegates a communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, as follows:

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

March 28, 2017

Veto Message

The Honorable Mitch Carmichael
President, West Virginia Senate
Room 229M, Building 1
State Capitol
Charleston, West Virginia 25305

RE: Enrolled Senate Bill 330

Dear President Carmichael:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 330 due to pending litigation calling into question the constitutionality of this bill's underlying statute and for public policy reasons.

I disapprove this bill because its underlying legislation (SB1 2016 Regular Legislative Session) is currently being challenged as unconstitutional in Kanawha County Circuit Court and the injunctive relief issued by that Court has been appealed to the West Virginia Supreme Court of Appeals. The Attorney General has requested that the Circuit Court issue a final decision by May 1, 2017. A decision by the Supreme Court regarding the current appeal is expected after April 21, 2017. Any amendment to this statute before such time as a Court has finally determined its constitutionality is impudent and contrary to public policy.

For the foregoing reasons, I disapprove and return the bill.

Sincerely,

Jim Justice,
Governor.

Messages from the Senate

A message from the Senate, by
The Clerk of the Senate, announced that, upon reconsideration the Senate had again passed, notwithstanding the objections of the

Governor, and requested the concurrence of the House of Delegates in the same, as to

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

On motion of Delegate Cowles, the House of Delegates proceeded to reconsider the bill (S. B. 330), notwithstanding the objections of the Governor.

The Speaker propounded, "Shall the bill pass, notwithstanding the objections of the Governor?"

On this question, the yeas and nays were taken (**Roll No. 502**), and there were—yeas 51, nays 49, absent and not voting none, with the yeas and nays being as follows:

Yeas: Ambler, Anderson, Arvon, Atkinson, Blair, Butler, Capito, Cooper, Cowles, Criss, Deem, Ellington, Espinosa, Fast, G. Foster, N. Foster, Frich, Gearheart, Hamrick, Hanshaw, Harshbarger, Higginbotham, Hill, Hollen, Householder, Howell, Kelly, Kessinger, Lane, Martin, C. Miller, Moore, Nelson, O'Neal, Overington, Queen, C. Romine, Rowan, Shott, Sobonya, Statler, Summers, Sybolt, Upson, Wagner, Walters, Westfall, White, Wilson, Zatezalo and Mr. Speaker (Mr. Armstead).

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, R. Romine, Rowe, Sponaule, Storch, Thompson, Ward and Williams.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 330) passed, notwithstanding the objections of the Governor.

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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2646, Terminating the Women's Commission and discontinue its functions.

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 section and inserting in lieu thereof the following:

“**ARTICLE 20. WOMEN'S COMMISSION.**

§29-20-1. ~~Membership; appointment and terms of members; organization; reimbursement for expenses.~~ Termination of the Women's Commission.

~~The West Virginia commission on the status of women is hereby abolished, and there is hereby continued within the Department of Health and Human Resources the West Virginia women's commission, to consist of eighteen members, seven of whom shall be ex officio members, not entitled to vote: The Attorney General, the state superintendent of Schools, the commissioner of labor, the commissioner of the bureau of human resources of the Department of Health and Human Resources, the director of the Human Rights Commission, the director of the Division of Personnel and the chancellor of the board of directors of the state college system. Each ex officio member may designate one representative employed by his or her department to meet with the commission in his or her absence. The Governor shall appoint the additional eleven members, by and with the advice and consent of the Senate, from among the citizens of the state. The Governor shall designate the chairman and vice chairman of the commission and the commission may elect such other officers as it deems necessary. The members shall serve a term beginning July 1, 1977, three to serve for a term of one year, four to serve for a term of two years and the remaining four to serve for a term of three years. The successors of the members initially appointed as provided herein~~

~~shall be appointed for a term of three years each in the same manner as the members initially appointed under this article, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Each member shall serve until the appointment and qualification of his or her successor.~~

~~No member may receive any salary for his or her services, but each may be reimbursed for actual and necessary expenses incurred in the performance of his or her duties out of funds received by the commission under section four of this article, except that in the event the expenses are paid, or are to be paid, by a third party, the members shall not be reimbursed by the commission~~ The Women's Commission is declared to be terminated and shall not exist after June 30, 2018. Pursuant to the provisions of sections twelve and thirteen, article ten, chapter four of this code, the commission shall wind up its affairs, arrange for the disposition of its funds, assets, equipment and records, and cease all activities before July 1, 2018.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2646 – “A Bill to repeal §29-20-2, §29-20-3, §29-20-4, §29-20-5 and §29-20-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-20-1 of said code, relating to termination of the Women's Commission; declaring Women's Commission terminated and not in existence after June 30, 2018; directing commission to wind up affairs, arrange for disposition of funds, assets, equipment and records, and cease all activities before July 1, 2018; and repealing provisions of code related to Women's 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. 503**), and there were—yeas 61, nays 39, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Capito, 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, Rowe, Sponaule, Thompson, Wagner and Williams.

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. 2646) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2767, Authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks.

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 section and inserting in lieu thereof the following:

**“CHAPTER 31B. UNIFORM LIMITED LIABILITY
COMPANY ACT.**

ARTICLE 1. GENERAL PROVISIONS.

§31B-1-111. Service of process.

(a) An agent for service of process appointed by a limited liability company or a foreign limited liability company is an agent of the company for service of any process, notice or demand required or permitted by law to be served upon the company.

(b) If a limited liability company or foreign limited liability company fails to appoint or maintain an agent for service of process in this state or the agent for service of process cannot with reasonable diligence be found at the agent's address, the Secretary of State is an agent of the company upon whom process, notice or demand may be served.

(c) Service of any process, notice or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State, the assistant Secretary of State or clerk having charge of the limited liability company department of the Secretary of State, the original process, notice or demand and two copies thereof for each defendant, along with the fee required by section two, article one, chapter fifty-nine of this code. No process, notice or demand may be served on or accepted by the Secretary of State less than ten days before the return day thereof. The Secretary of State, upon being served with or accepting any process, notice or demand, shall: (1) File in his or her office a copy of the process, notice or demand, endorsed as of the time of service or acceptance; and (2) transmit one copy of the process, notice or demand by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to the limited liability company's registered agent: *Provided*, That if there is no registered agent, then to the individual whose name and address was last given to the Secretary of State's office as the person designated to receive process, notice or demand. If no person has been named, then to the principal office of the limited liability company at the address last given to the Secretary of State's office and if no address is available on record with the Secretary of State then to the address provided on the original process, notice or demand, if available; and (3) transmit the original process, notice or demand to the clerk's office of the court from which the process, notice or demand was issued. Such service or acceptance of process, notice or demand is sufficient if the return receipt is signed by an agent or employee of such company, or the registered or certified mail so sent by the Secretary of State is refused by the addressee and the registered or certified mail is returned to the Secretary of State, showing the stamp of the United States Postal Service that delivery thereof has been refused, and such return receipt or registered or certified mail is received by the Secretary of State by

a means which may include electronic issuance and acceptance of electronic return receipts. After receiving verification from the United States Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States Postal Service the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State shall be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. No process, notice or demand may be served on the Secretary of State or accepted by him or her less than ten days before the return day of the process or notice. The court may order continuances as may be reasonable to afford each defendant opportunity to defend the action or proceedings.

(d) The Secretary of State shall keep a record of all processes, notices and demands served pursuant to this section and record the time of and the action taken regarding the service.

(e) This section does not affect the right to serve process, notice or demand in any manner otherwise provided by law.

CHAPTER 31D. WEST VIRGINIA BUSINESS CORPORATION ACT.

ARTICLE 5. OFFICE AND AGENT.

§31D-5-504. Service on corporation.

(a) A corporation's registered agent is the corporation's agent for service of process, notice or demand required or permitted by law to be served on the corporation.

(b) If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office. Service is perfected under this subsection at the earliest of:

(1) The date the corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the corporation; or

(3) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(c) In addition to the methods of service on a corporation provided in subsections (a) and (b) of this section, the Secretary of State is hereby constituted the attorney-in-fact for and on behalf of each corporation created pursuant to the provisions of this chapter. The Secretary of State has the authority to accept service of notice and process on behalf of each corporation and is an agent of the corporation upon whom service of notice and process may be made in this state for and upon each corporation. No act of a corporation appointing the Secretary of State as attorney-in-fact is necessary. Service of any process, notice or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State the original process, notice or demand and two copies of the process, notice or demand for each defendant, along with the fee required by section two, article one, chapter fifty-nine of this code: *Provided*, That with regard to a class action suit in which all defendants are to be served with the same process, notice or demand, service may be made by filing with the Secretary of State the original process, notice or demand and one copy for each named defendant. Immediately after being served with or accepting any process or notice, the Secretary of State shall: (1) File in his or her office a copy of the process or notice, endorsed as of the time of service or acceptance; (2) transmit one copy of the process or notice by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to: (A) The corporation's registered

agent; or (B) if there is no registered agent, to the individual whose name and address was last given to the Secretary of State's office as the person to whom notice and process are to be sent and if no person has been named, to the principal office of the corporation as that address was last given to the Secretary of State's office. If no address is available on record with the Secretary of State, then to the address provided on the original process, notice or demand, if available; and (3) transmit the original process, notice or demand to the clerk's office of the court from which the process, notice or demand was issued. Service or acceptance of process or notice is sufficient if return receipt is signed by an agent or employee of the corporation, or the registered or certified mail sent by the Secretary of State is refused by the addressee and the registered or certified mail is returned to the Secretary of State, or to his or her office, showing the stamp of the United States ~~postal-service~~ Postal Service that delivery has been refused, and the return receipt or registered or certified mail is received by the Secretary of State by a means which may include electronic issuance and acceptance of electronic return receipts. After receiving verification from the United States ~~postal-service~~ Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States ~~postal-service~~ Postal Service the Secretary of State shall ~~return the refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. No process or notice may be served on the Secretary of State or accepted by him or her less than ten days before the return day of the process or notice. The court

may order continuances as may be reasonable to afford each defendant opportunity to defend the action or proceedings.

(d) This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

CHAPTER 31E. WEST VIRGINIA NONPROFIT CORPORATION ACT.

ARTICLE 5. OFFICE AND AGENT.

§31E-5-504. Service on corporation.

(a) A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

(b) If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office. Service is perfected under this subsection at the earliest of:

(1) The date the corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the corporation; or

(3) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(c) In addition to the methods of service on a corporation provided in subsections (a) and (b) of this section, the Secretary of State is hereby constituted the attorney-in-fact for and on behalf of each corporation created pursuant to the provisions of this chapter. The Secretary of State has the authority to accept service of notice and process on behalf of each corporation and is an agent of the corporation upon whom service of notice and process may be made in this state for and upon each corporation. No act of a corporation appointing the Secretary of State as attorney-in-fact is necessary.

Service of any process, notice or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State the original process, notice or demand and two copies of the process, notice or demand for each defendant, along with the fee required by section two, article one, chapter fifty-nine of this code. Immediately after being served with or accepting any process or notice, the Secretary of State shall: (1) File in his or her office a copy of the process or notice, endorsed as of the time of service, or acceptance; (2) transmit one copy of the process or notice by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to: (A) The corporation's registered agent; or (B) if there is no registered agent, to the individual whose name and address was last given to the Secretary of State's office as the person to whom notice and process are to be sent, and if no person has been named, to the principal office of the corporation as that address was last given to the Secretary of State's office; and if no address is available on record with the Secretary of State, then to the address provided on the original process, notice or demand, if available; and (3) transmit the original process, notice or demand to the clerk's office of the court from which the process, notice or demand was issued. Service or acceptance of process or notice is sufficient if return receipt is signed by an agent or employee of the corporation, or the registered or certified mail sent by the Secretary of State is refused by the addressee and the registered or certified mail is returned to the Secretary of State, or to his or her office, showing the stamp of the United States ~~postal service~~ Postal Service that delivery has been refused, and the return receipt or registered or certified mail is received by the Secretary of State by a means which may include electronic issuance and acceptance of electronic return receipts. After receiving verification from the United States ~~postal service~~ Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States ~~postal service~~ Postal Service, the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice~~

~~or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State shall be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. No process or notice may be served on the Secretary of State or accepted by him or her less than ten days before the return day of the process or notice. The court may order continuances as may be reasonable to afford each defendant opportunity to defend the action or proceedings.

(d) This section does not prescribe the only means, or necessarily the required means of serving a corporation.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 9. UNIFORM LIMITED PARTNERSHIP ACT.

§47-9-4. Secretary of State constituted attorney-in-fact for all limited partnerships; manner of acceptance or service of notice and process upon Secretary of State; what constitutes conducting affairs or doing or transacting business in this state for purposes of this section.

The Secretary of State is hereby constituted the attorney-in-fact for and on behalf of every limited partnership created by virtue of the laws of this state and every foreign limited partnership authorized to conduct affairs or do or transact business herein pursuant to the provisions of this article, with authority to accept service of notice and process on behalf of every such limited partnership and upon whom service of notice and process may be made in this state for and upon every such limited partnership. No act of such limited partnership appointing the Secretary of State such attorney-in-fact shall be necessary. Immediately after being served with or accepting any such process or notice, of which process or notice two copies for each defendant shall be furnished the Secretary of State with the original notice or process, together

with the fee required by section two, article one, chapter fifty-nine of this code, the Secretary of State shall file in his office a copy of such process or notice, with a note thereon endorsed of the time of service or acceptance, as the case may be, and transmit one copy of such process or notice by registered or certified mail, return receipt requested, to the person to whom notice and process shall be sent, whose name and address were last furnished to the state officer at the time authorized by statute to accept service of notice and process and upon whom notice and process may be served; and if no such person has been named, to the principal office of the limited partnership at the address last furnished to the state officer at the time authorized by statute to accept service of process and upon whom process may be served, as required by law, or if no address is available on record with the Secretary of State then to the address provided on the original process or process, if available. No process or notice shall be served on the Secretary of State or accepted by him less than ten days before the return day thereof. Such limited partnership shall pay the annual fee prescribed by article twelve, chapter eleven of this code for the services of the Secretary of State as its attorney-in-fact.

Any foreign limited partnership which shall conduct affairs or do or transact business in this state without having been authorized so to do pursuant to the provisions of this article shall be conclusively presumed to have appointed the Secretary of State as its attorney-in-fact with authority to accept service of notice and process on behalf of such limited partnership and upon whom service of notice and process may be made in this state for and upon every such limited partnership in any action or proceeding described in the next following paragraph of this section. No act of such limited partnership appointing the Secretary of State as such attorney-in-fact shall be necessary. Immediately after being served with or accepting any such process or notice, of which process or notice two copies for each defendant shall be furnished the Secretary of State with the original notice or process, together with the fee required by section two, article one, chapter fifty-nine of this code, the Secretary of State shall file in his office a copy of such process or notice, with a note thereon endorsed of the time of service or acceptance, as the case may be, and transmit one copy

of such process or notice by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to such limited partnership at the address of its principal office, which address shall be stated in such process or notice. Such service or acceptance of such process or notice shall be sufficient if such return receipt shall be signed by an agent or employee of such limited partnership. After receiving verification from the United States ~~postal service~~ Postal Service that acceptance of process or notice has been signed, the Secretary of State shall notify the clerk's office of the court from which the process or notice was issued by a means which may include electronic notification. If the process or notice was refused or undeliverable by the United States ~~postal service~~ Postal Service the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State shall be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. No process or notice shall be served on the Secretary of State or accepted by him or her less than ten days before the return date thereof. The court may order such continuances as may be reasonable to afford each defendant opportunity to defend the action or proceedings.

For the purpose of this section, a foreign limited partnership not authorized to conduct affairs or do or transact business in this state pursuant to the provisions of this article shall nevertheless be deemed to be conducting affairs or doing or transacting business herein: (a) If such limited partnership makes a contract to be performed, in whole or in part, by any party thereto in this state; (b) if such limited partnership commits a tort, in whole or in part, in this state; or (c) if such limited partnership manufactures, sells, offers for sale or supplies any product in a defective condition and such product causes injury to any person or property within this

state notwithstanding the fact that such limited partnership had no agents, servants or employees or contacts within this state at the time of said injury. The making of such contract, the committing of such tort or the manufacture or sale, offer of sale or supply of such defective product as herein above described shall be deemed to be the agreement of such limited partnership that any notice or process served upon, or accepted by, the Secretary of State pursuant to the next preceding paragraph of this section in any action or proceeding against such limited partnership arising from or growing out of such contract, tort or manufacture or sale, offer of sale or supply of such defective product shall be of the same legal force and validity as process duly served on such limited partnership in this state.

CHAPTER 56. PLEADING AND PRACTICE.

ARTICLE 3. WRITS, PROCESS AND ORDER OF PUBLICATION.

§56-3-31. Actions by or against nonresident operators of motor vehicles involved in highway accidents; appointment of Secretary of State, insurance company, as agents; service of process.

(a) Every nonresident, for the privilege of operating a motor vehicle on a public street, road or highway of this state, either personally or through an agent, appoints the Secretary of State, or his or her successor in office, to be his or her agent or attorney-in-fact upon whom may be served all lawful process in any action or proceeding against him or her in any court of record in this state arising out of any accident or collision occurring in the State of West Virginia in which the nonresident was involved: *Provided*, That in the event process against a nonresident defendant cannot be effected through the Secretary of State, as provided by this section, for the purpose only of service of process, the nonresident motorist shall be considered to have appointed as his or her agent or attorney-in-fact any insurance company which has a contract of automobile or liability insurance with the nonresident defendant.

(b) For purposes of service of process as provided in this section, every insurance company shall be considered the agent or attorney-in-fact of every nonresident motorist insured by that company if the insured nonresident motorist is involved in any accident or collision in this state and service of process cannot be effected upon the nonresident through the office of the Secretary of State. Upon receipt of process as provided in this section, the insurance company may, within thirty days, file an answer or other pleading or take any action allowed by law on behalf of the defendant.

(c) A nonresident operating a motor vehicle in this state, either personally or through an agent, is considered to acknowledge the appointment of the Secretary of State, or, as the case may be, his or her automobile insurance company, as his or her agent or attorney-in-fact, or the agent or attorney-in-fact of his or her administrator, administratrix, executor or executrix in the event the nonresident dies, and furthermore is considered to agree that any process against him or her or against his or her administrator, administratrix, executor or executrix, which is served in the manner provided in this section, shall be of the same legal force and validity as though the nonresident or his or her administrator, administratrix, executor or executrix were personally served with a summons and complaint within this state.

Any action or proceeding may be instituted, continued or maintained on behalf of or against the administrator, administratrix, executor or executrix of any nonresident who dies during or subsequent to an accident or collision resulting from the operation of a motor vehicle in this state by the nonresident or his or her duly authorized agent.

(d) Service of process upon a nonresident defendant shall be made by leaving the original and two copies of both the summons and complaint, together with the bond certificate of the clerk, and the fee required by section two, article one, chapter fifty-nine of this code with the Secretary of State, or in his or her office, and the service shall be sufficient upon the nonresident defendant or, if a natural person, his or her administrator, administratrix, executor or executrix: *Provided*, That notice of service and a copy of the

summons and complaint shall be sent by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, by the Secretary of State to the nonresident defendant. After receiving verification from the United States ~~postal service~~ Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States ~~postal service~~ Postal Service the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. The court may order any reasonable continuances to afford the defendant opportunity to defend the action.

(e) The fee remitted to the Secretary of State at the time of service shall be taxed in the costs of the proceeding. The Secretary of State shall keep a record in his or her office of all service of process and the day and hour of service of process.

(f) In the event service of process upon a nonresident defendant cannot be effected through the Secretary of State as provided by this section, service may be made upon the defendant's insurance company. The plaintiff shall file with the clerk of the circuit court an affidavit alleging that the defendant is not a resident of this state; that process directed to the Secretary of State was sent by registered or certified mail, return receipt requested; that the registered or certified mail was returned to the office of the Secretary of State showing the stamp of the post office department that delivery was refused or that the notice was unclaimed or that the defendant

addressee moved without any forwarding address; and that the Secretary of State has complied with the provisions of subsection (d) of this section. Upon receipt of process the insurance company may, within thirty days, file an answer or other pleading and take any action allowed by law in the name of the defendant.

(g) The following words and phrases, when used in this article, for the purpose of this article and unless a different intent on the part of the Legislature is apparent from the context, have the following meanings:

(1) ‘Duly authorized agent’ means and includes, among others, a person who operates a motor vehicle in this state for a nonresident as defined in this section and chapter, in pursuit of business, pleasure or otherwise, or who comes into this state and operates a motor vehicle for, or with the knowledge or acquiescence of, a nonresident; and includes, among others, a member of the family of the nonresident or a person who, at the residence, place of business or post office of the nonresident, usually receives and acknowledges receipt for mail addressed to the nonresident.

(2) ‘Motor vehicle’ means and includes any self-propelled vehicle, including a motorcycle, tractor and trailer, not operated exclusively upon stationary tracks.

(3) ‘Nonresident’ means any person who is not a resident of this state or a resident who has moved from the state subsequent to an accident or collision and among others includes a nonresident firm, partnership, corporation or voluntary association, or a firm, partnership, corporation or voluntary association that has moved from the state subsequent to an accident or collision.

(4) ‘Nonresident plaintiff or plaintiffs’ means a nonresident who institutes an action in a court in this state having jurisdiction against a nonresident in pursuance of the provisions of this article.

(5) ‘Nonresident defendant or defendants’ means a nonresident motorist who, either personally or through his or her agent, operated a motor vehicle on a public street, highway or road in this

state and was involved in an accident or collision which has given rise to a civil action filed in any court in this state.

(6) 'Street', 'road' or 'highway' means the entire width between property lines of every way or place of whatever nature when any part of the street, road or highway is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

(7) 'Insurance company' means any firm, corporation, partnership or other organization which issues automobile insurance.

(h) The provision for service of process in this section is cumulative and nothing contained in this section shall be construed as a bar to the plaintiff in any action from having process in the action served in any other mode and manner provided by law.

§56-3-33. Actions by or against nonresident persons having certain contacts with this state; authorizing Secretary of State to receive process; bond and fees; service of process; definitions; retroactive application.

(a) The engaging by a nonresident, or by his or her duly authorized agent, in any one or more of the acts specified in subdivisions (1) through (7) of this subsection shall be deemed equivalent to an appointment by such nonresident of the Secretary of State, or his or her successor in office, to be his or her true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him or her, in any circuit court in this state, including an action or proceeding brought by a nonresident plaintiff or plaintiffs, for a cause of action arising from or growing out of such act or acts, and the engaging in such act or acts shall be a signification of such nonresident's agreement that any such process against him or her, which is served in the manner hereinafter provided, shall be of the same legal force and validity as though such nonresident were personally served with a summons and complaint within this state:

(1) Transacting any business in this state;

(2) Contracting to supply services or things in this state;

(3) Causing tortious injury by an act or omission in this state;

(4) Causing tortious injury in this state by an act or omission outside this state if he or she regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;

(5) Causing injury in this state to any person by breach of warranty expressly or impliedly made in the sale of goods outside this state when he or she might reasonably have expected such person to use, consume or be affected by the goods in this state: *Provided*, That he or she also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;

(6) Having an interest in, using or possessing real property in this state; or

(7) Contracting to insure any person, property or risk located within this state at the time of contracting.

(b) When jurisdiction over a nonresident is based solely upon the provisions of this section, only a cause of action arising from or growing out of one or more of the acts specified in subdivisions (1) through (7), subsection (a) of this section may be asserted against him or her.

(c) Service shall be made by leaving the original and two copies of both the summons and the complaint, and the fee required by section two, article one, chapter fifty-nine of this code with the Secretary of State, or in his or her office, and such service shall be sufficient upon such nonresident: *Provided*, That notice of such service and a copy of the summons and complaint shall forthwith be sent by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, by the Secretary of State to the defendant at his or her nonresident address and the defendant's return receipt signed by himself or herself or his or her duly authorized agent or

the registered or certified mail so sent by the Secretary of State which is refused by the addressee and which registered or certified mail is returned to the Secretary of State, or to his or her office, showing thereon the stamp of the post-office department that delivery has been refused. After receiving verification from the United States ~~postal service~~ Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States ~~postal service~~ Postal Service the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. If any defendant served with summons and complaint fails to appear and defend within thirty days of service, judgment by default may be rendered against him or her at any time thereafter. The court may order such continuances as may be reasonable to afford the defendant opportunity to defend the action or proceeding.

(d) The fee remitted to the Secretary of State at the time of service shall be taxed in the costs of the action or proceeding. The Secretary of State shall keep a record in his or her office of all such process and the day and hour of service thereof.

(e) The following words and phrases, when used in this section, shall for the purpose of this section and unless a different intent be apparent from the context, have the following meanings:

(1) 'Duly authorized agent' means and includes among others a person who, at the direction of or with the knowledge or acquiescence of a nonresident, engages in such act or acts and

includes among others a member of the family of such nonresident or a person who, at the residence, place of business or post office of such nonresident, usually receives and receipts for mail addressed to such nonresident.

(2) ‘Nonresident’ means any person, other than voluntary unincorporated associations, who is not a resident of this state or a resident who has moved from this state subsequent to engaging in such act or acts, and among others includes a nonresident firm, partnership or corporation or a firm, partnership or corporation which has moved from this state subsequent to any of said such act or acts.

(3) ‘Nonresident plaintiff or plaintiffs’ means a nonresident of this state who institutes an action or proceeding in a circuit court in this state having jurisdiction against a nonresident of this state pursuant to the provisions of this section.

(f) The provision for service of process herein is cumulative and nothing herein contained shall be construed as a bar to the plaintiff in any action or proceeding from having process in such action served in any other mode or manner provided by the law of this state or by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction.

(g) This section shall not be retroactive and the provisions hereof shall not be available to a plaintiff in a cause of action arising from or growing out of any of said acts occurring prior to the effective date of this section.

§56-3-33a. Actions against nonresident persons by petitioners seeking domestic violence or personal safety relief; service of process; authorizing Secretary of State to receive process against nonresidents.

(a) Any person who is:

(1) Not a resident of this state; or

(2) A resident of this state who has left this state; or

(3) A person whose residence is unknown shall be considered to have submitted to the jurisdiction of the courts of this state as to any action arising from the conduct specified in subsection (b) of this section, if such conduct was:

(A) Committed in this state; or

(B) If such conduct was not committed in this state if the conduct was purposely directed at a resident and has an effect within this state.

(b) Conduct compelling application of this section consists of:

(1) Any act constituting domestic violence or abuse as defined in section two hundred two, article twenty-seven, chapter forty-eight of this code; or

(2) Any act constituting a basis for seeking personal safety relief as defined in section four, article eight, chapter fifty-three of this code; or

(3) Any act or omission violating the provisions of a duly authorized protective or restraining order, whether issued by this state or another jurisdiction, for the protection of any person within this state.

(c) Any person subject to or considered to have submitted to the jurisdiction of the courts of this state who is made a respondent in an action may be served with the petition and order initiating such action either:

(1) By law-enforcement officers, wherever the respondent may be found, whether inside or outside the boundaries of this state; or

(2) If the respondent is alleged to have committed conduct specified in subsection (b) of this section, this shall be considered equivalent to an appointment by such nonresident of the Secretary of State, or his or her successor in office, to be his or her true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him or her, in any court in this state, for a cause of action arising from or growing out of such conduct,

and the engaging in such conduct is a signification of such nonresident's agreement that any such process against him or her, which is served in the manner hereinafter provided, is of the same legal force and validity as though such nonresident were personally served within this state.

(A) Such service shall be made by leaving two copies of both the petition and order, with the Secretary of State, or in his or her office, and such service shall be sufficient upon such nonresident: *Provided*, That notice of such service and a copy of the petition and order shall forthwith be sent by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, by the Secretary of State to the respondent at his or her nonresident address and the respondent's return receipt signed by himself or herself or his or her duly authorized agent or the registered or certified mail so sent by the Secretary of State which is refused by the addressee and which registered or certified mail is returned to the Secretary of State, or to his or her office, showing thereon the stamp of the post-office department that delivery has been refused. After receiving verification from the United States Postal Service that acceptance of the notice, petition and order has been signed, the Secretary of State shall notify the clerk's office of the court from which the petition and order were issued by a means which may include electronic notification. If the notice, petition and order were refused or undeliverable by the United States Postal Service, the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the petition and order were issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. If any respondent served with a petition and order fails to appear and defend at the time and place set forth in the order, judgment may be rendered against him or her at any time thereafter. The court

may order such continuances as may be reasonable to afford the respondent an opportunity to defend the action or proceeding.

(B) As provided in section three hundred eight, article twenty-seven, chapter forty-eight of this code regarding domestic violence proceedings and in section thirteen, article eight, chapter fifty-three of this code regarding personal safety proceedings, no fees may be charged for service of petitions or orders until the matter is brought before the appropriate court for final resolution. Any fees ordinarily remitted to the Secretary of State or to a law-enforcement agency at the time of service shall be deferred and taxed in the costs of the action or proceeding.

(C) Data and records regarding service maintained by law-enforcement agencies and by the office of the Secretary of State for purposes of fulfilling the obligations of this section are not public records subject to disclosure under the provisions of article one, chapter twenty-nine-b of this code.

(d) The following words and phrases, when used in this section, shall for the purpose of this section and unless a different intent be apparent from the context, have the following meanings:

(1) ‘Duly authorized agent’ means and includes among others a person who, at the direction of or with the knowledge or acquiescence of a nonresident, engages in such act or acts and includes among others a member of the family of such nonresident or a person who, at the residence, place of business or post office of such nonresident, usually receives and receipts for mail addressed to such nonresident.

(2) ‘Nonresident’ means any person who is not a resident of this state or a resident who has moved from this state subsequent to engaging in such acts or acts covered by this section.

§56-3-34. Actions by or against nonresident bail bond enforcement agents or bail bondsmen; appointment of Secretary of State as agents; service of process.

(a) Every nonresident bail bond enforcer or bail bondsman, for the privilege of entering this state to act in the capacity of a bail

bond enforcer, either personally or through an agent, appoints the Secretary of State, or his or her successor in office, to be his or her agent or attorney-in-fact upon whom may be served all lawful process in any action or proceeding against him or her in any court of record in this state for any act occurring within this state resulting in injury arising out of any breach of the applicable standard of care with respect to any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure, or with respect to the property of any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure; or for enforcement of any civil penalty for breach of a duty imposed by this code with respect to bail bondsmen employing or contracting with bail bond enforcers: *Provided*, That in the event process against a nonresident defendant cannot be effected through the Secretary of State, as provided by this section, for the purpose only of service of process, the nonresident bail bond enforcer or bondsman shall be deemed to have appointed as his or her agent or attorney-in-fact any insurance company which has a contract of liability insurance for his or her activities.

(b) For purposes of service of process as provided in this section, every insurance company shall be deemed the agent or attorney-in-fact of every nonresident bail bond enforcer or bondsman insured by the company if the insured nonresident bail bond enforcer or bondsman is involved in any bail bond enforcement activity occurring within this state resulting in injury arising out of any breach of the applicable standard of care with respect to any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure, or with respect to the property of any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure and service of process cannot be effected upon the nonresident through the office of the Secretary of State. Upon receipt of process as hereinafter provided, the insurance company may, within thirty days, file an answer or other pleading or take any action allowed by law on behalf of the defendant.

(c) A nonresident bail bond enforcer or bail bondsman entering this state, either personally or through an agent, is deemed to acknowledge the appointment of the Secretary of State, or, as the case may be, his or her liability insurance company, as his or her agent or attorney-in-fact, or the agent or attorney-in-fact of his or her administrator, administratrix, executor or executrix in the event the nonresident dies, and furthermore is deemed to agree that any process against him or her or against his or her administrator, administratrix, executor or executrix, which is served in the manner hereinafter provided, shall be of the same legal force and validity as though said nonresident or his or her administrator, administratrix, executor or executrix were personally served with a summons and complaint within this state.

Any action or proceeding may be instituted, continued or maintained on behalf of or against the administrator, administratrix, executor or executrix of any nonresident who dies subsequent to bail bond enforcement activity in this state by the nonresident or his or her duly authorized agent.

(d) At the time of filing a complaint against a nonresident bail bond enforcer or bondsman who has been involved in bail bond enforcement activity in the State of West Virginia and before a summons is issued thereon, the plaintiff, or someone for him or her, shall execute a bond in the sum of \$100 before the clerk of the court in which the action is filed, with surety to be approved by said clerk, conditioned that on failure of the plaintiff to prevail in the action he or she will reimburse the defendant, or cause the defendant to be reimbursed, the necessary expense incurred in the defense of the action in this state. Upon the issue of a summons the clerk will certify thereon that the bond has been given and approved.

(e) Service of process upon a nonresident defendant shall be made by leaving the original and two copies of both the summons and complaint, together with the bond certificate of the clerk, and the fee required by section two, article one, chapter fifty-nine of this code with the Secretary of State, or in his or her office, and said service shall be sufficient upon the nonresident defendant or, if a natural person, his or her administrator, administratrix,

executor or executrix: *Provided*, That notice of service and a copy of the summons and complaint shall be sent by registered or certified mail, return receipt requested, by the Secretary of State to the nonresident defendant. The return receipt signed by the defendant or his or her duly authorized agent shall be attached to the original summons and complaint and filed in the office of the clerk of the court from which the process is issued. In the event the registered or certified mail sent by the Secretary of State is refused or unclaimed by the addressee or if the addressee has moved without any forwarding address, the registered or certified mail returned to the Secretary of State, or to his or her office, showing thereon the stamp of the post-office department that delivery has been refused or not claimed or that the addressee has moved without any forwarding address, ~~shall be appended to the original summons and complaint and filed in the clerk's office of the court from which process issued~~ the Secretary of State shall create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. The court may order such continuances as may be reasonable to afford the defendant opportunity to defend the action.

(f) The fee remitted to the Secretary of State at the time of service, shall be taxed in the costs of the proceeding and the Secretary of State shall pay into the State Treasury all funds so coming into his or her hands from the service. The Secretary of State shall keep a record in his or her office of all service of process and the day and hour of service thereof.

(g) In the event service of process upon a nonresident defendant cannot be effected through the Secretary of State as provided by this section, service may be made upon the defendant's insurance company. The plaintiff must file with the clerk of the circuit court an affidavit alleging that the defendant is not a resident of this state;

that process directed to the Secretary of State was sent by registered or certified mail, return receipt requested; that the registered or certified mail was returned to the office of the Secretary of State showing the stamp of the post-office department that delivery was refused or that the notice was unclaimed or that the defendant addressee moved without any forwarding address; and that the Secretary of State has complied with the provisions of subsection (e) of this section. Upon receipt of process the insurance company may, within thirty days, file an answer or other pleading and take any action allowed by law in the name of the defendant.

(h) The following words and phrases, when used in this article, shall, for the purpose of this article and unless a different intent on the part of the Legislature is apparent from the context, have the following meanings:

(1) ‘Agent’ or ‘duly authorized agent’ means and includes, among others, a bail bond enforcer who, on behalf of a bail bondsman, is involved in any bail bond enforcement activity occurring within this state resulting in injury arising out of any breach of the applicable standard of care with respect to any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure, or with respect to the property of any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure;

(2) ‘Nonresident’ means any person who is not a resident of this state or a resident who has moved from the state subsequent to bail bond enforcement activity within this state, and among others includes a nonresident firm, partnership, corporation or voluntary association, or a firm, partnership, corporation or voluntary association that has moved from the state subsequent to bail bond enforcement activity;

(3) ‘Nonresident defendant or defendants’ means a nonresident bail bond enforcer or bondsman who, either personally or through his or her agent, is involved in any bail bond enforcement activity occurring within this state resulting in injury arising out of any breach of the applicable standard of care with respect to any person other than a defendant whose custody or appearance the bail bond

enforcer secures or attempts to secure, or with respect to the property of any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure, which has given rise to a civil action filed in any court in this state;

(4) ‘Insurance company’ means any firm, corporation, partnership or other organization which issues liability insurance.

(i) The provision for service of process herein is cumulative and nothing herein contained shall be construed as a bar to the plaintiff in any action from having process in the action served in any other mode and manner provided by law.

(j) This section is not retroactive and its provisions are not available to a plaintiff in a cause of action arising out of acts occurring prior to the effective date of this section.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2767 – “A Bill to amend and reenact §31B-1-111 of the Code of West Virginia, 1931, as amended; to amend and reenact §31D-5-504 of said code; to amend and reenact §31E-5-504 of said code; to amend and reenact §47-9-4 of said code; and to amend and reenact §56-3-31, §56-3-33, §56-3-33a and §56-3-34 of said code, all relating to authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks; requiring an accurate duplicate of the original; and permitting disposal or returned or undeliverable mail; and providing for written notice.”

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. 504**), 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 H. B. 2767) 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:

Com. Sub. for H. B. 3048, Relating to collection of Tier II fees for chemical inventories.

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

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 increasing the cap for Tier II fees for chemical inventories from a maximum of \$100 annually to \$2,500 annually.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 505**), and there were—yeas 93, nays 7, absent and not voting none, with the nays being as follows:

Nays: Folk, Gearheart, Marcum, McGeehan, Paynter, Upson and Wagner.

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. 3048) 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 a title amendment, and the passage, as amended, of

S. B. 28, Creating new system for certain contiguous counties to establish regional recreation authorities.

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

S. B. 28 – “A Bill to amend and reenact §20-7-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10 and §20-14A-11; and to amend and reenact §20-15-1, §20-15-2, §20-15-3, §20-15-4 and §20-15-5 of said code, all relating to establishing regional recreation authorities and areas; establishing trails for off-highway recreational vehicle use; providing for reimbursement by authority for natural resources police officers; authorizing creation of regional recreation authority as joint development entity formed by two or more contiguous counties; setting forth findings and definitions; establishing powers and composition of governing board; providing for financial review and oversight of public funds; prohibiting certain conduct in regional recreation area; establishing requirements for bidding and purchasing; prohibiting conflicts of interest; limiting liability; clarifying duties and responsibilities of participants to landowners and lessors in the regional recreation area; and establishing criminal penalties and civil remedies.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 506**), and there were—yeas 91, nays 9, absent and not voting none, with the nays being as follows:

Nays: Hicks, Marcum, Maynard, R. Miller, Paynter, Phillips, Rodighiero, Shott 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.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

S. B. 172, Eliminating salary for Water Development Authority board members.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree 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 Criss, Atkinson and Williams.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 221, Relating to composition of PEIA Finance Board.

Delegate Cowles moved the House of Delegates recede from its amendment.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 507**), and there were—yeas 51, nays 49, absent and not voting none, with the nays being as follows:

Nays: Anderson, Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Criss, Dean, Diserio, Eldridge, Espinosa, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Frich, Hamilton, Hartman, Hornbuckle, Iaquinta, Isner, Lewis,

Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Storch, Thompson, Wagner, Ward and Williams.

So, a majority of the members present and voting having voted in the affirmative, the motion to recede prevailed.

Delegate Hicks moved that the vote on the motion to recede be reconsidered.

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

The yeas and nays having been ordered, they were taken (**Roll No. 508**), and there were—yeas 48, nays 52, absent and not voting none, with the yeas being as follows:

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

So, a majority of the members present and voting not having voted in the affirmative, the motion to reconsider failed.

Speaker Pro Tempore Overington in the Chair

Delegates Moye, Eldridge, Frich, Pushkin, Westfall, Thompson, Wagner, R. Miller, Anderson, Zatezalo, E. Evans, Pethtel, Ferro, Iaquina, Pyles, Hollen, Storch, Walters, Ambler, Householder, Nelson, Sypolt, N. Foster, Martin, Arvon, Rowan, Dean, A. Evans, W. Romine, Hamilton, McGeehan and Lynch, Gearheart, Byrd and Mr. Speaker, Mr. Armstead, requested to be excused from voting on the passage of Com. Sub. for S. B. 221 under the provisions of House Rule 49.

The Speaker Pro Tempore 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.

Mr. Speaker, Mr. Armstead, in the Chair

Delegate Sobonya requested to be excused from voting on the passage of Com. Sub. for S. B. 221 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. 509**), and there were—yeas 52, nays 48, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Criss, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, Rowe, Sponaule, Storch, 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 S. B. 221) 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 amendment of the House of Delegates and requested the House to recede from its amendment to

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 motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree 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, Zatezalo and Isner.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 224, Repealing requirement for employer's bond for wages and benefits.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree 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, G. Foster and Fleischauer.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 419, Creating special revenue fund sources for Division of Labor to meet statutory obligations.

On motion of Delegate Cowles, the House of Delegates receded from its amendment.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 510**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Fast, Gearheart, Martin and Paynter.

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.

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 amendment of the House of Delegates and requested the House to recede from its amendment to

S. B. 554, Relating to false swearing in legislative proceeding.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree 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 Capito, Lane and Fleischauer.

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

Third Reading

-continued-

Com. Sub. for S. B. 76, Creating WV Second Chance for Employment Act; on third reading, with right to amend, was reported by the Clerk.

An amendment to the bill, recommended by the Committee on the Judiciary, was reported by the Clerk.

Whereupon,

Delegate Shott asked and obtained unanimous consent that the amendment be withdrawn.

Delegates Shott and Pushkin then moved to amend 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 §61-11B-1; §61-11B-2, §61-11B-3 and §61-11B-4, all to read as follows:

ARTICLE 11B. CRIMINAL OFFENSE REDUCTION.

§61-11B-1. Legislative intent.

It is the intent of the Legislature to establish a procedure to provide for the reduction of certain criminal offenses after imposition of penalties, and demonstration of reform and subsequent adherence to law for an extended period of time. In enacting this article, it is also the Legislature’s intent to improve employment opportunities for reformed, law-abiding persons, while still providing for public notice of prior convictions. In establishing the provisions herein, it is the Legislature’s intent that the petitioner seeking reduction demonstrate adherence and

conformity to law, and has exhibited behavior reflective of being a productive member of the community.

§61-11B-2. Definitions.

(a) As used in this article, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) ‘Criminal offense reduction’ means a reduction of a qualifying felony offense to a misdemeanor offense pursuant to this article.

(2) ‘Drug-related criminal offense’ means a conviction in which the Court has made an express finding that the offense directly or indirectly related to the abuse of, or in furtherance of an addiction for, a controlled substance in violation of law.

(3) ‘Excluded offense’ means:

(A) An offense which involves the infliction of serious physical injury;

(B) A sexual offense, including, but not limited to, a violation of the felony provisions of article eight-b, eight-c, and eight-d of this chapter;

(C) An offense which involved the use or exhibition of a deadly weapon or dangerous instrument;

(D) A felony violation of the provisions of section nine, article two of this chapter;

(E) A felony violation of the provisions of section twenty-eight, article two of this chapter

(F) A felony violation of article four, chapter seventeen-b of this code; or

(G) A felony, the facts and circumstances of which the Court finds to be inconsistent with the purposes of this article.

(4) ‘Non-violent drug-related felony offense’ means a conviction in the State of West Virginia for a violation of a provision of chapter sixty-a, or a drug-related criminal offense, that is felonious in nature, and in which the court makes an express finding that: (i) the underlying offense did not involve violence or potential violence to another person or the public, and (ii) is not an excluded offense as defined in subdivision (2) of this section.

(5) ‘Petitioner’ means a person who has filed a petition seeking a criminal offense reduction under the provisions of this article.

(6) ‘Qualifying felony offense’ means a conviction for non-violent drug-related felony offense that is also not an excluded offense.

(7) ‘Requisite time period’ means ten years after completion of any sentence or period of supervision or probation, whichever is later, during which time there has been no commission and conviction of violation of law by the petitioner.

§61-11B-3. Criminal offense reduction.

(a) Subject to the limitations and procedures set forth in this article, a person convicted of a qualifying felony offense may seek a criminal offense reduction by petition to the circuit court. If granted, the person’s felony offense shall be reduced to a misdemeanor and shall be designated on all records relating to the offense as a ‘reduced misdemeanor.’ The petitioner’s criminal record shall also reflect that he or she be granted legal status as is associated with being convicted of a misdemeanor, and the person shall not be deemed as being convicted of a felony for any legal purpose or restriction.

(b) Notwithstanding any provision of law to the contrary, the reduced misdemeanor provided for under this article may not be expunged as part of this petition or by subsequent legal proceeding or petition.

(c) There shall be no entitlement to a criminal offense reduction and the granting of the petition shall remain in the discretion of the circuit court.

§61-11B-4. Petition for reduction.

(a) A person seeking a criminal offense reduction under this article shall file with the circuit court a petition, in a form and manner set forth by the West Virginia Supreme Court of Appeals.

(b) Any person filing a petition pursuant to the provisions of this article shall pay the filing fee set by the provisions of subdivision (1), subsection (a), section eleven, article one, chapter fifty-nine of this code: *Provided*, That in addition to the fee required by the provisions of this subsection a petitioner shall pay a fee of \$100 which shall be deposited into a non-appropriated special revenue account within the State Treasurer's office to be known as the West Virginia State Police Criminal History Account, said fee to be used to offset costs to the State Police for actions to facilitate the operation of this article.

(c) Each petition for criminal offense reduction pursuant to this section shall be verified under oath and include the following information:

(1) Petitioner's current name and all other legal names or aliases by which petitioner has been known at any time;

(2) All of petitioner's addresses from the date of the offense or alleged offense in connection with which an criminal offense reduction order is sought to date of the petition;

(3) Petitioner's date of birth and social security number;

(4) Petitioner's date of arrest, the court of jurisdiction and criminal complaint, indictment, summons or case number;

(5) The offense or offenses in which petitioner was charged and of which petitioner was convicted, along with the statutory citations therefor;

(6) The names of any victim or victims, or where there are no identifiable victims such shall be stated;

(7) Whether there is any current order for restitution, protection, restraining order or other no contact order prohibiting the petitioner from contacting the victims or whether there has ever been a prior order for restitution, protection or restraining order prohibiting the petitioner from contacting the victim. If there is such a current order, petitioner shall attach a copy of that order to his or her petition;

(8) The court's disposition of the matter and punishment imposed;

(9) The reasons a criminal offense reduction is sought, such as, but not limited to, employment or licensure purposes, and why it should be granted;

(10) The date upon which he or she completed any sentence or period of supervision or probation;

(11) An express averment by the petitioner that he or she has neither committed nor been convicted of a violation of law;

(12) The action the petitioner has taken since the time of the offenses toward personal rehabilitation, including treatment, work or other personal history that demonstrates rehabilitation;

(13) Whether petitioner has ever been granted criminal offense reduction, expungement or similar relief regarding a criminal conviction by any court in this state, any other state or by any federal court; and

(14) Any supporting documents, sworn statements, affidavits or other information supporting the petition to reduce criminal offense.

(d) A copy of the petition, with any supporting documentation, shall be served by petitioner pursuant to the West Virginia Rules of Civil Procedure upon the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law-enforcement officer of any other law-enforcement agency which participated in the arrest

of the petitioner; the circuit court which disposed of the petitioner's criminal charge; the superintendent or warden of any institution in which the petitioner was confined; and all other state and local government agencies whose records would be affected by the proposed criminal offense reduction.

(e) The prosecuting attorney office that had jurisdiction over the offense or offenses for which reduction is sought shall serve by first class mail the petition for criminal offense reduction, accompanying documentation and any proposed criminal offense reduction order to any identified victims.

(f) Upon receipt of a petition for criminal offense reduction, the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law-enforcement officer of any other law-enforcement agency which participated in the arrest of the petitioner; the superintendent or warden of any institution in which the petitioner was confined; the circuit court of conviction, if the petition is filed in another circuit; any state and local government agencies the records of which would be affected by the proposed criminal offense reduction and any other interested individual or agency that desires to oppose the criminal offense reduction shall, within thirty days of receipt of the petition, file a notice of opposition with the court with supporting documentation and sworn statements setting forth the reasons for resisting the petition for criminal offense reduction. A copy of any notice of opposition with supporting documentation and sworn statements shall be served upon the petitioner in accordance with the West Virginia Rules of Civil Procedure. The petitioner may file a reply no later than fifteen days after service of any notice of opposition to the petition for criminal offense reduction.

(g) The burden of proof shall be on the petitioner to prove by clear and convincing evidence to the Court that:

(1) The conviction or convictions for which criminal offense reduction is sought are qualifying offenses and the only convictions against petitioner;

(2) That the requisite time period has passed since the conviction or convictions or end of the completion of any sentence of incarceration or probation;

(3) That the petitioner has neither committed nor been convicted of a violation of law in the preceding ten years;

(4) That petitioner has no criminal charges pending against him or her;

(5) That the criminal offense reduction is consistent with the public welfare;

(6) That petitioner has, by his or her behavior since the conviction or convictions, evidenced that he or she has been rehabilitated and has remained law-abiding; and

(7) Any other matter deemed appropriate or necessary by the court to make a determination regarding the petition for criminal offense reduction.

(h) Within one hundred eighty days of the filing of a petition for criminal offense reduction the circuit court shall:

(1) Summarily grant the petition;

(2) Set the matter for hearing; or

(3) Summarily deny the petition if the court determines that the petition is insufficient or, based upon supporting documentation and sworn statements filed in opposition to the petition, the court determines that the petitioner, as a matter of law, is not entitled to reduction.

(i) If the court sets the matter for hearing, all interested parties who have filed a notice of opposition shall be notified. At the hearing, the court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with any law-enforcement authority, the institution of confinement, if any, and parole authority or other agency which was in any way involved with the petitioner's arrest,

conviction, sentence and post-conviction supervision, including any record of arrest or conviction in any other state or federal court. The court may hear testimony of witnesses and any other matter the court deems proper and relevant to its determination regarding the petition. The court shall enter an order reflecting its ruling on the petition for criminal offense reduction with appropriate findings of fact and conclusions of law.

(j) If the court grants the petition for criminal offense reduction, it shall order any records in the custody of the court, and of any other agency or official, including law-enforcement records, to reflect reduction of the felony offense to a reduced misdemeanor. Every agency with records relating to the arrest, charge or other matters arising out of the arrest or conviction that is ordered to reflect the criminal offense reduction in its records shall certify to the court within sixty days of the entry of the criminal offense reduction order that the required reduction has been completed.

(k) Upon granting of criminal offense reduction, the person whose felony offense has been reduced under the provisions of this article shall not have to disclose the fact that he or she had a felony conviction: *Provided*, That upon inquiry by a prospective employer or on an application for employment, credit or other type of application, he or she shall disclose the existence of the reduced misdemeanor and acknowledgement of prior conviction if asked about prior convictions or crimes.”

The amendment offered by Delegates Shott and Pushkin was rejected.

Delegate Shott asked and obtained unanimous consent to amend the bill on third reading.

On motion of Delegate Shott, the amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out everything thereafter, 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 §61-11B-1; §61-11B-2, §61-11B-3 and §61-11B-4, all to read as follows:

ARTICLE 11B. CRIMINAL OFFENSE REDUCTION.

§61-11B-1. Legislative Intent.

(1) It is the intent of the Legislature to establish a program that provides for a reduction of certain criminal offenses after imposition of penalties, and demonstration of reform and adherence to law for an extended period thereafter.

(2) It is also the intent of the Legislature to allow for public notice of prior transgressions without further penalty or diminution of employment opportunities.

§61-11B-2. Definitions.

(a) As used in this article, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) ‘Criminal offense reduction’ means a reduction of a qualifying felony offense to a misdemeanor offense pursuant to this article.

(2) ‘Excluded Offense’ means:

(A) a conviction involving:

(i) The infliction of serious physical injury;

(ii) Involving a sexual offense, including specifically the provisions of article eight-b, eight-c, and eight-d of this chapter;

(iii) Involving the use or exhibition of a deadly weapon or dangerous instrument;

(iv) Involving a battery, assault or other provision of section nine, article two of this chapter;

(v) Involving a domestic battery, domestic assault, or other provisions of section twenty-eight, article two of this chapter;

(vi) A conviction for driving under the influence of alcohol, controlled substances or a conviction for a violation of section three, article four, chapter seventeen-b of this code or section nineteen, article eight of this chapter; or

(B) Any that the Court may so find based upon the facts and circumstances of the offense giving rise to the felony conviction involved in the petition.

(3) ‘Non-violent felony’ means a conviction in the State of West Virginia for a violation of state law that is felonious in nature, and in which the court makes an express finding that the underlying offense giving rise to the petition is not (i) an excluded offense as defined in subdivision (2) of this article, and (ii) did not involve violence or potential violence to another person or the public.

(4) ‘Petitioner’ means a person who has filed a petition seeking a criminal offense reduction under the provisions of this article.

(5) ‘Qualifying felony offense’ means: a conviction for non-violent felony offense that is also not an excluded offense.

(6) ‘Requisite time period’ means (1) ten years after completion of any sentence or period of supervision or probation, whichever is longer; and (2) during which time there has been no commission and conviction of violation of law by the petitioner.

§61-11B-3. Criminal Offense Reduction.

(a) Subject to the limitations and procedures set forth in this article, a person convicted of a non-violent felony offense may seek a criminal offense reduction by petition to the circuit court. If granted, the person’s felony offense shall be reduced to a misdemeanor and shall be designated on all records relating to the offense as a reduced misdemeanor. The person’s criminal record shall also reflect that the person be granted legal status associated with being convicted of a misdemeanor, and the person shall not

be deemed as being convicted of a felony for any legal purpose or restriction.

(b) Notwithstanding any provision of law to the contrary, the reduced misdemeanor provided for under this article may not be expunged as part of this petition or by subsequent legal proceeding or petition.

(c) There shall be no entitlement to a criminal offense reduction and the granting of the petition shall remain in the discretion of the circuit court.

§61-11B-4. Petition for reduction.

(a) A person seeking a criminal offense reduction under this article shall file with the circuit court a petition, in a form and manner set forth by the West Virginia Supreme Court of Appeals.

(b) The clerk of the Circuit Court shall charge and collect a filing fee in advance the same fee as is charged for instituting a civil action pursuant to subdivision (1), subsection (a), section eleven, article one, chapter fifty-nine of this code: *Provided*, That \$100 of such filing fee shall go to the West Virginia State Police to assist in the administration and review of records required under this article.

(c) Each petition for criminal offense reduction pursuant to this section shall be verified under oath and include the following information:

(1) Petitioner's current name and all other legal names or aliases by which petitioner has been known at any time;

(2) All of petitioner's addresses from the date of the offense or alleged offense in connection with which an criminal offense reduction order is sought to date of the petition;

(3) Petitioner's date of birth and social security number;

(4) Petitioner's date of arrest, the court of jurisdiction and criminal complaint, indictment, summons or case number;

(5) The statute or statutes and offense or offenses for which petitioner was charged and of which petitioner was convicted;

(6) The names of any victim or victims, or that there were no identifiable victims;

(7) Whether there is any current order for restitution, protection, restraining order or other no contact order prohibiting the petitioner from contacting the victims or whether there has ever been a prior order for restitution, protection or restraining order prohibiting the petitioner from contacting the victim. If there is such a current order, petitioner shall attach a copy of that order to his or her petition;

(8) The court's disposition of the matter and punishment imposed, if any;

(9) Why a criminal offense reduction is sought, such as, but not limited to, employment or licensure purposes, and why it should be granted;

(10) The steps the petitioner has taken since the time of the offenses toward personal rehabilitation, including treatment, work or other personal history that demonstrates rehabilitation;

(11) Whether petitioner has ever been granted criminal offense reduction, expungement or similar relief regarding a criminal conviction by any court in this state, any other state or by any federal court; and

(12) Any supporting documents, sworn statements, affidavits or other information supporting the petition to reduce criminal offense.

(d) A copy of the petition, with any supporting documentation, shall be served by petitioner pursuant to the rules of the trial court upon the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law-enforcement officer of any other law-enforcement agency which participated in the arrest of

the petitioner; the circuit court which disposed of the petitioner's criminal charge; the superintendent or warden of any institution in which the petitioner was confined; and all other state and local government agencies whose records would be affected by the proposed criminal offense reduction.

(e) The prosecutorial office that had jurisdiction over the offense or offenses for which reduction is sought shall serve by first class mail the petition for criminal offense reduction, accompanying documentation and any proposed criminal offense reduction order to any identified victims.

(f) Upon receipt of a petition for criminal offense reduction, the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law-enforcement officer of any other law-enforcement agency which participated in the arrest of the petitioner; the superintendent or warden of any institution in which the petitioner was confined; the circuit court which disposed of the petitioner's criminal charge; all other state and local government agencies whose records would be affected by the proposed criminal offense reduction and any other interested individual or agency that desires to oppose the criminal offense reduction shall, within thirty days of receipt of the petition, file a notice of opposition with the court with supporting documentation and sworn statements setting forth the reasons for resisting the petition for criminal offense reduction. A copy of any notice of opposition with supporting documentation and sworn statements shall be served upon the petitioner in accordance with trial court rules. The petitioner may file a reply no later than fifteen days after service of any notice of opposition to the petition for criminal offense reduction.

(g) The burden of proof shall be on the petitioner to prove by clear and convincing evidence that:

(1) The conviction or convictions for which criminal offense reduction is sought are qualifying offenses and the only convictions against petitioner;

(2) That the requisite time period has passed since the conviction or convictions or end of the completion of any sentence of incarceration or probation;

(3) Petitioner has no criminal charges pending against him or her;

(4) The criminal offense reduction is consistent with the public welfare;

(5) Petitioner has, by his or her behavior since the conviction or convictions, evidenced that he or she has been rehabilitated and is law-abiding; and

(6) Any other matter deemed appropriate or necessary by the court to make a determination regarding the petition for criminal offense reduction.

(h) Within ninety days of the filing of a petition for criminal offense reduction the circuit court shall:

(1) Summarily grant the petition;

(2) Set the matter for hearing; or

(3) Summarily deny the petition if the court determines that the petition is insufficient or, based upon supporting documentation and sworn statements filed in opposition to the petition, the court determines that the petitioner, as a matter of law, is not entitled to reduction.

(i) If the court sets the matter for hearing, all interested parties who have filed a notice of opposition shall be notified. At the hearing, the court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with any law-enforcement authority, the institution of confinement, if any, and parole authority or other agency which was in any way involved with the petitioner's arrest, conviction, sentence and post-conviction supervision, including any record of arrest or conviction in any other state or federal court. The court may hear testimony of witnesses and any other matter

the court deems proper and relevant to its determination regarding the petition. The court shall enter an order reflecting its ruling on the petition for criminal offense reduction with appropriate findings of fact and conclusions of law.

(j) If the court grants the petition for criminal offense reduction, it shall order any records in the custody of the court, and of any other agency or official, including law-enforcement records, to reflect reduction of the felony offense to a reduced misdemeanor. Every agency with records relating to the arrest, charge or other matters arising out of the arrest or conviction that is ordered to reflect the criminal offense reduction in its records shall certify to the court within sixty days of the entry of the criminal offense reduction order that the required reduction has been completed.

(k) Upon granting of criminal offense reduction, the person whose felony offense has been reduced under the provisions of this article shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit or other type of application that he or she has a felony conviction.”

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. 511**), and there were—yeas 74, nays 25, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Canestraro, Caputo, Dean, Diserio, Ferro, Fleischauer, Fluharty, Hartman, Hill, Hornbuckle, Iaquina, Longstreth, Love, Lynch, McGeehan, Miley, Moye, Pethtel, Pyles, Sponaugle and Williams.

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 then read a third time.

The question now being on the passage of the bill, the yeas and nays were taken (**Roll No. 512**), and there were—yeas 94, nays 5,

absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Cowles, G. Foster, Frich, Gearheart 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 Speaker declared the bill (Com. Sub. for S. B. 76) passed.

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

Com. Sub. for S. B. 76 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-11B-1; §61-11B-2, §61-11B-3 and §61-11B-4, all relating to establishment of a criminal offense reduction program; setting forth legislative intent; setting forth definitions; providing for persons convicted of certain criminal felony offenses to petition for reduction to a misdemeanor offense; setting forth limitations; providing for reduced offense to be reflected on criminal records; expressly providing that reduction of felony offense means person shall not be deemed as being convicted of a felony for any legal purpose or restriction; clarifying that reduced misdemeanor offenses may not be expunged; clarifying that criminal offense reduction is in the discretion of the circuit court; establishing procedures for petition to the court; requiring payment of a filing fee; directing certain moneys to State Police from filing fee; setting forth information to be included on the petition; providing for notification of petition to certain persons; requiring prosecuting attorney to contact identified victims; providing for notice of opposition to the petition by certain persons; establishing burden of proof by petitioner; providing for a hearing and setting forth procedures; providing for entry of an order by the court; authorizing court to enter an order directing certain records to reflect reduction of a felony offense to a reduced misdemeanor; requiring certification of compliance to the court; and providing for disclosure requirements.”

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. 27, Relating to microprocessor permit, being in possession of the Clerk, was taken up for further consideration.

On motion of Delegate Cowles, the House of Delegates then reconsidered the vote on the title amendment.

On motion of Delegate Ellington, the title amendment previously adopted was withdrawn.

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

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 a microprocessor; establishing permit requirements; establishing permit limitations; clarifying types of microprocessor kitchens; requiring percentage from garden or farm; requiring recordkeeping; requiring labeling; setting forth labeling requirements; clarifying foods requiring permit; exempting certain foods; setting forth permit inspections; establishing fees; allowing suspension of products; permitting recalls; setting forth production prohibitions and limiting sales.”

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. 630, Establishing Accessibility and Equity in Public Education Enhancement Act, still being in possession of the Clerk, was taken up for further consideration.

On motion of Delegates Espinosa and Ellington, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 630 – “A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, and to amend said code

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 public education accessibility and equity; relating to the secondary schools athletic commission; participation by home schooled students in extracurricular activities; 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.”

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 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 6th 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 S. B. 5, Disqualifying CDL for DUI conviction in certain cases,

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. 225, Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court,

Com. Sub. for S. B. 261, Relating to increasing salary or wages of judgment debtor,

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

Com. Sub. for S. B. 445, Amending definition of “abused child”,

Com. Sub. for S. B. 456, Relating to standards for termination of parental rights in child abuse and neglect cases,

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. 634, Relating generally to certain agreements between DHHR and state's medical schools,

S. B. 684, Relating generally to WV State Police,

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. 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,

And,

Com. Sub. for S. B. 531, Relating to renewal date for apiary certificates of registration.

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. 124, Study relating to power generation facilities,

H. C. R. 126, Pastor Robert L. “Bob” Barker Memorial Bridge,

And,

H. C. R. 128, Study relating to maintenance and custodial work on state and county buildings, facilities and equipment to be done under private contract,

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

Miscellaneous Business

Delegate Barrett asked and obtained unanimous consent that the remarks of Delegate Caputo regarding H. R. 13 be printed in the Appendix to the Journal.

Delegate Thompson asked and obtained unanimous consent that the remarks of Delegate Marcum regarding H. R. 13 be printed in the Appendix to the Journal.

Delegate G. Foster asked and obtained unanimous consent that the remarks of Delegate R. Miller regarding Com. Sub. for S. B. 220 be printed in the Appendix to the Journal.

Delegate Eldridge asked and obtained unanimous consent that all remarks regarding Com. Sub. for S. B. 239 be printed in the Appendix of the Journal.

Delegate Baldwin announced that he was absent on today when the votes were taken on Roll Nos. 476 through 479, and that had he been present, he would have voted “Yea” thereon.

Delegate Paynter announced that he was absent on today when the vote was taken on Roll No. 482, and that had he been present, he would have voted “Yea” thereon.

Delegate Moore announced that he was absent on today when the vote was taken on Roll Nos. 482, and that had he been present, he would have voted “Yea” thereon.

Delegate Dean announced that he had inadvertently voted “Yea” on Roll No. 506, and that his intention was to have voted “Nay”.

Delegate Frich noted to the Clerk that she be recorded in the Journal as having voted “Nay” on the adoption of H. C. R. 75.

Delegate Ward noted to the Clerk that he be recorded in the Journal as having voted “Nay” on the adoption of H. C. R. 75 and H. C. R. 113.

Delegate Lane noted to the Clerk that she was absent on today, when the votes were taken on Roll Nos. 454 through 464, and that had she been present, she would have voted “Yea” thereon.

Delegate Sponaule noted to the Clerk that he was absent on today, when the votes were taken on S. B. 27 and Com. Sub. for S. B. 40 (Roll Nos. 468 through 470), and that had he been present, he would have voted “Yea” thereon.

Delegate White noted to the Clerk that he was absent on today, when the votes were taken on Roll Nos. 466 through 474, and that had he been present, he would have voted “Yea” thereon.

Delegates Rowan, Eldridge, A. Evans, Ferro, Fleischauer, Kelly, Lewis, Love, Lovejoy, Martin, Maynard, Moye, Paynter, Pethel, Pyles, Queen, Rohrbach, C. Romine, R. Romine, Sypolt, Walters, White and Zatezalo filed forms with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. C. R. 136.

At 8:49 p.m., the House of Delegates adjourned until 10:00 a.m., Saturday, April 8, 2017.

Saturday, April 8, 2017

SIXTIETH DAY

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

The House of Delegates met at 10:00 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, April 7, 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 6th 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. 2180, Authorizing the issuance of special “In God We Trust” motor vehicle registration plates,

H. B. 2188, Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth,

H. B. 2518, Creating a legislative rule to permit a pharmacist or pharmacy intern to administer certain immunizations,

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

Com. Sub. for H. B. 2586, Relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board,

H. B. 2653, Extending the Multi State Real-Time Tracking System,

H. B. 2706, Authorizing legislative rules regarding higher education,

H. B. 2796, Relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical services,

And,

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.

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. 2129, Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following amendment of the bill by the Senate and requested the Senate to recede therefrom:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §60-7-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-13. Revocation or suspension of license; monetary penalty; hearing; assessment of costs; establishment of enforcement fund.

(a) Upon a determination by the commissioner that a licensee has: (i) Violated the provisions of article sixteen, chapter eleven,

or of this chapter; (ii) acted in such a way as would have precluded initial or renewal licensure; or (iii) violated any rule or order promulgated by the commissioner, the commissioner may impose any one or a combination of the following sanctions:

(1) Revoke the licensee's license;

(2) Suspend the licensee's license;

(3) Place the licensee on probationary status for a period not to exceed twelve months; and

(4) Impose a monetary penalty not to exceed \$1,000 for each violation where revocation is not imposed.

(b) Any monetary penalty assessed and collected by the commissioner shall be transmitted to the State Treasurer for deposit into the State Treasury to the credit of a special revenue fund designated the Alcohol Beverage Control Enforcement Fund, which is hereby created. All moneys collected, received and deposited in the Alcohol Beverage Control Enforcement Fund shall be kept and maintained for expenditures by the commissioner for the purpose of enforcement of the statutes and rules pertaining to alcoholic liquor, and shall not be treated by the State Treasurer or State Auditor as any part of the general revenue of the state. At the end of each fiscal year all funds in the Alcohol Beverage Control Enforcement Fund in excess of \$20,000 shall be transferred to the General Revenue Fund.

(c) In addition to the grounds for revocation, suspension or other sanction of a license set forth in subsection (a) of this section, conviction of the licensee of any offense constituting a violation of the laws of this state or of the United States relating to alcoholic liquor, nonintoxicating beer or gambling shall be mandatory grounds for such sanctioning of a license. Conviction of the licensee of any violation of the laws of this state or of the United States relating to prostitution, or the sale, possession or distribution of narcotics or controlled substances, shall be mandatory grounds for revocation of the licensee's license for a period of at least one year.

(d) In addition to the grounds for revocation, suspension or other sanction of a license set forth in this section, the commissioner may, in his or her discretion, revoke, suspend or otherwise sanction a licensee for failing to alert, in a timely manner, emergency medical services or law enforcement of a life-threatening medical emergency occurring on the premises of the licensee's private club.

(e) If a life threatening medical emergency occurs on a licensee's private premises requiring notification under subsection (d) of this section, the licensee shall notify the Alcohol Beverage Control Administration within forty-eight hours of the emergency's occurrence. The commissioner may, in his or her discretion, revoke, suspend or otherwise sanction a licensee for failing to comply with the 48-hour notification requirement."

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2129 – “A Bill to amend and reenact §60-7-13 of the Code of West Virginia, 1931, as amended, relating to authorizing the Commissioner of the Alcohol Beverage Control Administration to revoke, suspend or otherwise sanction a private club licensed to sell alcohol for failing to alert emergency medical services and law enforcement of a life-threatening medical emergency occurring on the licensee's premises; requiring private clubs licensed to sell alcohol to notify the Alcohol Beverage Control Administration of any life-threatening medical emergencies occurring on the licensee's premises within a week of the emergency's occurrence; and authorizing the Commissioner of the Alcohol Beverage Control Administration to revoke, suspend or otherwise sanction a licensee for failing to notify the Alcohol Beverage Control Administration of a life-threatening medical emergency that has taken place on the licensee's premises.”

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

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. 2555, Relating to tax credits for apprenticeship training in construction trades.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following amendment of the bill by the Senate and requested the Senate to recede therefrom:

On page two, section one, after line twenty-five, by inserting a new subsection, designated subsection (d), to read as follows:

“(d) Apprentices shall be legal residents. — In addition to other requirements of this section, in order for a taxpayer to claim the credit created in this section, the taxpayer shall require any apprentice for whom it claims a credit to submit to an employment eligibility check through the E-verify system, administered by United States Citizenship and Immigration Services” followed by semicolon.

And,

By relettering the remaining subsection.

On page two, section one, line twenty, by changing the period to a colon and inserting the following proviso: “Provided, That in order to ensure this tax credit does not subsidize the payment of the minimum wage, an apprentice working for the participating taxpayer may not be paid an hourly wage less than \$2 above the applicable minimum wage per hour.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2555 – “A Bill to amend and reenact §11-13W-1 of the Code of West Virginia, 1931, as amended, relating to tax credits for apprenticeship training in construction trades; removing requirement that eligibility is limited to programs jointly administered by labor and management trustees; providing that the apprentice must

be paid at least two dollars above the applicable minimum wage in order for a participating taxpayer to claim the credit; conforming provisions to current law; and requiring that taxpayers seeking to take advantage of the apprenticeship tax credit must perform an employment eligibility check through the E-verify system.”

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

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. 2631, Relating to time standards for disposition of complaint proceedings.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following amendment of the bill by the Senate and requested the Senate to recede therefrom:

On page two, section five, line sixteen, after the word “ruling” and the period, by inserting the following:

“The time period for final ruling shall be tolled for any delay requested or caused by the accused or by counsel for the accused and in no event shall a complaint proceeding be dismissed for exceeding the time standards in this section when such overage is the result of procedural delay or obstructive action by the accused or his or her counsel or agents.”

On page two, section five, lines seventeen through twenty-three, by striking out all of subsection (d), and relettering the remaining subsections.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2631 – “A Bill to amend and reenact §30-1-5 of the Code of West Virginia, 1931, as amended, relating to time standards for disposition of complaint proceedings and tolling the time periods for delays attributable to the accused.”

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

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

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Boso, Swope 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 Walters, Gearheart and Bates.

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

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Boso, Swope 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 Walters, Gearheart and Bates.

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 amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2759, Creating Statewide Interoperable Radio Network.

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

On pages one through three, by striking out all of section three and inserting a new section, designated section three-a, to read as follows:

“**ARTICLE 4. OFFENSES AND PENALTIES.**

§5A-3-3a. Additional exemptions from purchasing requirements.

The provisions of subdivision nine, section three, article three, chapter five-a do not apply to construction or repair contracts entered into by the state for the emergency construction or repair

of the Statewide Interoperable Radio Network created by article fourteen, chapter fifteen of this code.”

On page seven, section four, line one, by striking out the word “Director” and inserting in lieu thereof the word “director”.

On page eight, section four, line thirty, by striking out the word “Director” and inserting in lieu thereof the word “director”.

On page eight, section four, line thirty-two, by striking out the word “Director” and inserting in lieu thereof the word “director”.

On page nine, section five, line twenty-six, by striking out the words “SIRN account” and inserting in lieu thereof the words “Statewide Interoperable Radio Network Account”.

On page thirteen, section nine, line eleven, by striking out the word “account” and inserting in lieu thereof the words “Statewide Interoperable Radio Network Account”.

On page thirteen, section nine, line seventeen, by striking out the words “SIRN account” and inserting in lieu thereof the words “Statewide Interoperable Radio Network Account”.

On page thirteen, section nine, line twenty-one, by striking out the words “the thirtieth day of June 2018” and inserting in lieu thereof the words “on June 30, 2018”.

On page thirteen, section nine, line twenty-three, by striking out the words “special revenue account” and inserting in lieu thereof the words “Statewide Interoperable Radio Network Account”.

On page thirteen, section nine, line twenty-four, by striking out the words “special revenue account” and inserting in lieu thereof the words “Statewide Interoperable Radio Network Account”.

On page fourteen, section nine, line twenty-seven, by striking out the words “SIRN account” and inserting in lieu thereof the words “Statewide Interoperable Radio Network Account”.

And,

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 §5A-3-3a; that §5A-6-8 of said code be amended and reenacted; that §5A-10-6 of said code be amended and reenacted; and that said code be amended by adding thereto a new article, designated §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 to read as follows” and a colon.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2759 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §5A-3-3a; 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; prescribing duties for Regional Interoperability Committee; providing for transfer of assets and staffing of Statewide Interoperable Radio Network from the Department of Health and Human Resources to the West Virginia Department of Homeland Security and Emergency Management with a certain exception; establishing special revenue account for Statewide Interoperable Radio Network designated as the Statewide Interoperable Radio Network Account; providing for deposit of revenues derived from the lease of property managed as

part of the West Virginia Statewide Interoperable Radio Network into the Statewide Interoperable Radio Network Account; exempting Statewide Interoperable Radio Network from certain Purchasing Division and Office of Technology requirements; and authorizing emergency and legislative rulemaking.”

On the passage of the bill, the yeas and nays were taken (**Roll No. 513**), 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 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. 514**), 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 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.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

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 motion of Delegate Cowles, the House of Delegates refused to concur in the following amendment of the bill by the Senate and requested the Senate to recede therefrom:

On page seven, section one, by striking out paragraph (116).

On page twenty, section one, by striking out paragraph (466).

On page twenty-one, section one, by striking out paragraph (480).

And,

By renumbering the remaining paragraphs.

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

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. 2962, Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors.

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

On page four, section one, line seventy-six, after the word “state”, by striking out the word “of” and inserting in lieu thereof the word “or”.

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. 515**), 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 (H. B. 2962) 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 amendment, a bill of the House of Delegates, as follows:

H. B. 2967, Relating generally to administration of estates and trusts.

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 §44-1-1, §44-1-6, §44-1-7, §44-1-8, §44-1-14a and §44-1-26 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §44-3A-3 of said code be amended and reenacted; and that §44-5-3 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. PERSONAL REPRESENTATIVES.

§44-1-1. Executor has no powers before qualifying.

A person appointed by a will executor thereof shall not have the powers of executor until he or she qualifies as such by taking an oath and giving bond, unless not required to post bond by section eight of this article, before the county ~~court~~ commission in which the will, or an authenticated copy thereof, is admitted to record, or before the clerk thereof in vacation, except that he or she may provide for the burial of the testator, pay reasonable funeral expenses and preserve the estate from waste.

§44-1-6. Bond and oath; termination of grant in certain cases.

At the time of the grant of administration upon the estate of any intestate, the person to whom it is granted shall, in the ~~court~~ county commission or before the clerk granting it, give bond, unless not required to post bond by section eight of this article, and take an

oath that the deceased has left no will so far as he or she knows, and that he or she will faithfully perform the duties of ~~his~~ the office to the best of his or her judgment. If a will of the deceased be afterwards admitted to record, or if, after administration is granted to a creditor or other person than a distributee, any distributee who shall not have before refused shall apply for administration, there may be a grant of probate or administration, after reasonable notice to such creditor or other person theretofore appointed, in like manner as if the former grant had not been made, and such former grant shall thereupon cease.

§44-1-7. Penalty of bond.

(a) Every bond ~~of~~ required to be given by an executor or administrator shall be in a penalty equal, at the least, to the full value of the personal estate of the deceased to be administered; and where there is a will which authorizes the executor or administrator to sell real estate, or receive the rents and profits thereof, the bond shall be in a penalty equal, at the least, to the full value both of such personal estate and of such real estate, or of such personal estate and of such rents and profits, as the case may be.

(b) If on the filing of the ~~inventory or~~ appraisal of the estate it shall appear that the penalty of the bond does not comply as to amount with the foregoing requirements, the ~~court~~ county commission in which, or the clerk before whom, such bond was given, shall immediately notify such executor or administrator of such fact and require of him or her a new or additional bond, and the failure of such executor or administrator to give the same within a reasonable time shall be sufficient cause for his or her removal.

§44-1-8. When executor or administrator not to give bond; when surety not required.

(a) Subject to the provisions of section three, article five of this chapter governing the appointment of a nonresident of this state as an executor, where the will directs that an executor shall not give bond, it shall not be required of him or her, unless at the time the will is admitted to probate or at any time subsequently, on the application of any person interested, ~~or from the knowledge of the~~

~~court~~ and after a hearing, it is required by the county commission or clerk admitting the will to probate, it is deemed proper that bond ought to be given.

(b) No surety shall be required on the bond of the executor if he or she is also the sole beneficiary of the decedent, unless the will directs otherwise, and no surety shall be required on the bond of the administrator if he or she is the sole distributee of the decedent, unless at the time the will is admitted to probate or the administrator is appointed or at any time thereafter, on the application of any person interested, and after a hearing, it is required by the county commission that surety ought to be given.

(c) In all such cases where no surety is required of the executor or administrator, the executor or administrator shall nevertheless be liable upon his or her bond upon his or her own personal recognizance in the event of default, failure or misadministration by the executor or administrator.

§44-1-14a. Notice of administration of estate; time limits for filing of objections; liability of personal representative.

(a) Within thirty days of the filing of the appraisal of any estate or within one hundred twenty days of the date of qualification of the personal representative if an appraisal is not filed as required in section fourteen of this article, the clerk of the county commission shall publish, once a week for two successive weeks, in a newspaper of general circulation within the county of the administration of the estate, a notice, which is to include:

- (1) The name of the decedent;
- (2) The name and address of the county commission before whom the proceedings are pending;
- (3) The name and address of the personal representative;
- (4) The name and address of any attorney representing the personal representative;

(5) The name and address of the fiduciary commissioner, if any;

(6) The date of first publication;

(7) A statement that claims against the estate must be filed within sixty days of the date of first publication in accordance with article two or article three-a of this chapter;

(8) A statement that any person seeking to impeach or establish a will must make a complaint in accordance with section eleven, twelve or thirteen, article five, chapter forty-one of this code;

(9) A statement that an interested person objecting to the qualifications of the personal representative or the venue or jurisdiction of the court must be filed with the county commission within sixty days after the date of first publication or thirty days of service of the notice, whichever is later; and

(10) If the appraisal of the assets of the estate shows the value to be \$200,000 or less, exclusive of real estate specifically devised and nonprobate assets, or, if it appears to the clerk that there is only one beneficiary of the probate estate and that the beneficiary is competent at law, a statement substantially as follows: 'Settlement of the estate of the following named decedents will proceed without reference to a fiduciary commissioner unless within sixty days from the first publication of this notice a reference is requested by a party in interest or an unpaid creditor files a claim and good cause is shown to support reference to a fiduciary commissioner'. If a party in interest requests the fiduciary commissioner to conclude the administration of the estate or an unpaid creditor files a claim, no further notice to creditors shall be published in the newspaper, and the personal representative shall be required to pay no further fees, except to the fiduciary commissioner for conducting any hearings, or performing any other duty as a fiduciary commissioner. The time period for filing claims against the estate shall expire upon the time period set out in the notice to creditors published by the clerk of the county commission as required in this subsection (a). If an unpaid creditor files a claim, the fiduciary commissioner shall conduct a hearing

on the claim filed by the creditor, otherwise, the fiduciary commissioner shall conclude the administration of the estate as requested by the interested party.

(11) This notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication of such notice shall be equivalent to personal service on creditors, distributees and legatees.

(b) If no appraisal is filed within the time period established pursuant to section fourteen of this article, the county clerk shall send a notice to the personal representative by first class mail, postage prepaid, indicating that the appraisal has not been filed.

(c) The personal representative shall promptly make a diligent search to determine the names and addresses of creditors of the decedent who are reasonably ascertainable.

(d) The personal representative shall, within sixty days after the date of first publication, serve a copy of the notice, published pursuant to subsection (a) of this section, by first class mail, postage prepaid or by personal service on the following persons:

(1) If the personal representative is not the decedent's surviving spouse and not the sole beneficiary or sole heir, the decedent's surviving spouse, if any;

(2) If there is a will and the personal representative is not the sole beneficiary, any beneficiaries;

(3) If there is not a will and the personal representative is not the sole heir, any heirs;

(4) The trustee of any trust in which the decedent was a grantor, if any; and

(5) All creditors identified under subsection (c) of this section, other than a creditor who filed a claim as provided in article two of this chapter or a creditor whose claim has been paid in full.

(e) Any person interested in the estate who objects to the qualifications of the personal representative or the venue or jurisdiction of the court, shall file notice of an objection with the county commission within ~~ninety~~ sixty days after the date of the first publication as required in subsection (a) of this section or within thirty days after service of the notice as required by subsection (d) of this section, whichever is later. If an objection is not timely filed, the objection is forever barred.

(f) A personal representative acting in good faith is not personally liable for serving notice under this section, notwithstanding a determination that notice was not required by this section. A personal representative acting in good faith who fails to serve the notice required by this section is not personally liable. The service of the notice in accordance with this subsection may not be construed to admit the validity or enforceability of a claim.

(g) The clerk of the county commission shall collect a fee of \$20 for the publication of the notice required in this section.

(h) For purposes of this section, the term ‘beneficiary’ means a person designated in a will to receive real or personal property.

§44-1-26. Action on bond of personal representative.

Where an execution on a judgment or decree against a personal representative is returned without being satisfied, there may be forthwith brought and prosecuted an action against the ~~obligors~~ surety in any bond given by such personal representative for the faithful discharge of his or her duties.

ARTICLE 3A. OPTIONAL PROCEDURE FOR PROOF OF CLAIM.

§44-3A-3. Office of fiduciary supervisor created; general powers; qualifications; tests for qualification; training program; salary.

(a) There is hereby created within the county commission an office, designated the fiduciary supervisor, who shall be appointed

by order of the commission and whose office, with the consent of the clerk of the county commission, shall be housed within the office of such clerk or shall be housed in such other office as the commission may designate. Such fiduciary supervisor shall at the local option of each such commission, be either a part-time or full-time employee as may be required by the county commission and shall receive such salary as may be fixed by order of the county commission.

(b) The fiduciary supervisor shall have general supervision of all fiduciary matters and of the fiduciaries or personal representatives thereof and of all fiduciary commissioners and of all matters referred to such commissioners and shall make all ex parte settlements of the accounts of such fiduciaries except as to those matters referred to fiduciary commissioners for settlement.

(c) The county commission shall determine that the person to be appointed as fiduciary supervisor is fully qualified by education or experience, or both, to perform the duties assigned to such office by this chapter or other provisions of this code. Such person shall have the requisite knowledge of the legal issues raised and problems presented by any of the proceedings had and documents filed pursuant to the chapter, the procedures required with respect thereto, the rights of all parties and interested persons with respect to such procedures and the duties to be performed in examining and approving the several and various papers and documents presented to the fiduciary supervisor. The State ~~Tax Commissioner~~ Auditor shall design and supervise a test to be given to all persons selected or appointed as fiduciary supervisor who are not licensed to practice law in this state, if any, which test shall include such matters as the Tax Commissioner deems appropriate to determine the proficiency, experience, knowledge and skill to perform all of the duties imposed upon or to be imposed upon fiduciary supervisors generally. Such test shall be administered under the authority of the State ~~Tax Commissioner~~ Auditor by such person or persons as he or she may designate either at the county wherein the fiduciary supervisor is to serve or at such other place as the ~~Tax Commissioner~~ State Auditor may designate. The results of the test given to any person or persons shall be kept confidential except as

to those persons who have completed the same to the satisfaction of the ~~Tax Commissioner~~ State Auditor and except as to those persons who may desire their individual test results to be made public. ~~Each county commission shall be notified as to the names of those persons who have satisfactorily completed such test. The Tax Commissioner shall provide for the uniformity of the test to be given and for grading and evaluating the results thereof.~~

~~The Tax Commissioner~~ The State Auditor shall at least annually conduct a training program for fiduciary supervisors who are not licensed to practice law in this state. The training program shall be conducted at such times and places and consist of such subjects as the ~~Tax Commissioner~~ State Auditor may determine. All fiduciary supervisors who are not licensed to practice law shall be required to attend such training programs and those supervisors as are so licensed may attend.

(d) The fiduciary supervisor shall give bond with good security to be approved by the county commission in an amount equal to the amount posted by the clerk of the county commission in the county wherein such fiduciary supervisor is to serve.

(e) Neither the fiduciary supervisor nor any person to whom the duties of fiduciary supervisor have been delegated, in whole or in part (excluding fiduciary commissioners) shall engage in the practice of law, for compensation or otherwise, with respect to the administration of any estate or trust wherein the fiduciary thereof has qualified in his or her county or with respect to any proceedings before him or her or which are or may be referred to a fiduciary commissioner in his or her county. Nor shall a fiduciary commissioner or special fiduciary commissioner engage in the practice of law with respect to matters referred to him or her as such commissioner. Any fiduciary supervisor or person to whom any of the functions or duties of the fiduciary supervisor have been delegated or fiduciary commissioner or special fiduciary commissioner who so engages in the practice of law contrary to the limited prohibitions of this section, shall be removed from his or her office or employment and, in addition thereto, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined \$1,000.

ARTICLE 5. GENERAL PROVISIONS AS TO FIDUCIARIES.

§44-5-3. Appointment of nonresident; bond; service of notice and process; fees; penalty.

(a) Notwithstanding any other provision of law, no individual who is a nonresident of this state, nor any banking institution which does not maintain a main office or branch office within this state nor any corporation having its principal office or place of business outside this state, may be appointed or act as executor, administrator, curator, testamentary guardian, guardian or conservator in this state, except that:

(1) An individual who is a nonresident of this state may be appointed ancillary administrator of a nonresident decedent's assets situate in this state if such nonresident individual is lawfully acting as executor in said decedent's state of domicile and submits letters of probate authenticated by the probate authorities of the decedent's state of domicile to the clerk of the county commission of any county of this state wherein ancillary administration is sought;

(2) An individual who is a nonresident of this state may be appointed ancillary administrator of a nonresident decedent's assets situate in this state if such nonresident individual is acting as administrator in said decedent's state of domicile and submits letters of administration authenticated by the probate authorities of the decedent's state of domicile to the clerk of the county commission of any county of this state wherein ancillary administration is sought;

(3) An individual who is a nonresident of this state may be appointed and act as testamentary guardian of a nonresident infant and thereby exercise dominion and control over such nonresident infant's assets situate in this state upon submission of authenticated documentation that such nonresident testamentary guardian was so appointed at the place of domicile of the nonresident infant. Such authenticated documentation shall be submitted to the clerk of the

county commission of any county of this state wherein assets belonging to such nonresident infant are situate;

(4) An individual who is a nonresident of this state and who is named executor by a resident decedent may qualify and act as executor in this state;

(5) An individual who is a nonresident of this state may be appointed and act as administrator of a resident decedent's assets in this state if appointed in accordance with the provisions of section four, article one of this chapter;

(6) An individual who is a nonresident of this state may be appointed as the testamentary guardian of a resident infant if appointed in accordance with the provisions of section one, article ten of this chapter; and

(7) An individual who is a nonresident of this state may be appointed as guardian or conservator of a resident incompetent: *Provided*, That such appointment is made in accordance with the provisions of article two, chapter forty-four-a of this code and if such nonresident individual may otherwise qualify as guardian or conservator.

(b) Nonresident individuals enumerated in subsection (a) of this section shall give bond with corporate surety thereon, qualified to do business in this state, and the amount of such bond shall not be less than double the value of the personal assets and double the value of any real property authorized to be sold or double the value of any rents and profits from any real property which the nonresident individual is authorized to receive, except that:

(1) Any nonresident individual enumerated in subsection (a) of this section who is the spouse, parent, sibling, lineal descendent or sole beneficiary of a resident or nonresident decedent shall give bond with corporate surety thereon qualified to do business in this state, with such penalty as may be fixed pursuant to the provisions of ~~section~~ sections seven or eight, article one of this chapter, as approved by the clerk of the county commission;

(2) Where the terms of a decedent's will directs that a nonresident individual enumerated in subdivisions (1), (3), (4) and (6), subsection (a) of this section named in a decedent's will shall not give bond or give bond at a specified amount, it shall not be required or shall be required only to the extent required under the terms of the will, unless at the time the will is admitted to record or at any time subsequently, on the application of any person interested, or from the knowledge of the commission or clerk admitting the will to record, it is deemed proper that greater bond be given.

(c) When a nonresident individual is appointed as executor, administrator, testamentary guardian, guardian or conservator pursuant to the provisions of subsection (a) of this section, said individual thereby constitutes the clerk of the county commission wherein such appointment was made as his or her true and lawful attorney-in-fact upon whom may be served all notices and process in any action or proceeding against him or her as executor, administrator, testamentary guardian, guardian or conservator or with respect to such estate, and such qualification shall be a manifestation of said nonresident individual's agreement that any notice or process, which is served in the manner hereinafter provided in this subsection, shall be of the same legal force and validity as though such nonresident was personally served with notice and process within this state. Service shall be made by leaving the original and two copies of any notice or process together with a fee of \$5 with the clerk of such county commission. The fee of \$5 shall be deposited with the county treasurer. Such clerk shall thereupon endorse upon one copy thereof the day and hour of service and shall file such copy in his or her office and such service shall constitute personal service upon such nonresident: *Provided*, That the other copy of such notice or process shall be forthwith sent by registered or certified mail, return receipt requested, deliver to addressee only, by said clerk or to such nonresident at the address last furnished by him or her to said clerk and either: (1) Such nonresident's return receipt signed by him or her; or (2) the registered or certified mail bearing thereon the stamp of the post office department showing that delivery therefore was refused by such nonresident is appended to the original notice or

process filed therewith in the office of the clerk of the county commission from which such notice or process was issued. No notice or process may be served on such clerk of the county commission or accepted by him or her less than thirty days before the return date thereof. The clerk of such county commission shall keep a record in his or her office of all such notices and processes and the day and hour of service thereof. The provision for service of notice or process herein provided is cumulative and nothing herein contained shall be construed as bar to service by publication where proper or the service of notice or process in any other lawful mode or manner.

(d) The personal estate of a resident decedent, infant or incompetent may not be removed from this state until the inventory or appraisalment of that resident decedent's, infant's or incompetent's assets have been filed and any new or additional bond required to satisfy the penalty specified in subsection (b) of this section has been furnished. The liability of a nonresident executor, administrator, testamentary guardian, guardian or conservator and of any such surety shall be joint and several and a civil action on any such bond may be instituted and maintained against the surety, notwithstanding any other provision of this code to the contrary, even though no civil action has been instituted against such nonresident.

(e) Any such nonresident who removes from this state assets administered in and situate in this state without complying with the provisions of this section, the provisions of article eleven of this chapter or any other requirement pertaining to fiduciaries generally, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in the county jail for not more than one year, or, in the discretion of the court, by both such fine and confinement.

(f) If a nonresident appointed pursuant to subsection (a) of this section fails or refuses to file an accounting required by this chapter, and the failure continues for two months after the due date, he or she may, upon notice and hearing, be removed or subjected to any other appropriate order by the county commission, and if his

or her failure or refusal to account continues for six months, he or she shall be removed by the county commission.”

And,

By amending the title of the bill to read as follows:

H. B. 2967 – “A Bill to amend and reenact §44-1-1, §44-1-6, §44-1-7, §44-1-8, §44-1-14a and §44-1-26 of the Code of West Virginia, 1931, as amended; to amend and reenact §44-3A-3 of said code; and to amend and reenact §44-5-3 of said code, all relating generally to administration of estates and trusts; waiving surety requirements for administrators of estates where grantee is sole beneficiary or sole distributee of the decedent; requiring county commission to hold hearing if application filed by interested party to compel nonresident executor otherwise exempt from bond requirements to post bond; requiring county commission to hold hearing if application filed by interested party to compel sole beneficiary to post surety; removing authority of clerk of county commission to require bond or surety from certain executors and administrators upon knowledge; making executor or administrator not required to post surety liable upon his or her own personal recognizance in the event of default, failure or misadministration; requiring interested parties objecting to the qualifications of a personal representative or venue to file notice with the county commission sixty days after the date of first publication; transferring to State Auditor duty to administer fiduciary supervisor qualifying test; requiring State Auditor provide annual training for fiduciary supervisors not licensed to practice law in this state; authorizing action against bond surety when execution on judgment or decree against personal representative is returned without being satisfied; and making technical corrections.”

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. 516**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Fast.

So, a majority of the members elected to the House of Delegates 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.

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

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 section and inserting in lieu thereof the following:

“CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-24d. State Police Forensic Laboratory fund.

The State Police Forensic Laboratory Fund is hereby created within the Treasury of the State. The fund shall be administered by the superintendent and shall consist of all moneys made available for the operations of the State Police Forensic Laboratory from any source, including, but not limited to, all fees, all gifts, grants, bequests or transfers from any source, any moneys that may be appropriated and designated for the forensic laboratory by the Legislature and all interest or other return earned from investment of the fund. Expenditures from the fund shall be for the operations of the State Police Forensic Laboratory 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 the

fulfillment of the provisions set forth in article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending June 30, 2018, expenditures are authorized from collections rather than pursuant to an explicit appropriation by the Legislature.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS;
NEWSPAPERS; LEGAL ADVERTISEMENTS.**

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-11. Fees to be charged by clerk of circuit court.

(a) The clerk of a circuit court shall charge and collect for services rendered by the clerk the following fees which shall be paid in advance by the parties for whom services are to be rendered:

(1) Except as provided in subdivisions (2) and (3) of this subsection, for instituting any civil action under the Rules of Civil Procedure, any statutory summary proceeding, any extraordinary remedy, the docketing of civil appeals or removals of civil cases from magistrate court, or any other action, cause, suit or proceeding, \$200, of which \$30 shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code and \$45 shall be deposited in the special revenue account designated the Fund for Civil Legal Services for Low Income Persons, established by paragraph (B), subdivision (4), subsection (c), section ten of this article, and \$20 deposited in the special revenue account created in section six hundred three, article twenty-six, chapter forty-eight of this code to provide legal services for domestic violence victims;

(2) For instituting an action for medical professional liability, \$400, of which \$10 shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code;

(3) Beginning on and after July 1, 1999, for instituting an action for divorce, separate maintenance or annulment, \$135;

(4) For petitioning for the modification of an order involving child custody, child visitation, child support or spousal support, \$85;

(5) For petitioning for an expedited modification of a child support order, \$35; ~~and~~

(6) For filing any pleading that includes a counterclaim, cross claim, third-party complaint or motion to intervene, \$200, which shall be deposited in the special revenue account designated the Fund for Civil Legal Services for Low Income Persons, established by paragraph (B), subdivision (4), subsection (c), section ten of this article: *Provided*, That this subdivision and the fee it imposes does not apply in family court cases nor may more than one such fee be imposed on any one party in any one civil action; and

(7) Except for civil actions within the jurisdiction of family courts, for each defendant or respondent named in the initial pleading upon the institution of a civil action in which there are two or more named defendants, and for each additional defendant, respondent or third-party defendant subsequently named in a pleading filed in the civil action, \$15, payable upon the institution of the civil action or upon the filing of the initial pleading that names the additional defendant, respondent or third-party defendant, of which \$10 shall be deposited in the general fund of the county in which the office of the circuit clerk is located, and \$5 shall be deposited in the State Police Forensic Laboratory Fund, established under section twenty-four-d, article two, chapter fifteen of this code: *Provided*, That for purposes of this subdivision, 'defendant or respondent named' does not include those defendants or respondents identified as 'John/Jane Doe.'

(b) In addition to the foregoing fees, the following fees shall be charged and collected:

(1) For preparing an abstract of judgment, \$5;

(2) For a transcript, copy or paper made by the clerk for use in any other court or otherwise to go out of the office, for each page, \$1;

(3) For issuing a suggestion and serving notice to the debtor by certified mail, \$25;

(4) For issuing an execution, \$25;

(5) For issuing or renewing a suggestee execution and serving notice to the debtor by certified mail, \$25;

(6) For vacation or modification of a suggestee execution, \$1;

(7) For docketing and issuing an execution on a transcript of judgment from magistrate court, \$3;

(8) For arranging the papers in a certified question, writ of error, appeal or removal to any other court, \$10, of which \$5 shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code;

(9) For each subpoena, on the part of either plaintiff or defendant, to be paid by the party requesting the same, 50 cents;

(10) For additional service, plaintiff or appellant, where any case remains on the docket longer than three years, for each additional year or part year, \$20; and

(11) For administering funds deposited into a federally insured interest-bearing account or interest-bearing instrument pursuant to a court order, \$50, to be collected from the party making the deposit. A fee collected pursuant to this subdivision shall be paid into the general county fund.

(c) In addition to the foregoing fees, a fee for the actual amount of the postage and express may be charged and collected for sending decrees, orders or records that have not been ordered by the court to be sent by mail or express.

(d) The clerk shall tax the following fees for services in a criminal case against a defendant convicted in such court:

(1) In the case of a misdemeanor, \$85; and

(2) In the case of a felony, \$105, of which \$10 shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code.

(e) The clerk of a circuit court shall charge and collect a fee of \$25 per bond for services rendered by the clerk for processing of criminal bonds and the fee shall be paid at the time of issuance by the person or entity set forth below:

(1) For cash bonds, the fee shall be paid by the person tendering cash as bond;

(2) For recognizance bonds secured by real estate, the fee shall be paid by the owner of the real estate serving as surety;

(3) For recognizance bonds secured by a surety company, the fee shall be paid by the surety company;

(4) For ten percent recognizance bonds with surety, the fee shall be paid by the person serving as surety; and

(5) For ten percent recognizance bonds without surety, the fee shall be paid by the person tendering ten percent of the bail amount.

In instances in which the total of the bond is posted by more than one bond instrument, the above fee shall be collected at the time of issuance of each bond instrument processed by the clerk and all fees collected pursuant to this subsection shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Nothing in this subsection authorizes the clerk to collect the above fee from any person for the processing of a personal recognizance bond.

(f) The clerk of a circuit court shall charge and collect a fee of \$10 for services rendered by the clerk for processing of bail piece and the fee shall be paid by the surety at the time of issuance. All fees collected pursuant to this subsection shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code.

(g) No clerk is required to handle or accept for disbursement any fees, cost or amounts of any other officer or party not payable into the county treasury except on written order of the court or in compliance with the provisions of law governing such fees, costs or accounts.

(h) Fees for removal of civil cases from magistrate court shall be collected by the magistrate court when the case is still properly before the magistrate court. The magistrate court clerk shall forward the fees collected to the circuit court clerk.”

And,

By amending the title of the bill to read 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 creating a special revenue account designated the State Police Forensic Laboratory Fund; providing for funding mechanisms; clarifying funding sources; establishing parameters for expenditures from the fund; vesting administration responsibility for the fund to the superintendent; 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; setting that fee at \$15 per defendant; providing for distribution of the additional fees between the general fund of the county in which the office of the circuit clerk is located and the State Police Forensic Laboratory Fund; and excluding John or Jane Doe defendants from the per-defendant 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. 517**), and there were—yeas 88, nays 12, absent and not voting none, with the nays being as follows:

Nays: Eldridge, Folk, Gearheart, Hicks, Marcum, Martin, McGeehan, Paynter, Phillips, Rodighiero, Upson and Wagner.

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. 2980) 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 amendment, and the passage, as amended, of

Com. Sub. for S. B. 362, Authorizing redirection of certain amounts to General Revenue Fund.

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

On page six, by striking out all of sections ten-d and ten-e and inserting in lieu thereof a new section, designated ten-g, all to read as follows:

“§29-22A-10g. Redirection of certain amounts from net terminal revenue.

(a) 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.

(b) The Governor is authorized to redirect deposits of revenues, pursuant to subsection (a) of this section, notwithstanding the following provisions of code:

(1) Paragraph (B), subdivision (9), subsection (c), section ten of this article;

(2) Paragraph (B), subdivision (9), subsection (a), section ten-b of this article;

(3) Subdivision (1), subsection (g), section ten-d of this article;

(4) Subdivision (1), subsection (f), section ten-e of this article;
or

(5) Any other provision of this code to the contrary.”

And,

On page one, by striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §23-2C-3 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 §29-22A-10g, all to read as follows” and a colon.

And,

By amending the title of the bill 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 said code by adding thereto a new section, designated §29-22A-10g, 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.”

The bill, as amended by the House, and further 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. 518**), and there were—yeas 92, nays 8, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Canestraro, Ferro, Fluharty, Iaquinta, Robinson, Sponaugle 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. 362) passed.

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

Resolutions Introduced

Delegates Robinson, Arvon, Atkinson, Baldwin, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Capito, Caputo, Cooper, Criss, Dean, Deem, Diserio, Eldridge, Ellington, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, Folk, N. Foster, Frich, Gearheart, Hamilton, Hamrick, Hanshaw, Hartman, Hicks, Higginbotham, Hill, Hollen, Hornbuckle, Householder, Iaquinta, Isner, Kelly, Kessinger, Lane, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, Miley, C. Miller, R. Miller, Moore, Moye, Overington, Paynter, Pethtel, Phillips, Pushkin, Pyles, Queen, Rodighiero, Rohrbach, C. Romine, R. Romine, Rowan, Rowe, Shott, Sobonya, Sponaugle, Statler, Storch, Sypolt, Thompson, Wagner, Walters, Ward, Westfall, White, Williams, Wilson and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 137 – “Requesting the Joint Committee on Government and Finance study methods to incentivize and advise middle and high school students to participate in career and technical education programs.”

Whereas, Eighty-one percent of high school dropouts report that real-world learning opportunities would have kept them in high school; and

Whereas, Career and technical education programs prepare students to be college and career ready by providing core academic, technical, and employability skills; and

Whereas, High-quality career and technical education programs ensure that coursework is aligned with rigorous academic standards and specific skills needed in specialized career pathways are addressed; and

Whereas, Eighty-one percent of students taking a college preparatory academic curriculum with rigorous career and technical education courses met college and career readiness goals; and

Whereas, The level of academic achievement students attain by eighth grade has a more significant impact on their college and career readiness than any other academic factor; and

Whereas, Neighboring states Ohio and Virginia have middle school level career and technical training programs and Pennsylvania, Maryland, and Kentucky have high school level career and technical training programs; and

Whereas, According to the West Virginia Higher Education Policy Commission, in 2012, only 56.4 percent of high school students pursued higher education pathways; and

Whereas, According to the Association for Career and Technical Education, the graduation rate for CTE student is a staggering ninety-three percent; and

Whereas, Eighty percent of secondary CTE graduates who pursued post-secondary education had earned a credential or were still enrolled after two years; and

Whereas, According to the National Center for Education Statistics, in 2009, CTE post-secondary graduates had an employment rate in their field of study of 79.7 percent; and

Whereas, Given the importance of career and technical education programs in fostering college and career readiness, it is

essential that middle and high school students are informed and prepared to take advantage of career and technical education programs in their schools and communities; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study methods to incentivize and advise middle and high school students to participate in career and technical education programs; 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 a study, prepare reports and draft necessary legislation, be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Summers, Caputo, Ellington, Pushkin, Rodighiero and Rohrbach offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 138 – “Requesting the Joint Committee on Government and Finance study the nursing shortage in West Virginia.”

Whereas, West Virginia has one of the lowest workforce participation rates in the country, while simultaneously having one of the highest nursing shortages in the country; and

Whereas, Hospitals in the state have had to begin offering lucrative signing bonuses to entice nurses not living in West Virginia to come to the state; and

Whereas, Only a third of all RN licenses issued by the West Virginia Board of Nursing in 2016 were issued to individuals native to the state; and

Whereas, Solving the nursing shortage by means of hiring contracted traveling nurses is not ideal in the long run, due to nature of driving up costs and increasing turnover; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study and assist in diagnosing the problem and discussing potential solutions to the nursing shortage in conjunction with WV Board of Nursing; 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, prepare a report and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Sobonya, Cowles, Criss, Frich, Sypolt, Householder, McGeehan, Moore, Phillips and Storch offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 139 – “Requesting the Joint Committee on Government and Finance study the tax on sales of tobacco products other than cigarettes and the excise tax on e-cigarette liquid.”

Whereas, West Virginia Code §11-17-3(b) levies a tax on tobacco products other than cigarettes as an excise tax and imposes this tax “at a rate equal to seven percent of the wholesale price on each article or item of tobacco products other than cigarettes sold by the wholesaler or subjobber dealers, whether or not sold at wholesale, or if not sold, then at the same rate upon the use by the wholesaler or dealer”; and

Whereas, Electronic cigarette retailers offer a product that is not a tobacco cigarette or traditional tobacco product and should

therefore be recognized as a different type of retail product with a tax treatment that is consistent with taxation of other retail products; and

Whereas, Electronic cigarette retailers seek the study of the tax on the sales of e-cigarettes, tax rates and appropriate definitions to properly identify this product in contrast to tobacco cigarettes and tobacco products other than cigarettes and study of a fair, proper and modern method for the imposition of these taxes; and

Whereas, The industry seeks stability in the West Virginia retail market where an uncompetitive environment has been created from the current tax structure and, as a result of which, several electronic cigarette retailers have ceased operation in West Virginia after the enactment of the current tax structure in 2016; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the tax treatment of wholesale and retail sales of e-cigarettes and e-cigarette liquid as distinguished from “tobacco products other than cigarettes” with consideration of the rates, point of imposition and fairness of the tax; 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 Upson, Blair and Ellington offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 140 – “Requesting that the Joint Committee on Government and Finance study legislation to prohibit ‘cyberbullying’ and electronic harassment of minors.”

Whereas, Cyberbullying is bullying that takes place using electronic technology. Electronic technology includes devices and equipment such as cell phones, computers, and tablets as well as communication tools including social media sites, text messages, chat, and websites. Examples of cyberbullying include vicious text messages or emails, rumors sent by email or posted on social networking sites, and embarrassing pictures, videos, websites, or fake profiles.

Whereas, Current statistics indicate that cyberbullying is a very frequent occurrence. In 2015, a survey conducted by the Center for Disease Control’s Youth Risk Behavior Surveillance System indicated that an estimated 16% of high school students were bullied electronically in the 12 months prior to the survey; and

Whereas, Legislation on bullying and cyberbullying has been proposed and implemented throughout the country. One such piece of cyberbullying legislation, called “Grace’s Law”, was enacted into law in Maryland in 2013. Legislation was proposed in the 2017 Regular Session to implement “Grace’s Law” in West Virginia. However, there have been constitutional challenges to cyberbullying laws in several states recently, which have resulted in those laws being struck down; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study cyberbullying laws due to the potential constitutional challenges they may face, and provide some examples of language that could pass constitutional muster; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on 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 to be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Dean, Mr. Speaker (Mr. Armstead), Atkinson, Baldwin, Brewer, Byrd, Capito, Cooper, Espinosa, E. Evans, Ferro, Fleischauer, Folk, N. Foster, Harshbarger, Hicks, Hill, Hollen, Lane, Lewis, Lovejoy, Lynch, Marcum, Martin, Maynard, McGeehan, O'Neal, Phillips, Pyles, Queen, Rodighiero, Rohrbach, R. Romine, Rowan, Rowe, Statler, Storch, Thompson, Wagner and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 141 – “Requesting the Joint Committee on Government and Finance study policies ensuring that nationally certified or licensed athletic trainers are available during practices and games for all interscholastic student athletes in West Virginia.”

Whereas, Sports-related injuries among interscholastic athletes are a public health issue and current board of education policies only require trainers be present at football games and practice; and

Whereas, There are many benefits to participating in interscholastic sports including enhanced awareness of healthy lifestyles, weight management, increased self-esteem, and enhanced learning capacity; and

Whereas, Students are more likely to face unnecessary injuries and tragic deaths when appropriate health care professionals, such as licensed athletic trainers, are not present; and

Whereas, Licensed athletic trainers receive formal education and training in injury prevention, first aid and emergency care, and rehabilitation of injuries and can assist in reducing sports-related injuries and deaths in practices and competitions; and

Whereas, Several institutions of higher education located in West Virginia offer degrees in athletic training; and

Whereas, Athletic training is one of the fastest growing allied health care professions; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Joint Committee on Government and Finance to study policies ensuring that nationally certified or licensed athletic trainers are available during practices and games for all interscholastic student athletes in West Virginia; 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.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred S. B. 25 and Com. Sub. for S. B. 219, on Third Reading, House Calendar, to the Special Calendar.

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. 124, Study relating to power generation facilities,

H. C. R. 125, US Army SGT Benny Fleming Memorial Bridge,

H. C. R. 126, Pastor Robert L. "Bob" Barker Memorial Bridge,

And,

H. C. R. 128, Study relating to maintenance and custodial work on state and county buildings, facilities and equipment to be done under private contract.

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. 25, Creating farm-to-food bank tax credit; 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. 519**), 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. 25) passed.

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

Com. Sub. for S. B. 219, Relating to conspiracy to commit crimes under Uniform Controlled Substances Act; on third reading, coming up in regular order, was read a third time.

Delegate Fast asked unanimous consent to amend the bill on third reading, which consent was not given, objection being heard.

Delegate Fast then so moved.

On this motion, the yeas and nays were taken (**Roll No. 520**), and there were—yeas 11, nays 89, absent and not voting none, with the yeas being as follows:

Yeas: Arvon, Butler, Fast, Frich, Hollen, Love, C. Miller, Pushkin, Sobonya, Ward and Mr. Speaker (Mr. Armstead).

So, two thirds of the members present and voting not having voted in the affirmative, the motion was rejected.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 521**), and there were—yeas 91, nays 9, absent and not voting none, with the nays being as follows:

Nays: Fast, Fleischauer, Folk, Hornbuckle, McGeehan, Pushkin, Robinson, Rowe and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 219) passed.

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

Motions

Delegate Cowles asked and obtained unanimous consent that, for the remainder of the session, members of Conference Committees be permitted to vote on any question or issue before the House which they may have missed as a direct result of their duties on Conference Committees, provided that such members notify the Clerk of the House in writing before the Daily Journal is printed, how they wished to vote, and that any such vote not change the outcome on any question.

Conference Committee Report

Delegate Zatezalo, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 2447, Renaming the Court of Claims the State Claims Commission.

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill 2447 having met, after full

and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the House agree to the amendment of the Senate to the bill striking out everything after the enacting section, and that both houses agree to an amendment as follows:

On page nine, after section seventeen, article two, chapter fourteen, by adding a new section, to read as follows:

§14-2-17a. Shortened procedure for road condition claims.

Notwithstanding the regular and shortened procedures provided for in sections sixteen and seventeen of this article, there shall be a shortened procedure for road condition claims. The shortened procedure authorized by this section shall apply only to a claim possessing all of the following characteristics:

(1) The claim does not arise under an appropriation for the current fiscal year.

(2) The claim alleges that a condition on the state's highways or roads caused property damage.

(3) The Division of Highways concurs in the claim.

(4) The amount claimed does not exceed \$1,000.

The Division of Highways shall prepare a stipulation concerning the claim and file it with the clerk. The commission shall order the claim approved and shall file its statement with the clerk.

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title 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; to amend said code by adding thereto a new section, designated §14-2-17a; 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.”

Respectfully submitted,

Mark Zatezalo, *Chair,*

John D. O’Neal, IV

Rodney Miller,

*Conferees on the part
of the House of Delegates.*

Ryan J. Weld, *Chair,*

Mark R. Maynard,

Glenn Jeffries,

*Conferees on the part
of the Senate.*

On motion of Delegate Zatezalo, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 522**), 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, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponagle, Thompson and Williams.

Absent and Not Voting: Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2447) passed.

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

At 11:53 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 1:00 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 that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2083, Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing.

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 following the enacting section and inserting in lieu thereof the following:

“ARTICLE 10. METHAMPHETAMINE LABORATORY ERADICATION ACT.

§60A-10-12. Exposure of children to methamphetamine manufacturing; penalties.

(a) Any person eighteen years of age or older who knowingly causes or permits a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured is guilty of a felony and, upon conviction thereof, shall be confined imprisoned in a state correctional facility for not less than one two nor more than five ten years, fined not more than \$10,000, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, the penalty for a violation of said subsection when the child suffers serious bodily injury as such is defined in the provisions of section one, chapter eight-b of this code shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than twenty-five thousand dollars, or both any person eighteen years of age or older who knowingly causes or permits a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured and the child thereby suffers serious bodily injury is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than fifteen, years, fined not more than \$25,000, or both imprisoned and fined.

(c) As used in subsection (b) of this section, ‘serious bodily injury’ shall have the same meaning as this term is defined in section one, article eight-b, chapter sixty-one of this code.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2083 – “A Bill to amend and reenact §60A-10-12 of the Code of West Virginia, 1931, as amended, relating to the Methamphetamine Laboratory Eradication Act; increasing the felony criminal penalty for knowingly causing or permitting a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured; clarifying that knowingly causing or permitting a minor to be present in a location where methamphetamine is manufactured and thereby causing the minor serious bodily injury is a separate, distinct offense; and clarifying the definition of serious bodily injury.”

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. 523**), 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: Kessinger and Nelson.

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. 2083) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2367, Establishing a criminal offense of organized retail crime.

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 the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-3A-7, to read as follows:

ARTICLE 3A. SHOPLIFTING.

§61-3A-7. Organized retail theft; offenses; penalties; cumulation; venue; forfeiture.

(a) Any person who enters into a common scheme or plan with two or more other persons to violate the provisions of section one of this article involving merchandise of a cumulative value of \$2,000 or more with the intent to sell, trade or otherwise distribute the merchandise shall be guilty of a felony, and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than one nor more than ten years or be fined not less than \$1,000 nor more than \$10,000, or both imprisoned and fined.

(b) Notwithstanding the provisions of subsection (a) of this section any person who enters into a common scheme or plan with two or more other persons to violate the provisions of section one of this article involving merchandise of a cumulative value of \$10,000 or more with the intent to sell, trade or otherwise distribute the merchandise shall be guilty of a felony, and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than two nor more than twenty years fined not less than \$2,000 nor more than \$25,000, or both imprisoned and fined.

(c) Any person who purchases, trades or barter for, or otherwise obtains with any form of consideration, merchandise from persons he knows or has reason to believe was obtained by three or more persons engaged in a common scheme or plan to violate the provisions of section one of this article shall be guilty of a felony.

(d) Any person who violates the provisions of subsection (c) of this section by purchasing, trading or bartering for merchandise

with a cumulative value of \$2,000 or more shall, upon conviction, be imprisoned in a state correctional facility for a determinate term of not less than one year, nor more than ten years or fined not less than \$1,000 nor more than \$10,000, or both imprisoned and fined.

(e) Notwithstanding the provisions of subsection (d) of this section, any person who violates the provisions of subsection (c) of this section by purchasing, trading or bartering for merchandise with a cumulative value of \$10,000 or more shall, upon conviction, be imprisoned in a state correctional facility for a determinate term of not less than two years, nor more than twenty years or fined not less than \$2,000 nor more than \$25,000, or both imprisoned and fined.

(f) In determining the value of merchandise in a prosecution under this section, it is permissible to cumulate the value of merchandise obtained as part of a common scheme or plan.

(g) Violations of subsections (a), (b) and (c) of this section occurring in one or more counties of this state may be prosecuted in any county wherein any part of the offense was committed and the provisions of subsection (f) of this section are applicable to offenses so occurring.

(h)(1) Any interest a person has acquired or maintained in any cash, asset or other property of value in any form, derived in part or total from any proceeds obtained from participating in a violation of this section, may be seized and forfeited consistent with the procedures in the West Virginia Contraband Forfeiture Act, as provided in article seven, chapter sixty-a of this code.

(2) Notwithstanding subdivision (1) of this subsection, at sentencing for a violation of this section, the court may direct disgorgement to the victim or victims of any cash, asset or other property of value in any form, derived in part or total from any proceeds obtained from such violation.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2367 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3A-7, relating to establishing the offenses of organized retail theft and knowing purchase of materials obtained by organized retail theft; establishing elements of offenses; defining terms; establishing criminal penalties; providing for the cumulation of merchandise values; providing for prosecution in any county in which any part of an offense occurs; providing for seizure and forfeiture of cash, assets or other property derived in part or total from any proceeds from participating in a violation of the section; and authorizing a sentencing court to order disgorgement of illegal gains.”

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. 524**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Folk, McGeehan and Wilson.

Absent and Not Voting: Kessinger and Nelson.

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. 2367) 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 amendment, to take effect July 1, 2017, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2561, Relating to public school support.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following amendment of the bill by the Senate and requested the Senate to recede therefrom:

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

“That §11-6A-5a of the Code of West Virginia, 1931, as amended, be repealed; that §11-8-6f and §11-8-12 of said code be amended and reenacted; that §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 be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-9A-25; that §18-9D-2, §18-9D-3, §18-9D-4c and §18-9D-16 of said code be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §18-9D-4d and §18-9D-22, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 8. LEVIES.

§11-8-6f. Regular school board levy rate; creation and implementation of Growth County School Facilities Act; creation of Growth County School Facilities Act Fund.

~~(a) Notwithstanding any other provision of law, where any annual appraisal, triennial appraisal or general valuation of property would produce a statewide aggregate assessment that would cause an increase of two percent or more in the total property tax revenues that would be realized were the then current regular levy rates of the county boards of education to be imposed, the rate of levy for county boards of education shall be reduced uniformly statewide and proportionately for all classes of property for the forthcoming tax year so as to cause the rate of levy to produce no more than one hundred two percent of the previous year's projected statewide aggregate property tax revenues from extending the county board of education levy rate, unless subsection (b) of this section is complied with. The reduced rates of levy shall be calculated in the following manner: (1) The total assessed value of each class of property as it is defined by section five of this article for the assessment period just concluded shall be reduced by deducting the total assessed value of newly created properties not assessed in the previous year's tax book for each class of property;~~

~~(2) the resulting net assessed value of Class I property shall be multiplied by .01; the value of Class II by .02; and the values of Classes III and IV, each by .04; (3) total the current year's property tax revenue resulting from regular levies for the boards of education throughout this state and multiply the resulting sum by one hundred two percent: *Provided*, That the one hundred two percent figure shall be increased by the amount the boards of education's increased levy provided for in subsection (b), section eight, article one c of this chapter; (4) divide the total regular levy tax revenues, thus increased in subdivision (3) of this subsection, by the total weighted net assessed value as calculated in subdivision (2) of this subsection and multiply the resulting product by one hundred; the resulting number is the Class I regular levy rate, stated as cents per one hundred dollars of assessed value; and (5) the Class II rate is two times the Class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding subdivision.~~

~~An additional appraisal or valuation due to new construction or improvements, including beginning recovery of natural resources, to existing real property or newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of the improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in any calculations under this section.~~

~~(b) After conducting a public hearing, the Legislature may, by act, increase the rate above the reduced rate required in subsection (a) of this section if an increase is determined to be necessary.~~

(a) Notwithstanding any other provision of code to the contrary, for the 2017 tax year and thereafter, the regular levy rates for county boards of education shall be the sum of the levy rates set forth in subdivisions (1), (2) and (3), section six-c of this article for each class of property, which are: (1) For Class I property, 22.95 cents per \$100; (2) for Class II property, 45.9 cents per \$100; and (3) for Class III and Class IV property, 91.8 cents per \$100: *Provided*, That, annually, county boards of education may decrease their regular levy rates to no lower than the following rates: (1) For

Class I property, 19.4 cents per \$100; (2) for Class II property, 38.8 cents per \$100; and (3) for Class III and Class IV property, 77.6 cents per \$100.

~~(e)~~ (b) The State Tax Commissioner shall report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability by March 1 of each year on the progress of assessors in each county in assessing properties at the constitutionally required sixty percent of market value and the effects of increasing the limit on the increase in total property tax revenues set forth in this section to two percent.

~~(d)~~ (c) *Growth County School Facilities Act. — Legislative findings.* —

The Legislature finds and declares that there has been, overall, a statewide decline in enrollment in the public schools of this state; due to this decline, most public schools have ample space for students, teachers and administrators; however, some counties of this state have experienced significant increases in enrollment due to significant growth in those counties; that those counties experiencing significant increases do not have adequate facilities to accommodate students, teachers and administrators. Therefore, the Legislature finds that county boards of education in those high-growth counties should have the authority to designate revenues generated from the application of the regular school board levy due to new construction or improvements placed in a Growth County School Facilities Act Fund be used for school facilities in those counties to promote the best interests of this state's students.

(1) For the purposes of this subsection, 'growth county' means any county that has experienced an increase in second month net enrollment of fifty or more during any three of the last five years, as determined by the State Department of Education.

(2) The provisions of this subsection shall only apply to any growth county, as defined in subdivision (1) of this subsection, that, by resolution of its county board of education, chooses to use the provisions of this subsection.

(3) For any growth county, as defined in subdivision (1) of this subsection, that adopts a resolution choosing to use the provisions of this subsection, pursuant to subdivision (2) of this subsection, assessed values resulting from additional appraisal or valuation due to new construction or improvements to existing real property shall be designated as new property values and identified by the county assessor. The ~~statewide~~ regular school board levy rate ~~as established by the Legislature~~ shall be applied to the assessed value designated as new property values and the resulting property tax revenues collected from application of the regular school board levy rate shall be placed in a separate account designated as the Growth County School Facilities Act Fund. Revenues deposited in the Growth County School Facilities Act Fund shall be appropriated by the county board of education for construction, maintenance or repair of school facilities. Revenues in the fund may be carried over for an indefinite length of time and may be used as matching funds for the purpose of obtaining funds from the School Building Authority or for the payment of bonded indebtedness incurred for school facilities. For any growth county choosing to use the provisions of this subsection, estimated school board revenues generated from application of the regular school board levy rate to new property values are not to be considered as local funds for purposes of the computation of local share under the provisions of section eleven, article nine-a, chapter eighteen of this code.

~~(e)~~ (d) This section, as amended during the legislative session in the year 2004, shall be effective as to any regular levy rate imposed for the county boards of education for taxes due and payable on or after July 1, 2004. If any provision of this section is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or its application and to this end the provisions of this section are declared to be severable.

§11-8-12. Levy estimate by board of education; certification and publication.

(a) Each board of education shall, at the session provided for in section nine of this article, if the laying of a levy has been

authorized by the voters of the district under article nine, chapter eighteen of this code, ascertain the condition of the fiscal affairs of the district, and make a statement setting forth:

(1) The amount due, and the amount that will become due and collectible during the current fiscal year except from the levy of taxes to be made for the year;

(2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness legally incurred upon a vote of the people, as provided by law, by any school district existing prior to May 22, 1933, before the adoption of the Tax Limitation Amendment;

(3) Other contractual indebtedness not bonded, legally incurred by any such school district existing prior to May 22, 1933, before the adoption of the Tax Limitation Amendment, owing by such district;

(4) The amount to be levied for the permanent improvement fund;

(5) The total of all other expenditures to be paid out of the receipts for the current fiscal year, with proper allowance for delinquent taxes, exonerations and contingencies;

(6) The amount of such total to be raised by the levy of taxes for the current fiscal year;

(7) The proposed rate of levy in cents on each \$100 assessed valuation of each class of property;

(8) The separate and aggregate amounts of the assessed valuation of real, personal and public utility property within each class.

(b) The secretary of the board shall forward immediately a certified copy of the statement to the Auditor and shall publish the statement immediately. The session shall then stand adjourned until the third Tuesday in April, at which time it shall reconvene except where otherwise permitted by section nine of this article:

Provided, That no provision of this section or section nine of this article may be construed to abrogate any requirement imposed on the board of education by article nine-b, chapter eighteen of this code.

(c) Notwithstanding any other provision of code to the contrary, for the 2017 tax year only, at the session that is reconvened on the third Tuesday in April, 2017, the county board may change its proposed regular levy rates from the original proposed levy rates that were included in the statement required by subsection (a) of this section. All other requirements pertaining to county boards of education establishing their regular levy rates continue to apply including the requirement for the State Auditor to approve the levy rate.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-2. Definitions.

For the purpose of this article:

(a) ‘State board’ means the West Virginia Board of Education.

(b) ‘County board’ or ‘board’ means a county board of education.

(c) ‘Professional salaries’ means the state legally mandated salaries of the professional educators as provided in article four, chapter eighteen-a of this code.

(d) ‘Professional educator’ ~~shall be~~ is synonymous with and ~~shall have~~ has the same meaning as ‘teacher’ as defined in section one, article one of this chapter and includes technology integration specialists.

(e) ‘Professional instructional personnel’ means a professional educator whose regular duty is as that of a classroom teacher, librarian, attendance director or school psychologist. A professional educator having both instructional and administrative

or other duties shall be included as professional instructional personnel for that ratio of the school day for which he or she is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance or psychologist duties.

(f) ‘Professional student support personnel’ means a ‘teacher’ as defined in section one, article one of this chapter who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor’s degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses. For all purposes except for the determination of the allowance for professional educators pursuant to section four of this article, professional student support personnel are professional educators.

(g) ‘Service personnel salaries’ means the state legally mandated salaries for service personnel as provided in section eight-a, article four, chapter eighteen-a of this code.

(h) ‘Service personnel’ means all personnel as provided in section eight, article four, chapter eighteen-a of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee ~~shall be~~ is counted as that number found by dividing his or her number of employment days in a fiscal year by two hundred: *Provided*, That the computation for any service person employed for three and one-half hours or less per day as provided in section eight-a, article four, chapter eighteen-a of this code ~~shall be~~ is calculated as one-half an employment day.

(i) ‘Net enrollment’ means the number of pupils enrolled in special education programs, kindergarten programs and grades one to twelve, inclusive, of the public schools of the county. Net enrollment further shall include:

(1) Adults enrolled in regular secondary vocational programs existing as of the effective date of this section, subject to the following:

(A) Net enrollment includes no more than one thousand of those adults counted on the basis of full-time equivalency and

apportioned annually to each county in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency; and

(B) Net enrollment does not include any adult charged tuition or special fees beyond that required of the regular secondary vocational student;

(2) Students enrolled in early childhood education programs as provided in section forty-four, article five of this chapter, counted on the basis of full-time equivalency;

(3) No pupil ~~shall~~ may be counted more than once by reason of transfer within the county or from another county within the state, and no pupil shall be counted who attends school in this state from another state;

(4) The enrollment shall be modified to the equivalent of the instructional term and in accordance with the eligibility requirements and rules established by the state board; and

(5) For the purposes of determining the county's basic foundation program only, for any county whose net enrollment as determined under all other provisions of this definition is less than one thousand four hundred, the net enrollment of the county shall be increased by an amount to be determined in accordance with the following:

(A) Divide the state's lowest county student population density by the county's actual student population density;

(B) Multiply the amount derived from the calculation in paragraph (A) of this subdivision by the difference between one thousand four hundred and the county's actual net enrollment;

(C) If the increase in net enrollment as determined under this subdivision plus the county's net enrollment as determined under all other provisions of this subsection is greater than one thousand four hundred, the increase in net enrollment shall be reduced so that the total does not exceed one thousand four hundred; ~~and~~

~~(D) During the 2008-2009 interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review this subdivision to determine whether or not these provisions properly address the needs of counties with low enrollment and a sparse population density.~~

(j) ‘Sparse-density county’ means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of ‘net enrollment’, to the square miles of the county is less than five.

(k) ‘Low-density county’ means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of ‘net enrollment’, to the square miles of the county is equal to or greater than five but less than ten.

(l) ‘Medium-density county’ means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of ‘net enrollment’, to the square miles of the county is equal to or greater than ten but less than twenty.

(m) ‘High-density county’ means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this section, of the definition of ‘net enrollment’, to the square miles of the county is equal to or greater than twenty.

(n) ‘Levies Maximum levies for general current expense purposes’ means ninety percent of the maximum levy rate for county boards of education ~~calculated or set by the Legislature pursuant to section six-f, as derived from the sum of the levy rates in subdivisions (1), (2) and (3), section six-c, article eight, chapter eleven of this code~~ for each class of property.

(o) ‘Technology integration specialist’ means a professional educator who has expertise in the technology field and is assigned

as a resource teacher to provide information and guidance to classroom teachers on the integration of technology into the curriculum.

(p) 'State aid-eligible personnel' means all professional educators and service personnel employed by a county board in positions that are eligible to be funded under this article and whose salaries are not funded by a specific funding source such as a federal or state grant, donation, contribution or other specific funding source not listed.

§18-9A-4. Foundation allowance for professional educators.

(a) The basic foundation allowance to the county for professional educators ~~shall be~~ is the amount of money required to pay the state minimum salaries, in accordance with provisions of article four, chapter eighteen-a of this code, ~~to the personnel employed,~~ subject to the following:

(1) ~~Subject to subdivision (2) of this subsection, in~~ In making this computation ~~no~~ a county shall receive an allowance for ~~the personnel which number is in excess of professional educators~~ state aid-eligible professional educator positions to each one thousand students in net enrollment as follows:

(A) For each high-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and one tenth~~ three tenths professional educators per each one thousand students in net enrollment;

(B) For each medium-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and twenty five~~ forty-five one hundredths professional educators per each one thousand students in net enrollment;

(C) For each low-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and four~~ six tenths professional educators per each one thousand students in net enrollment; ~~and~~

(D) For each sparse-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and fifty-five~~ seventy-five one hundredths professional educators per each one thousand students in net enrollment; and

(E) For any professional educator positions, or fraction thereof, determined for a county pursuant to paragraphs (A), (B), (C) and (D) of this subdivision that exceed the number employed, the county's allowance for these positions shall be determined using the average state-funded salary of professional educators for the county;

~~(2) For the ratios applicable to each of the four density categories set forth in subdivision (1) of this subsection, the number of professional educators per each one thousand students in net enrollment increases by five one hundredths per year for each of fiscal years 2010, 2011, 2012 and 2013. For each fiscal year thereafter, the ratios remain at the 2013 level~~

~~(3)~~ (2) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

~~(4)~~ (3) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional educators for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.

(b) ~~Subject to subsection (c) of this section each,~~ Each county board shall establish and maintain a minimum ratio of professional instructional personnel per ~~one thousand students in net enrollment~~ state aid-funded professional educators as follows:

(1) For each high-density county, the minimum ~~number ratio~~ of professional instructional personnel per ~~one thousand students in net enrollment~~ is sixty five and eight tenths state aid-funded professional educators, or the number employed, whichever is less, is ninety-one and twenty-nine one hundredths percent;

(2) For each medium-density county, the minimum ~~number~~ ratio of professional instructional personnel per ~~one thousand students in net enrollment is sixty five and nine tenths~~ state aid-funded professional educators, or the number employed, whichever is less, is ninety-one and twenty-four one hundredths percent;

(3) For each low-density county, the minimum ~~number~~ ratio of professional instructional personnel per ~~one thousand students in net enrollment is sixty six~~ state aid-funded professional educators, or the number employed, whichever is less, is ninety-one and eighteen one hundredths percent;

(4) For each sparse-density county, the minimum ~~number~~ ratio of professional instructional personnel per ~~one thousand students in net enrollment is sixty six and five one hundredths~~ state aid-funded professional educators, or the number employed, whichever is less, is ninety-one and seven one hundredths percent; and

(5) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional instructional personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above stated minimum ratios.

~~(e) For the ratios applicable to each of the four density categories set forth in subsection (b) of this subsection, the number of professional instructional personnel per each one thousand students in net enrollment increases by five one hundredths per year for each of fiscal years 2010, 2011, 2012 and 2013. For each fiscal year thereafter, the ratios remain at the 2013 level~~

~~(d)~~ (c) Any county board which does not establish and maintain the applicable minimum ratio required in subsection (b) of this section shall suffer a pro rata reduction in the allowance for professional educators under this section: *Provided*, That ~~no~~ a county ~~shall~~ may not be penalized if it has increases in enrollment during that school year: *Provided, however*, That for the school year ~~2008-2009, only, no county shall~~ 2017-2018, only, a county

may not be penalized for not meeting the applicable minimum ratio required in subsection (b) of this section.

~~(e) No~~ (d) A county shall may not increase the number of administrative personnel employed as either professional educators or pay grade H service personnel above the number which were employed, or for which positions were posted, on June 30, 1990, and therefore, county boards shall whenever possible utilize classroom teachers for curriculum administrative positions through the use of modified or extended contracts.

~~(f) As the number of professional educators per each one thousand students in net enrollment increases during fiscal years 2009 through 2013, any additional positions that are created as a result of that increase shall be positions that will enhance student achievement and are consistent with the needs as identified in each county board's electronic county strategic improvement plan. County boards are encouraged to fill at least some of the additional positions with technology integration specialists.~~

~~(g) During the 2008 2009 interim period, and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review the four density categories created in section two of this article, the ratios for professional educators established in this section and the ratios for service personnel established in section five of this article~~

§18-9A-5. Foundation allowance for service personnel.

The basic foundation allowance to the county for service personnel ~~shall be~~ is the amount of money required to pay the annual state minimum salaries in accordance with the provisions of article four, chapter eighteen-a of this code, ~~to such service personnel employed,~~ subject to the following:

(1) ~~For the school year beginning on July 1, 2008, and thereafter, no~~ A county shall receive an allowance for ~~an amount in excess of~~ state aid-eligible service personnel positions per one thousand students in net enrollment, as follows:

(A) For each high-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed~~ forty-three and ninety-seven one hundredths service personnel per one thousand students in net enrollment;

(B) For each medium-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed~~ forty-four and fifty-three one hundredths service personnel per one thousand students in net enrollment;

(C) For each low-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed~~ forty-five and one tenth service personnel per one thousand students in net enrollment; ~~and~~

(D) For each sparse-density county, ~~the number of personnel for which a county shall receive the allowance shall not exceed~~ forty-five and sixty-eight one hundredths service personnel per one thousand students in net enrollment; and

(E) For any service personnel positions, or fraction thereof, determined for a county pursuant to this subdivision that exceed the number employed, the county's allowance for these positions shall be determined using the average state-funded minimum salary of service personnel for the county;

(2) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

~~(2)~~ (3) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the service personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that the personnel shall be considered within the above stated limit.

§18-9A-6a. Teachers Retirement Fund allowance; unfunded liability allowance.

(a) The total Teachers Retirement Fund allowance ~~shall be~~ is the sum of the basic foundation allowance for professional

educators, the basic foundation allowance for professional student support personnel and the basic foundation allowance for service personnel, as provided in sections four, ~~and five~~ and eight of this article; all salary equity appropriations authorized in section five, article four of chapter eighteen-a; and such amounts as are to be paid by the counties pursuant to sections five-a and five-b of said article to the extent such county salary supplements are equal to the amount distributed for salary equity among the counties, multiplied by ~~fifteen percent~~ the average retirement contribution rate for each county board. The average contribution rate for each county board is based on the required employer contributions for state aid-eligible employees participating in the retirement plans pursuant to articles seven-a and seven-b of this chapter.

(b) The Teachers Retirement Fund allowance amounts provided for in subsection (a) of this section shall be accumulated in the Employers Accumulation Fund of the state Teachers Retirement System pursuant to section eighteen, article seven-a of this chapter, and shall be in lieu of the contribution required of employers pursuant to subsection (b) of said section as to all personnel included in the allowance for state aid in accordance with sections four, ~~and five~~ and eight of this article.

(c) In addition to the Teachers Retirement Fund allowance provided for in subsection (a) of this section, there shall be an allowance for the reduction of any unfunded liability of the Teachers Retirement Fund in accordance with the following provisions of this subsection. On or before December 31, of each year, the actuary or actuarial firm employed in accordance with the provisions of section four, article ten-d, chapter five of this code shall submit a report to the President of the Senate and the Speaker of the House of Delegates which sets forth an actuarial valuation of the Teachers Retirement Fund as of the preceding ~~the thirtieth day of~~ June 30. Each annual report shall recommend the actuary's best estimate, at that time, of the funding necessary to both eliminate the unfunded liability over a forty-year period beginning on ~~the first day of July, one thousand nine hundred ninety four~~ July 1, 1994, and to meet the cash flow requirements of the fund in fulfilling its future anticipated obligations to its members. In

determining the amount of funding required, the actuary shall take into consideration all funding otherwise available to the fund for that year from any source: *Provided*, That the appropriation and allocation to the Teachers Retirement Fund made pursuant to the provisions of section six-b of this article shall be included in the determination of the requisite funding amount. In any year in which the actuary determines that the Teachers Retirement Fund is not being funded in such a manner, the allowance made for the unfunded liability for the next fiscal year shall be not less than the amount of the actuary's best estimate of the amount necessary to conform to the funding requirements set forth in this subsection.

§18-9A-7. Foundation allowance for transportation cost.

(a) The allowance in the foundation school program for each county for transportation ~~shall be~~ is the sum of the following computations:

(1) A percentage of the transportation costs incurred by the county for maintenance, operation and related costs exclusive of all salaries, including the costs incurred for contracted transportation services and public utility transportation, as follows:

(A) For each high-density county, eighty-seven and one-half percent;

(B) For each medium-density county, ninety percent;

(C) For each low-density county, ninety-two and one-half percent;

(D) For each sparse-density county, ninety-five percent;

(E) For any county for the transportation cost for maintenance, operation and related costs, exclusive of all salaries, for transporting students to and from classes at a multicounty vocational center, the percentage provided in paragraphs (A) through (D), inclusive, of this subdivision as applicable for the county plus an additional ten percent; and

(F) For any county for that portion of its school bus system that uses as an alternative fuel compressed natural gas or propane, the percentage provided in paragraphs (A) through (D), inclusive, of this subdivision as applicable for the county plus an additional ten percent: *Provided*, That for any county receiving an additional ten percent for that portion of their bus system using bio-diesel as an alternative fuel during the school year 2012-2013, bio-diesel shall continue to qualify as an alternative fuel under this paragraph to the extent that the additional percentage applicable to that portion of the bus system using bio-diesel shall be decreased by two and one-half percent per year for four consecutive school years beginning in school year 2014-2015: *Provided, however*, That any county using an alternative fuel and qualifying for the additional allowance under this subdivision shall submit a plan regarding the intended future use of alternatively fueled school buses;

(2) The total cost, within each county, of insurance premiums on buses, buildings and equipment used in transportation;

(3) An amount equal to eight and one-third percent of the current replacement value of the bus fleet within each county as determined by the state board. ~~*Provided*, That the amount for the school year beginning July 1, 2015, will be \$15,000,000 and the amount for the school year beginning July 1, 2016, will be \$18,000,000.~~ The amount shall only be used for the replacement of buses except as provided in subdivision (4) of this subsection. Buses purchased after July 1, 1999 that are driven one hundred eighty thousand miles, regardless of year model, ~~will be~~ are subject to the replacement value of eight and one-third percent as determined by the state board. In addition, in any school year in which its net enrollment increases when compared to the net enrollment the year immediately preceding, a school district may apply to the state superintendent for funding for an additional bus or buses. The state superintendent shall make a decision regarding each application based upon an analysis of the individual school district's net enrollment history and transportation needs: *Provided*, That the superintendent ~~shall~~ may not consider any application which fails to document that the county has applied for federal funding for additional buses. If the state

superintendent finds that a need exists, a request for funding shall be included in the budget request submitted by the state board for the upcoming fiscal year;

(4) Notwithstanding the restriction on the use of funds for the replacement of buses pursuant to subdivision (3) of this subsection, up to \$200,000 of these funds in any school year may be used by a county for school facility and equipment repair, maintenance and improvement or replacement or other current expense priorities if a request by the county superintendent listing the amount, the intended use of the funds and the serviceability of the bus fleet is approved by the state superintendent. Before approving the request, the state superintendent shall verify the serviceability of the county's bus fleet based upon the state school bus inspection defect rate of the county over the two prior years; and

~~(4)~~ (5) Aid in lieu of transportation equal to the state average amount per pupil for each pupil receiving the aid within each county.

(b) The total state share for this purpose is the sum of the county shares: *Provided*, That ~~no~~ a county ~~shall~~ may not receive an allowance which is greater than one-third above the computed state average allowance per transportation mile multiplied by the total transportation mileage in the county exclusive of the allowance for the purchase of additional buses.

(c) One half of one percent of the transportation allowance distributed to each county ~~shall be~~ is for the purpose of trips related to academic classroom curriculum and not related to any extracurricular activity. Any remaining funds credited to a county for the purpose of trips related to academic classroom curriculum during the fiscal year shall be carried over for use in the same manner the next fiscal year and shall be separate and apart from, and in addition to, the appropriation for the next fiscal year. The state board may request a county to document the use of funds for trips related to academic classroom curriculum if the board determines that it is necessary.

§18-9A-9. Foundation allowance for other current expense and substitute employees and faculty senates.

The total allowance for other current expense and substitute employees ~~shall be~~ is the sum of the following:

~~(1) For current expense, ten percent of the sum of the computed state allocation for professional educators, professional student support personnel and service personnel as determined in sections four, five and eight of this article. Distribution to the counties shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment; plus~~

(1) For current expense:

(A) The nonsalary-related expenditures for operations and maintenance, exclusive of expenditures reported in special revenue funds, for the latest available school year, in each county, divided by the total square footage of school buildings in each county is used to calculate a state average expenditure per square foot for operations and maintenance;

(B) The total square footage of school buildings in each county divided by each county's net enrollment for school aid purposes is used to calculate a state average square footage per student;

(C) Each county's net enrollment for school aid purposes multiplied by the state average expenditure per square foot for operations and maintenance as calculated in paragraph (A) of this subdivision and multiplied by the state average square footage per student as calculated in paragraph (B) of this subdivision is that county's state average costs per square footage per student for operations and maintenance;

(D) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the allowance for current expense may be prorated among the participating counties by adjusting the net enrollment for school aid purposes utilized in the calculation by the number of students enrolled therein for each county; and

(E) Each county's allowance for current expense is 70.25 percent of the county's state average costs per square footage per student for operations and maintenance amount as calculated in paragraph (C) of this subdivision; plus

(2) For professional educator substitutes or current expense, two and five-tenths percent of the computed state allocation for professional educators and professional student support personnel as determined in sections four and eight of this article. Distribution to the counties ~~shall be~~ is made proportional to the number of professional educators and professional student support personnel authorized for the county in compliance with sections four and eight of this article; plus

(3) For service personnel substitutes or current expense, two and five-tenths percent of the computed state allocation for service personnel as determined in section five of this article. Distribution to the counties ~~shall be~~ is made proportional to the number of service personnel authorized for the county in compliance with said section; plus

(4) For academic materials, supplies and equipment for use in instructional programs, \$200 multiplied by the number of professional instructional personnel and professional student support personnel employed in the schools of the county. Distribution ~~shall be~~ is made to each county for allocation to the faculty senate of each school in the county on the basis of \$200 per professional instructional personnel employed at the school. 'Faculty senate' means a faculty senate created pursuant to section five, article five-a of this chapter. Decisions for the expenditure of such funds ~~shall be~~ are made at the school level by the faculty senate in accordance with the provisions of said section and ~~shall~~ may not be used to supplant the current expense expenditures of the county. Beginning on September 1, 1994, and every September thereafter, county boards shall forward to each school for the use by faculty senates the appropriation specified in this section. Each school shall be responsible for keeping accurate records of expenditures.

§18-9A-10. Foundation allowance to improve instructional programs and instructional technology.

(a) The total allowance to improve instructional programs ~~shall be~~ and instructional technology is the sum of the following:

(1) For instructional improvement, in accordance with county and school electronic strategic improvement plans required by section five, article two-e of this chapter, an amount equal to ten percent of the portion of the increase in the local share amount for the next school year that is due to an increase in assessed values only above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be ~~distributed~~ allocated to the counties as follows:

(A) One hundred fifty thousand dollars shall be allocated to each county; and

(B) ~~Distribution~~ Allocation to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment.

Moneys allocated by ~~provision of~~ this subdivision shall be used to improve instructional programs according to the county and school strategic improvement plans required by section five, article two-e of this chapter and approved by the state board. *Provided,* ~~That notwithstanding any other provision of this code to the contrary, moneys allocated by provision of this section also may be used in the implementation and maintenance of the uniform integrated regional computer information system.~~

Up to ~~twenty five~~ fifty percent of this allocation for the improvement of instructional programs may be used to employ professional educators and service personnel in ~~counties after all applicable provisions of sections four and five of this article have been fully utilized~~ the county. Prior to the use of any funds from this subdivision for personnel costs, the county board must receive

authorization from the state superintendent. The state superintendent shall require the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of services with adjoining counties and the ~~Regional educational~~ Education Service Agency for that county in the use of the total local district board budget; and (4) employment of technology integration specialists to meet the needs for implementation of the West Virginia Strategic Technology Learning Plan. County boards shall make application for the use of funds for personnel for the next fiscal year by May 1 of each year. On or before June 1, the state superintendent shall review all applications and notify applying county boards of the approval or disapproval of the use of funds for personnel during the fiscal year appropriate. The state superintendent shall require the county board to demonstrate the need for an allocation for personnel based upon the county's inability to meet the requirements of state law or state board policy.

~~The provisions relating to the use of any funds from this subdivision for personnel costs are subject to the following: (1) The funds available for personnel under this subsection subdivision may not be used to increase the total number of professional noninstructional personnel in the central office beyond four. and (2) For the school year beginning July 1, 2013, and thereafter, any funds available to a county for use for personnel under this subsection above the amount available for the 2012-2013 school year, only may be used for technology systems specialists until the state superintendent determines that the county has sufficient technology systems specialists to serve the needs of the county.~~

The plan shall be made available for distribution to the public at the office of each affected county board; plus

(2) For the purposes of improving instructional technology, an amount equal to twenty percent of the portion of the increase in the local share amount for the next school year that is due to an increase in assessed values only above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding

school year. The sum of these amounts shall be ~~distributed~~ allocated to the counties as follows:

(A) Thirty thousand dollars shall be allocated to each county; and

(B) ~~Distribution~~ Allocation to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment.

~~Effective July 1, 2014,~~ Moneys allocated by ~~provision of~~ this subdivision shall be used to improve instructional technology programs according to the county ~~and school strategic improvement plans~~ board's strategic technology learning plan. ~~plus~~

This allocation for the improvement of instructional technology programs may also be used for the employment of technology system specialists essential for the technology systems of the schools of the county to be fully functional and readily available when needed by classroom teachers. The amount of this allocation used for the employment of technology system specialists shall be included and justified in the county board's strategic technology learning plan; plus

(3) One percent of the state average per pupil state aid multiplied by the number of students enrolled in dual credit, advanced placement and international baccalaureate courses, as defined by the state board, distributed to the counties proportionate to enrollment in these courses in each county; plus

(4) An amount not less than the amount required to meet debt service requirements on any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1, 1994, shall be paid by the West Virginia Department of Education in accordance with the expenditure schedule approved by the state budget office into the School Building Capital Improvements Fund created by section six, article nine-d of this chapter and shall be used solely for the purposes of that article. The

School Building Capital Improvements Fund shall not be utilized to meet the debt services requirement on any revenue bonds or revenue refunding bonds for which moneys contained within the School Building Debt Service Fund have been pledged for repayment pursuant to that section.

(b) Notwithstanding the restrictions on the use of funds pursuant to subdivisions (1) and (2), subsection (a) of this section, a county board may:

(1) Utilize up to twenty-five percent of the allocation for the improvement of instructional programs in any school year for school facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes. The amount of this allocation used for any of these purposes shall be included and justified in the county and school strategic improvement plans or amendments thereto; and

(2) Utilize up to fifty percent of the allocation for improving instructional technology in any school year for school facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes. The amount of this allocation used for any of these purposes shall be included and justified in the county board's strategic technology learning plan or amendments thereto.

~~(b)~~ (c) When the school improvement bonds secured by funds from the School Building Capital Improvements Fund mature, the State Board of Education shall annually deposit an amount equal to \$24 million from the funds allocated in this section into the School Construction Fund created pursuant to the provisions of section six, article nine-d of this chapter to continue funding school facility construction and improvements.

~~(e)~~ (d) Any project funded by the School Building Authority shall be in accordance with a comprehensive educational facility plan which must be approved by the state board and the School Building Authority.

§18-9A-11. Computation of local share; appraisal and assessment of property; valuations for tax increment financing purposes; computations in growth counties; public library support.

(a) On the basis of each county's certificates of valuation as to all classes of property as determined and published by the assessors pursuant to section six, article three, chapter eleven of this code for the next ensuing fiscal year in reliance upon the assessed values annually developed by each county assessor pursuant to articles one-c and three of said chapter, the state board shall for each county compute by application of the maximum levies for general current expense purposes, as defined in section two of this article, the amount of revenue which the levies would produce if levied upon one hundred percent of the assessed value of each of the several classes of property contained in the report or revised report of the value made to it by the Tax Commissioner as follows:

(1) ~~For each fiscal year beginning before July 1, 2014, the state board shall first take ninety five percent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in the county. For each fiscal year beginning after June 30, 2014, the~~ The state board shall first take ninety-six percent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in the county; and

(2) ~~For each fiscal year beginning before July 1, 2014, the state board shall then apply these rates to the assessed taxable value of other property in each classification in the county as determined by the Tax Commissioner and shall deduct therefrom five percent as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like. For each fiscal year beginning after June 30, 2014, the~~ The state board shall then apply these rates to the assessed taxable value of other property in each classification in the county as determined by the Tax Commissioner and shall deduct therefrom four percent as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like. All of the amount so determined shall be added to the ~~ninety-five or~~ ninety-six percent

~~as applicable~~, of public utility taxes computed as provided in subdivision (1) of this subsection and this total shall be further reduced by the amount due each county assessor's office pursuant to section eight, article one-c, chapter eleven of this code and this amount shall be the local share of the particular county.

As to any estimations or preliminary computations of local share required prior to the report to the Legislature by the Tax Commissioner, the state shall use the most recent projections or estimations that may be available from the Tax Department for that purpose.

(b) It is the intent of the Legislature that the computation of local share for public school support continue to be based upon actual real property values rather than assumed assessed real property values that are based upon an assessment ratio study, and that the annual amount of local share for which a county board of education is responsible continue to be computed without reference to whether the real property assessments in that county were at least fifty-four percent of market value in the prior year as indicated by the assessment ratio study. Accordingly, the effective date of the operation of this section as amended and reenacted during 2014, and the effective date of the operation of the repeal of section two-a of this article and the operation of the repeal of section five-b, article one-c, chapter eleven of this code, all as provided under this enactment, are expressly made retrospective to June 30, 2013.

(c) Whenever in any year a county assessor or a county commission fails or refuses to comply with this section in setting the valuations of property for assessment purposes in any class or classes of property in the county, the State Tax Commissioner shall review the valuations for assessment purposes made by the county assessor and the county commission and shall direct the county assessor and the county commission to make corrections in the valuations as necessary so that they comply with the requirements of chapter eleven of this code and this section and the Tax Commissioner may enter the county and fix the assessments at the required ratios. Refusal of the assessor or the county commission to make the corrections constitutes grounds for removal from office.

(d) For the purposes of any computation made in accordance with this section, in any taxing unit in which tax increment financing is in effect pursuant to article eleven-b, chapter seven of this code, the assessed value of a related private project shall be the base-assessed value as defined in section two of said article.

(e) For purposes of any computation made in accordance with this section, in any county where the county board of education has adopted a resolution choosing to use the Growth County School Facilities Act set forth in section six-f, article eight, chapter eleven of this code, estimated school board revenues generated from application of the regular school board levy rate to new property values, as that term is designated in said section, may not be considered local share funds and shall be subtracted before the computations in subdivisions (1) and (2), subsection (a) of this section are made.

(f) The Legislature finds that public school systems throughout the state provide support in varying degrees to public libraries through a variety of means including budgeted allocations, excess levy funds and portions of their regular school board levies. A number of public libraries are situated on the campuses of public schools and several are within public school buildings serving both the students and public patrons. To the extent that public schools recognize and choose to avail the resources of public libraries toward developing within their students such legally recognized elements of a thorough and efficient education as literacy, interests in literature, knowledge of government and the world around them and preparation for advanced academic training, work and citizenship, public libraries serve a legitimate school purpose and may do so economically. Therefore, county boards are encouraged to support public libraries within their counties.

§18-9A-25. Effective date of changes during 2017 regular session of the Legislature.

The amendments to sections two, four, five, six-a, seven, nine, ten and eleven of this article during the 2017 regular session of the Legislature shall be effective for the calculations and distribution of state aid for the 2018 fiscal year and thereafter; and the

provisions in place before those amendments are only effective for the calculations and distribution of state aid prior to the 2018 fiscal year.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-2. Definitions.

For the purposes of this article, unless a different meaning clearly appears from the context:

(1) ‘Authority’ means the School Building Authority of West Virginia;

(2) ‘Bonds’ means bonds issued by the authority pursuant to this article;

(3) ‘Construction project’ means a project in the furtherance of a facilities plan with a cost greater than \$1 million for the new construction, expansion or major renovation of facilities, buildings and structures for school purposes, including:

(A) The acquisition of land for current or future use in connection with the construction project;

(B) New or substantial upgrading of existing equipment, machinery and furnishings;

(C) Installation of utilities and other similar items related to making the construction project operational.

(D) Construction project does not include such items as books, computers or equipment used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course of business improvements; other items which are customarily considered to result in a current or ordinary course of business operating charge or a major improvement project;

(4) ‘Cost of project’ means the cost of construction, expansion, renovation, repair and safety upgrading of facilities, buildings and structures for school purposes; the cost of land, equipment, machinery, furnishings, installation of utilities and other similar

items related to making the project operational; and the cost of financing, interest during construction, professional service fees and all other charges or expenses necessary, appurtenant or incidental to the foregoing, including the cost of administration of this article;

(5) 'County board' or 'county' means a county board of education as provided in article five of this chapter and includes the West Virginia Schools for the Deaf and the Blind as provided in article seventeen of this chapter when acting with the approval of the West Virginia Board of Education to submit, request and receive an award of funds or services for projects under the provisions of this article.

~~(5)~~ (6) 'Facilities plan' means the ten-year countywide comprehensive educational facilities plan established by a county board in accordance with guidelines adopted by the authority to meet the goals and objectives of this article, or a facilities plan established by the administration of the West Virginia Schools for the Deaf and Blind that:

(A) Addresses the existing school facilities and facility needs of the county, or the Schools for the Deaf and Blind, to provide a thorough and efficient education in accordance with the provisions of this code and policies of the state board;

(B) Best serves the needs of individual students, the general school population and the communities served by the facilities, including, but not limited to, providing for a facility infrastructure that avoids excessive school bus transportation times for students consistent with sound educational policy and within the budgetary constraints for staffing and operating the schools of the county;

(C) Includes the school major improvement plan;

(D) Includes the county board's school access safety plan required by section three, article nine-f of this chapter;

(E) Is updated annually to reflect projects completed, current enrollment projections and new or continuing needs; and

(F) Is approved by the state board and the authority prior to the distribution of state funds pursuant to this article to any county board or other entity applying for funds;

~~(6)~~ (7) 'Project' means a construction project or a major improvement project;

~~(7)~~ (8) 'Region' means the area encompassed within and serviced by a regional educational service agency established pursuant to section twenty-six, article two of this chapter;

~~(8)~~ (9) 'Revenue' or 'revenues' means moneys:

(A) Deposited in the School Building Capital Improvements Fund pursuant to section ten, article nine-a of this chapter;

(B) Deposited in the School Construction Fund pursuant to section thirty, article fifteen, chapter eleven of this code and section eighteen, article twenty-two, chapter twenty-nine of this code;

(C) Deposited in the School Building Debt Service Fund pursuant to section eighteen, article twenty-two, chapter twenty-nine of this code;

(D) Deposited in the School Major Improvement Fund pursuant to section thirty, article fifteen, chapter eleven of this code;

(E) Received, directly or indirectly, from any source for use in any project completed pursuant to this article;

(F) Received by the authority for the purposes of this article;
and

(G) Deposited in the Excess Lottery School Building Debt Services Fund pursuant to section eighteen-a, article twenty-two, chapter twenty-nine of this code;:-

~~(9)~~ (10) 'School major improvement plan' means a ten-year school maintenance plan that:

(A) Is prepared by a county board in accordance with the guidelines established by the authority and incorporated in its Countywide Comprehensive Educational Facilities Plan, or is prepared by the state board or the administrative council of an area vocational educational center in accordance with the guidelines if the entities seek funding from the authority for a major improvement project, or is prepared by the administration of the West Virginia Schools for the Deaf and Blind;

(B) Addresses the regularly scheduled maintenance for all school facilities of the county or under the jurisdiction of the entity seeking funding;

(C) Includes a projected repair and replacement schedule for all school facilities of the county or of the entity seeking funding;

(D) Addresses the major improvement needs of each school within the county or under the jurisdiction of the entity seeking funding; and

(E) Is required prior to the distribution of state funds for a major improvement project pursuant to this article to the county board, state board or administrative council; and

~~(10)~~ (11) ‘School major improvement project’ means a project with a cost greater than \$50 thousand and less than \$1 million for the renovation, expansion, repair and safety upgrading of existing school facilities, buildings and structures, including the substantial repair or upgrading of equipment, machinery, building systems, utilities and other similar items related to the renovation, repair or upgrading in the furtherance of a school major improvement plan. A major improvement project does not include such items as books, computers or equipment used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course of business improvements; or other items which are customarily considered to result in a current or ordinary course of business operating charge-;

(12) ‘Schools for the Deaf and Blind’ or ‘West Virginia Schools for the Deaf and Blind’ means the Schools for the Deaf

and Blind established or continued under article seventeen of this chapter.

§18-9D-3. Powers of authority.

The School Building Authority has the power:

(1) To sue and be sued, plead and be impleaded;

(2) To have a seal and alter the same at pleasure;

(3) To contract to acquire and to acquire, in the name of the authority, by purchase, lease-purchase not to exceed a term of twenty-five years, or otherwise, real property or rights or easements necessary or convenient for its corporate purposes and to exercise the power of eminent domain to accomplish those purposes;

(4) To acquire, hold and dispose of real and personal property for its corporate purposes;

(5) To make bylaws for the management and rule of its affairs;

(6) To appoint, contract with and employ attorneys, bond counsel, accountants, construction and financial experts, underwriters, financial advisers, trustees, managers, officers and such other employees and agents as may be necessary in the judgment of the authority and to fix their compensation: *Provided*, That contracts entered into by the School Building Authority in connection with the issuance of bonds under this article to provide professional and technical services, including, without limitation, accounting, actuarial, underwriting, consulting, trustee, bond counsel, legal services and contracts relating to the purchase or sale of bonds are subject to the provisions of article three, chapter five-a of this code: *Provided, however*, That notwithstanding any other provisions of this code, any authority of the Attorney General of this state relating to the review of contracts and other documents to effectuate the issuance of bonds under this article shall be exclusively limited to the form of the contract and document: *Provided further*, That the Attorney General of this state shall complete all reviews of contracts and documents relating to the

issuance of bonds under this article within ten calendar days of receipt of the contract and document for review;

(7) To make contracts and to execute all instruments necessary or convenient to effectuate the intent of and to exercise the powers granted to it by this article;

(8) To renegotiate all contracts entered into by it whenever, due to a change in situation, it appears to the authority that its interests will be best served;

(9) To acquire by purchase, eminent domain or otherwise all real property or interests in the property necessary or convenient to accomplish the purposes of this article;

(10) To require proper maintenance and insurance of any project authorized under this section, including flood insurance for any facility within the one hundred year flood plain, at which authority funds are expended;

(11) To charge rent for the use of all or any part of a project or buildings at any time financed, constructed, acquired or improved, in whole or in part, with the revenues of the authority;

(12) To assist the West Virginia Schools for the Deaf and Blind or any county board of education that chooses to acquire land, buildings and capital improvements to existing school buildings and property for use as public school facilities, by lease from a private or public lessor for a term not to exceed twenty-five years with an option to purchase pursuant to an investment contract with the lessor on such terms and conditions as may be determined to be in the best interests of the authority, the State Board of Education and, if applicable, the county board of education, consistent with the purposes of this article, by transferring funds to the State Board of Education as provided in subsection (d), section fifteen of this article for the use of the county board of education;

(13) To accept and expend any gift, grant, contribution, bequest or endowment of money and equipment to, or for the benefit of, the authority or any project under this article, from the State of West Virginia or any other source for any or all of the purposes specified

in this article or for any one or more of such purposes as may be specified in connection with the gift, grant, contribution, bequest or endowment;

(14) To enter on any lands and premises for the purpose of making surveys, soundings and examinations;

(15) To contract for architectural, engineering or other professional services considered necessary or economical by the authority to provide consultative or other services to the authority or to any regional educational service agency, the West Virginia Schools for the Deaf and Blind or any county board requesting professional services offered by the authority, to evaluate any facilities plan or any project encompassed in the plan, to inspect existing facilities or any project that has received or may receive funding from the authority or to perform any other service considered by the authority to be necessary or economical. Assistance to the region, school or district may include the development of preapproved systems, plans, designs, models or documents; advice or oversight on any plan or project; or any other service that may be efficiently provided by the authority to regional educational service agencies, the state board, ~~or county boards by the authority~~ or the West Virginia Schools for the Deaf and Blind;

(16) To provide funds on an emergency basis to repair or replace property damaged by fire, flood, wind, storm, earthquake or other natural occurrence, the funds to be made available in accordance with guidelines of the School Building Authority;

(17) To transfer moneys to custodial accounts maintained by the School Building Authority with a state financial institution from the school construction fund and the school improvement fund created in the State Treasury pursuant to the provisions of section six of this article, as necessary to the performance of any contracts executed by the School Building Authority in accordance with the provisions of this article;

(18) To enter into agreements with county boards and persons, firms or corporations to facilitate the development of ~~county board~~ projects and ~~county board~~ facilities plans. The county board

participating in an agreement shall pay at least twenty-five percent of the cost of the agreement. Nothing in this section ~~shall be construed to supersede, limit or impair~~ supersedes, limits or impairs the authority of county boards to develop and prepare their projects or plans;

(19) To encourage any project or part thereof to provide opportunities for students to participate in supervised, unpaid work-based learning experiences related to the student's program of study approved by the county board or the administration of the West Virginia Schools for the Deaf and Blind. The work-based learning experience ~~must~~ shall be conducted in accordance with a formal training plan approved by the instructor, the employer and the student, ~~and which sets~~ The experience shall set forth at a minimum the specific skills to be learned, the required documentation of work-based learning experiences, the conditions of the placement, including duration and safety provisions, and provisions for supervision and liability insurance coverage as applicable. Projects involving the new construction and renovation of vocational-technical and adult education facilities should provide opportunities for students to participate in supervised work-based learning experiences, to the extent practical, which meet the requirements of this subdivision. Nothing in this subdivision may be construed to affect registered youth apprenticeship programs or the provisions governing those programs; and

(20) To do all things necessary or convenient to carry out the powers given in this article.

§18-9D-4c. School Building Authority authorized to temporarily finance projects through the issuance of loans, notes or other evidences of indebtedness.

The School Building Authority may by resolution, in accordance with the provisions of this article, temporarily finance the cost of projects and other expenditures permitted under this article for public schools in this state, including, but not limited to, comprehensive high schools, ~~and comprehensive middle schools as defined in this article, in this state through the issuance of~~ and the

West Virginia Schools for the Deaf and Blind. The financing may be issued through loans, notes or other evidences of indebtedness, ~~Provided, That the outstanding principal amount of loans, notes or other evidences of indebtedness outstanding at any one time shall which may not exceed \$16 million at any one time. Provided, however, That~~ The principal of, interest and premium if any on, and fees associated with any such temporary financing shall be payable solely from the proceeds of bonds or the sources from which the principal of, interest and premium, if any, on bonds is any bonds are payable under this article. or from the proceeds of bonds

§18-9D-4d. Emergency facility and equipment repair or replacement fund for financially distressed counties.

From the funds available to it the School Building Authority shall 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 in making repairs or performing urgent maintenance to facilities or facility related equipment or facility related equipment replacement necessary to maintain the serviceability or structural integrity of school facilities currently in use or necessary for educating the students of the county. The grants shall be made in accordance with guideline established by the school building authority. For the purposes of this section, 'financially distressed county' means a county either in deficit or on the most recently established watch list established by the Department of Education of those counties at-risk of becoming in deficit.

§18-9D-16. Authority to establish guidelines and procedures for facilities and major improvement plans; guidelines for modifications and updates, etc.; guidelines for project evaluation; submission of certified list of projects to be funded; department on-site inspection of facilities; enforcement of required changes or additions to project plans.

(a) The authority shall establish guidelines and procedures to promote the intent and purposes of this article and assure the

prudent and resourceful expenditure of state funds for projects under this article including, but not limited to, the following:

(1) Guidelines and procedures for the facilities plans, school major improvement plans and projects submitted in the furtherance of the plans that address, but are not limited to, the following:

(A) All of the elements of the respective plans as defined in section two of this article;

(B) The procedures for a county or the administration of the West Virginia Schools for the Deaf and Blind to submit a preliminary plan, a plan outline or a proposal for a plan to the authority prior to the submission of the facilities plan. The preliminary plan, plan outline or proposal for a plan shall be the basis for a consultation meeting between representatives of the county or the administration of the West Virginia Schools for the Deaf and Blind and members of the authority, including at least one citizen member. ~~which~~ The meeting shall be held promptly following submission of the preliminary plan, plan outline or proposal for a plan to assure understanding of the general goals of this article and the objective criteria by which projects will be evaluated, to discuss ways the plan may be structured to meet those goals, and to assure efficiency and productivity in the project approval process;

(C) The manner, time line and process for the submission of each plan and annual plan updates to the authority;

(D) The requirements for public hearings, comments or other means of providing broad-based input on plans and projects under this article within a reasonable time period as the authority may consider appropriate. The submission of each plan must be accompanied by a synopsis of all comments received and a formal comment by the county board, the state board or the administrative council of an area vocational educational center submitting the plan;

(E) Any project specifications and maintenance specifications considered appropriate by the authority including, but not limited

to, such matters as energy efficiency, preferred siting, construction materials, maintenance plan and any other matter related to how the project is to proceed;

(F) A prioritization by the county board, the state board or the administrative council submitting the plan of each project contained in the plan. ~~In prioritizing the projects, the county board, the state board or the administrative council submitting the plan shall make determinations~~ The prioritization shall be determined in accordance with the objective criteria formulated by the School Building Authority in accordance with this section. The priority list is one of the criteria that shall be considered by the authority in deciding how the available funds should be expended;

(G) The objective means to be set forth in the plan and used in evaluating implementation of the overall plan and each project included in the plan. The evaluation ~~must~~ shall measure how the plan addresses the goals of this article and any guidelines adopted under this article, ~~and~~ how each project is in furtherance of the facilities plan and school major improvement plan, as applicable, ~~as well as~~ the importance of the project to the overall success of the facilities plan or school major improvement plan, and the overall goals of the authority; and

(H) Any other matters considered by the authority to be important reflections of how a construction project or a major improvement project ~~or projects~~ will further the overall goals of this article.

(2) Guidelines and procedures which may be adopted by the authority for requiring that a county board modify, update, supplement or otherwise submit changes or additions to an approved facilities plan or for requiring that a county board, the state board or the administrative council of an area vocational educational center modify, update, supplement or otherwise submit changes or additions to an approved school major improvement plan. The authority shall provide reasonable notification and sufficient time for the change or addition as delineated in its guidelines. ~~developed by the authority~~ The guidelines shall require an update of the estimated duration of school bus transportation

times for students associated with any construction project under consideration by the authority that includes the closure, consolidation or construction of a school or schools.

(3) Guidelines and procedures for evaluating project proposals that are submitted to the authority that address, but are not limited to, the following:

(A) Any project funded by the authority ~~must~~ shall be in furtherance of the facilities plan or school major improvement plan and in compliance with the guidelines established by the authority;

(B) If a project is to benefit more than one county in the region, the facilities plan ~~must~~ shall state the manner in which the cost and funding of the project will be apportioned among the counties;

(C) If a county board proposes to finance a construction project through a lease with an option to purchase pursuant to an investment contract as described in subsection (f), section fifteen of this article, the specifications for the project must include the term of the lease, the amount of each lease payment, including the payment due upon exercise of the option to purchase, and the terms and conditions of the proposed investment contract; and

(D) The objective criteria for the evaluation of projects which shall include, but ~~are~~ is not limited to, the following:

(i) How the current facilities do not meet and how the plan and any project under the plan ~~meets~~ meet the following:

(I) Student health and safety including, but not limited to, critical health and safety needs;

(II) Economies of scale, including compatibility with similar schools that have achieved the most economical organization, facility use and pupil-teacher ratios;

(III) Reasonable travel time and practical means of addressing other demographic considerations. The authority may not approve a project ~~after July 1, 2008~~ that includes a school closure, consolidation or new construction for which a new bus route will

be created for ~~the transportation of students in any of the grade levels prekindergarten through grade five~~ transporting any prekindergarten through fifth grade students to and from any school included in the project, ~~which new bus~~ if the route exceeds by more than fifteen minutes the recommended ~~duration of the one-way school bus transportation~~ duration time for elementary students adopted by the state board ~~as provided in~~ pursuant to section five-d, article two-e of this chapter, unless the county has received the written permission of the state board to create the route in accordance with said section five-d;

(IV) Multicounty and regional planning to achieve the most effective and efficient instructional delivery system;

(V) Curriculum improvement and diversification, including the use of instructional technology, distance learning and access to advanced courses in science, mathematics, language arts and social studies;

(VI) Innovations in education;

(VII) Adequate space for projected student enrollments;

(VIII) The history of efforts taken by the county board to propose or adopt local school bond issues or special levies to the extent Constitutionally permissible; and

(IX) Regularly scheduled preventive maintenance; and

(ii) How the project will assure the prudent and resourceful expenditure of state funds and achieve the purposes of this article for constructing, expanding, renovating or otherwise improving and maintaining school facilities for a thorough and efficient education.

(4) Guidelines and procedures for evaluating projects for funding that address, but are not limited to, the following:

(A) Requiring each county board's facilities plan and school major improvement plan to prioritize all the construction projects or major improvement projects, respectively, within the county. A

school major improvement plan submitted by the state board or the administrative council of an area vocational educational center shall prioritize all the school improvement projects contained in the plan. The priority list shall be one of the criteria to be considered by the authority in determining how available funds shall be expended. In prioritizing the projects, the county board, the state board or the administrative council submitting a plan shall make determinations in accordance with the objective criteria formulated by the School Building Authority;

(B) The return to each county submitting a project proposal an explanation of the evaluative factors underlying the decision of the authority to fund or not to fund the project; and

(C) The allocation and expenditure of funds in accordance with this article, subject to the availability of funds.

(b) Prior to final action on approving projects for funding under this article, the authority shall submit a certified list of the projects to the Joint Committee on Government and Finance.

(c) The State Department of Education shall conduct on-site inspections, at least annually, of all facilities which have been funded wholly or in part by moneys from the authority or state board to ensure compliance with the county board's facilities plan and school major improvement plan as related to the facilities; to preserve the physical integrity of the facilities to the extent possible; and to otherwise extend the useful life of the facilities. ~~Provided, That~~ The state board shall submit reports regarding ~~its on-site~~ the inspections of facilities to the authority within thirty days of completion. ~~of the on-site inspections: Provided, however, That~~ The state board shall promulgate rules regarding the on-site inspections and matters relating thereto, in consultation with the authority, ~~as soon as practical~~ and shall submit proposed rules for legislative review. ~~no later than December 1, 1994~~

(d) Based on its on-site inspection or notification by the authority to the state board that the changes or additions to a ~~county's board~~ county board's facilities plan or school major improvement plan ~~required by the authority~~ have not been

implemented within the time period prescribed by the authority, the state board shall restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by the Legislature for those purposes set forth in section nine, article nine-a of this chapter.

§18-9D-22. Eligibility of the West Virginia Schools for the Deaf and Blind to participate in all types of funding administered or distributed by the authority.

(a) The Legislature finds that:

(1) The Legislature's Constitutional obligation to provide a thorough and efficient public education for the children of West Virginia includes providing a thorough and efficient education for the children of West Virginia who are deaf and blind;

(2) The Legislature has endeavored to fulfill this obligation with the creation, maintenance and operation of the West Virginia Schools for the Deaf and Blind, established and continued under article seventeen of this chapter;

(3) The West Virginia Schools for the Deaf and Blind have for generations provided educational services to children from each of West Virginia's fifty-five counties;

(4) The facilities of the West Virginia Schools for the Deaf and Blind are in need of substantial improvements;

(5) The West Virginia Schools for the Deaf and Blind have no local levy which supports their operations, and depend completely upon the appropriations from the state;

(6) The West Virginia Schools for the Deaf and Blind have no borrowing authority nor revenue stream that can serve as a source of servicing debt;

(7) Questions have arisen as to whether or not it is permissible for the School Building Authority to distribute to the West Virginia Schools for the Deaf and Blind financial assistance for the construction and improvement of their facilities; and

(8) The West Virginia Schools for the Deaf and Blind should have access to and be eligible to receive all types of funding provided to county boards by the authority.

(b) Notwithstanding any provision of this code to the contrary:

(1) The West Virginia Schools for the Deaf and Blind are eligible to participate in all funding distributed by the authority; and

(2) The authority may distribute to the West Virginia Schools for the Deaf and Blind funds as it determines to be appropriate.

(c) The authority may not require the contribution of local funds for a project of the West Virginia Schools for the Deaf and Blind, nor penalize the consideration or priority ranking of a project of the schools for lack of local project funds. The state board may apply for funds for education programs under its jurisdiction for projects at the West Virginia Schools for the Deaf and Blind.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2561 – “A Bill to repeal §11-6A-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §11-8-6f and §11-8-12 of said code; 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; to amend said code by adding thereto a new section, designated §18-9A-25; to amend and reenact §18-9D-2, §18-9D-3, §18-9D-4c and §18-9D-16 of said code; and to amend said code by adding thereto two new sections, designated §18-9D-4d and §18-9D-22, all relating to public school support; repealing code section pertaining to tax treatment of wind power projects; 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; increasing percentage of allocation for the improvement of instructional programs that can be used to employ school personnel; 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; basing the computation of local share on the maximum levies for general current expense purposes; making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority; and requiring the School Building Authority to maintain a reserve fund for the purpose of making emergency grants to financially distressed county boards for certain purposes.”

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

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. 2601, Relating to municipal policemen’s or municipal firemen’s pension and relief funds.

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

On pages three and four, section twenty-seven-b, lines three through five, by striking out the words “felony and, upon conviction thereof, shall be punished by a fine not to exceed \$5,000, by imprisoned in a state correctional facility not more than five years, or by both fine and imprisoned” and inserting in lieu thereof the words “misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail not more than one year, or both fined and confined”.

On page four, section twenty-seven-b, line seven, after the word “Board” and the period, by striking out the remainder of the bill.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2601- “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §8-22-27a and §8-22-27b, all relating to administration of municipal pensions; establishing procedures to correct errors in the administration of municipal pensions; making the act of fraud in relation to a record of a municipal pension a misdemeanor; and providing for criminal penalties.”

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. 525**), 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: Kessinger.

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. 2601) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2679, Relating to the possession of firearms in parks and park facilities.

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 §20-2-19a of the Code of West Virginia, 1931, as amended, be repealed; that §7-11-15 of said code be amended and reenacted; and that §20-2-5, §20-2-42g and §20-2-42h of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 11. COUNTY PARKS AND RECREATION COMMISSIONS.

§7-11-5. General powers of commission; rules ~~and regulations~~; misdemeanor offenses; park police authorized.

The commission shall have the necessary powers and authority to manage and control all public parks and recreational properties and facilities owned by the county or commission and used as a part of such public parks and recreation system, including the right to promulgate rules and regulations concerning the management and control of such parks and recreational properties and facilities and to enforce any such rules and regulations so promulgated: Provided, That a commission shall not promulgate or enforce rules which prohibit the possession of firearms in such parks.

The commission shall also have plenary power and authority to prepare and submit to the county ~~court~~ commission for adoption rules ~~and regulations~~ regulating the use of any parks and recreational properties and facilities under the control of the commission and prohibiting any type of use of or activities in

connection with any such properties or facilities, and any such rules, and regulations if so adopted, shall be duly entered of record in the order book of the county commission. The violation of any such rule and regulation so adopted by the county commission shall constitute a misdemeanor and, any person convicted of any such violation shall be punished by a fine of not less than \$5 nor more than \$100, or by imprisonment in jail for a period not exceeding thirty days, or by both such fine and imprisonment. ~~Justices of the peace~~ The magistrate court of the county shall have concurrent jurisdiction with the circuit court and other courts of record (having criminal jurisdiction) of any misdemeanor offenses arising under this article. The violation of any such rule ~~and regulation~~ which also constitutes the violation of any state law or municipal ordinance may be prosecuted and punished as a violation of such state law or municipal ordinance rather than under the provisions of this section. To enforce any such rules and regulations, to protect and preserve all properties and facilities under the control of the commission and to preserve law and order in connection therewith, the commission shall have plenary power and authority to provide in its bylaws procedures for the appointment, supervision and discharge of one or more park police officers. Whenever any such appointment is made, a copy of the order of appointment shall be ~~filed~~ maintained by the commission for review by members of the public ~~with the county court~~.

In any area under the jurisdiction and control of the commission, or in connection with any properties or facilities under the jurisdiction and control of the commission, or in pursuit of one or more individuals therefrom, any park police officer so appointed shall have all of the power and authority which a regularly appointed deputy sheriff of such county has in enforcing the criminal laws of the state. Notwithstanding any provisions of this code to the contrary, park police officers appointed as aforesaid shall not be required to obtain a state license to carry a weapon, as required by the provisions of section two, article seven, chapter sixty-one of this code. When any such commission has purchased one or more policies of public liability insurance providing the commission and its officers, agents and employees insurance coverage for legal liability of said commission and its officers,

agents and employees for bodily injury, personal injury or damage (including, but not limited to, false arrest and false imprisonment) and property damage, and affording said commission and its officers, agents and employees insurance coverage against any and all legal liability arising from, growing out of, by reason of or in any way connected with, any acts or omissions of said commission, or its officers, agents or employees in the performance of their official duties, and so long as the coverage aforesaid remains in full force and effect as to such park police officers, then the bond specified in section five, article seven of said chapter sixty-one shall not be required as to such park police officers.

CHAPTER 20. NATURAL RESOURCES.

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 or in state parks, state forests, state wildlife management areas or state rail trails 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 where hunting is lawful;

(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 where hunting is lawful;

(C) A person carrying a firearm pursuant to sections six and six-a of this article; ~~or~~

(D) A person carrying a ~~firearm~~ handgun for self-defense who is not prohibited from possessing firearms under state or federal law; ~~or by section seven, article seven, chapter sixty one of this code~~;

(E) A person carrying a rifle or shotgun for self-defense who is not prohibited from possessing firearms under state or federal law: *Provided*, That this exception does not apply to an uncased rifle or shotgun carried in state park, state forest, or state wildlife management area recreational facilities and on marked trails within state park or state forest borders.

(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)~~(26) ~~Hunting~~ Hunt on public lands on Sunday after five o'clock ante meridian is ~~prohibited~~;

~~(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.)~~

~~(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.

(28) Catch, take, kill, or attempt to catch, take or kill any fish by any means within two hundred feet of division personnel engaged in stocking fish in public waters.

(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.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2679 – “A Bill to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; to amend and reenact §7-11-5 of said code; and to amend and reenact §20-2-5, §20-2-42g and §20-2-42h, all relating to firearms and hunting generally; eliminating authority for trappers to carry certain firearms on Sundays while checking traps; prohibiting county parks and recreation commissions from promulgating or enforcing rules which prohibit possession of firearms in parks; updating antiquated language; allowing the carrying of an uncased or loaded long firearm in the woods of this state and state parks, state forests, state wildlife management areas or state rail trails; excepting recreation facilities therein from areas where uncased or loaded long guns may be possessed; providing exceptions to the prohibition for self-defense purposes; eliminating local option election regarding to hunting on private land on Sundays; permitting Sunday hunting on private land with written permission of the owner or an authorized agent of the owner; clarifying that hunting on public land on Sundays after five o’clock ante meridian is illegal; superseding ballot measures in elections prior to the effective date of legislation making Sunday hunting on private land lawful with the written permission of the landowner or an authorized agent thereof; creating the misdemeanor offense of catching, taking, or killing of fish within two hundred feet of Division of Natural Resources personnel engaged in stocking fish in public waters; and establishing criminal penalties.”

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. 526**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Lane, Pushkin, Pyles and Rowe.

Absent and Not Voting: Kessinger.

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. 2679) 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:

Com. Sub. for H. B. 2683, Relating to West Virginia Insurance Guaranty Association Act.

On motion of Delegate Cowles, the House concurred in the following amendment of the title of the bill by the Senate:

Com. Sub. for H. B. 2683 – “A Bill to amend and reenact §33-26-2, §33-26-3, §33-26-4, §33-26-5, §33-26-8, §33-26-9, §33-26-10, §33-26-11, §33-26-12, §33-26-13, §33-26-14 and §33-26-18 of the Code of West Virginia, 1931, as amended, all relating to West Virginia Insurance Guaranty Association Act; modifying the purpose, scope and construction of act; adding and amending definitions; clarifying and adding powers, duties and rights of association; limiting amount payable for covered claims for deliberate intention, including workers’ compensation claims; limiting amount for covered claim for return of unearned premium; limiting amount association must pay for the obligation of the insolvent insurer; setting time limits for filing claims; specifying when obligation of insurer to defend an insured ceases; subject to limitations, giving association rights, duties and obligations of the insolvent insurer; allowing association to determine order of claims payment; prohibiting payment of dividends during period of deferment; hiring of legal counsel for the defense of covered claims; notification of claimants; setting forth the association’s right to review and contest settlements, releases, compromises, waivers and judgments; specifying when association is not bound by a settlement, release, compromise or waiver; requiring association to establish procedures for requesting financial information from insurers and claimants; setting forth actions association may take where insured or claimant refuses to provide requested financial information; allowing association to intervene as a party as a matter of right before any court; requiring rules of association be subject to legislative approval; requiring notice of

claims be filed with the association; setting forth the persons from whom the association may recover all amounts paid by the association on behalf of that person; requiring association and associations in other states be recognized as claimants in the liquidation of an insolvent insurer; requiring person having a claim to exhaust all coverage under the policy; setting forth what constitutes a claim relating to exhaustion of coverage; requiring association be reimbursed for any deductible claim if paid; requiring board of directors to make recommendations to commissioner regarding solvency; allowing board of directors to compile reports on insolvencies; and providing that reports and recommendations of board are not subject to disclosure under the Freedom of Information Act.”

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. 527**), 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: Kessinger.

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. 2683) 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 amendment, to take effect July 1, 2017, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2702, Relating to excused absences for personal illness from school.

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

On page two, section four, lines fourteen through seventeen, after the word “family”, by changing the colon to a period and striking out the proviso.

On page two, section four, line thirty-one, after the word “and”, by striking out the period.

On page two, section four, line thirty-four, by striking out the word “not” and inserting in lieu thereof the word “no”.

On page two, section four, after line thirty-five, by inserting a new subsection, designated subsection (b), to read as follows:

“(b) In the case of three total unexcused absences of a student during a school year, the attendance director or assistant may serve notice by written or other means to the parent, guardian, or custodian of the student that the attendance of the student at school is required and that if the student has five unexcused absences, a conference with the principal, administrative head or other chief administrator may be required.”

And, by relettering the remaining subsections.

On page three, section four, line forty-nine, after the word “make” by inserting the word “a”.

On page two, section four, by striking out the word “may” and inserting in lieu thereof the word “will”.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2702 – “A Bill to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating to documentation of unexcused absences from compulsory school attendance; limiting the excused absences for personal illness or injury in the family to those of student’s parent, guardian or custodian; requiring all documentation related to absences be provided to school no later than three days of occurrence; authorizing schools to have discretion whether to give notice in the case of three unexcused absences; giving schools the discretion whether to give said notice by

written or other means to a parent after three absences; giving discretion for attendance director or assistant to make a complaint against parent after ten total unexcused absences; and clarifying responsibility of administrative head or other chief administrator of school for meeting; and making other technical clarifications.”

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. 528**), and there were—yeas 89, nays 10, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Blair, Byrd, Fluharty, Howell, Lynch, Robinson, Shott, Sobonya, Sponaugle and Upson.

Absent and Not Voting: Kessinger.

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. 2702) passed.

Delegate Cowles moved that the bill take effect July 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 529**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Byrd and Howell.

Absent and Not Voting: Kessinger.

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. 2702) takes effect July 1, 2017.

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 amendment, to take effect July 1, 2017, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2720, Allowing the School Building Authority to transfer funds allocated into the School Construction Fund.

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

On page one, by striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §18-9D-3 and §18-9D-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows” followed by a colon.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2720 – “A Bill to amend and reenact §18-9D-3 and §18-9D-8 of the Code of West Virginia, 1931, as amended, all relating to the funding of School Building Authority operational costs; and continuing a special revenue account known as the School Building Authority Fund.”

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. 530**), 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: Kessinger.

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. 2720) passed.

Delegate Cowles moved that the bill take effect July 1, 2017.

On this question, the yeas and nays were taken (**Roll No. 531**), 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: Kessinger and Nelson.

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. 2720) takes effect July 1, 2017.

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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2739, Relating to supplemental Medicaid provider reimbursement.

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

On page three, section twenty-five, after line forty-eight, by inserting a new subdivision, designated subdivision four to read as follows:

“(4) Notwithstanding the provisions of subdivision (1) of this subsection, the Department of Health and Human Resources shall, prior to seeking federal approval of any supplemental reimbursement pursuant to this section, attempt to maximize the number of qualified group emergency medical transportation service providers eligible to receive the supplemental reimbursement. These emergency medical transportation service providers would include:

(A) Any not-for-profit emergency medical transport providers not owned by the state or a city, a county, or a city and county;

(B) Any voluntary emergency transportation service providers not owned by the state or a city, a county, or a city and county; and

(C) All other emergency medical transportation service providers licensed pursuant to the provisions of article four-c, chapter sixteen of this code” and a comma.

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. 532**), 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: Kessinger.

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. 2739) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2771, Relating to temporary teaching certificates for Armed Forces spouses.

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

On page five, section two, line ninety-six, after the word “current”, by inserting the word “unencumbered”.

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. 533**), 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: Kessinger.

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. 2771) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2815, Relating to higher education governance.

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

On page ten, section two, line one hundred nineteen, after the word “state” and a semicolon, by inserting the word “and”.

On page ten, section two, line one hundred twenty-two, after the word “Administration”, by changing the semicolon to a period and striking out the word “and”.

On page twelve, section six, line thirty-eight, by striking out the word “A” and inserting in lieu thereof the words “Except for the exempted schools, a”.

On page thirteen, section one, line seven, by striking out the word “provide” and a comma.

On page sixteen, section two, line forty-one, by striking out the word “Any” and inserting in lieu thereof the words “An at-large”.

On page seventeen, section four, line thirty-two, after the word “council”, by striking out the comma.

On page eighteen, section four, line forty-five, by striking out the word “Review” and inserting in lieu thereof the words “Except the exempted schools, review”.

On page eighteen, section four, line forty-six, after the word “compact”, by striking out the comma and the words “except the exempted schools”.

On page twenty-eight, section four, after line three hundred ten, by adding a new subsection, designated subsection (d), to read as follows:

“(d) The Higher Education Policy Commission shall examine the question of general revenue appropriations to individual higher education institutions per student, and per credit hour, and by other relevant measures at all higher education institutions, including four-year baccalaureate institutions and the community and technical colleges, and on or before January 1, 2018, the commission shall deliver its report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability. This report shall include a recommendation to the Legislature on a formula for the allocation of general revenue to be appropriated to such institutions that provides for ratable funding across all four-year institutions and community and technical colleges on a ratable basis, by enrolled student, by credit hour or by other relevant measures. On such basis, the commission shall make a recommendation to the Legislature as to the amounts that each such institution should have appropriated to it in the general revenue budget for fiscal year 2019, based upon the total general revenue appropriations that such institutions receive in aggregate in the enacted budget for fiscal year 2018.”

On page twenty-nine, section six, line twelve, after the words “Shepherd University”, by striking out the comma and inserting in lieu thereof the word “and”.

On page twenty-nine, section six, line thirteen, by striking out the word “and”.

On page thirty-six, section seven, line fifty-eight, by striking out the words “their respective jurisdictions” and inserting in lieu thereof the words “its jurisdiction”.

On page thirty-six, section seven, line sixty, by striking out the words “their respective jurisdictions” and inserting in lieu thereof the words “its jurisdiction”.

On page thirty-seven, section seven, line seventy-eight, by striking out the word “the”.

On page forty, section seven, line one hundred fifty, by striking out the words “their respective jurisdictions” and inserting in lieu thereof the words “its jurisdiction”.

On page forty, section seven, lines one hundred fifty-four and one hundred fifty-five, by striking out the words “their respective jurisdictions” and inserting in lieu thereof the words “its jurisdiction”.

On page forty, after line one hundred fifty-seven, by inserting the following:

“§18B-1F-10. Department of commerce to study and report relating to research and technology parks.

The West Virginia Development Office shall research, investigate and make recommendations relating to advancing research activities, economic development and job creation relating to foundations and private entities, including the I-79 Technology Park, who focus on research and job development and that receive or have received since July 1, 2012, appropriation support from the State of West Virginia. The Development Office shall submit a report of its investigation and findings to the Governor and the Legislature on or before December 31, 2017.”

On page forty-three, section four, line thirty-one, by striking out the word “is” and inserting in lieu thereof the word “are”.

On page forty-three, section four, line thirty-three, by striking out the word “its” and inserting in lieu thereof the words “their respective”.

On page forty-eight, section one, line seven, by striking out the word “Osteopathy” and inserting in lieu thereof the words “Osteopathic Medicine”.

On page forty-nine, section seven, line three, after the word “of”, by striking out the words “state colleges and universities in this state and” and inserting in lieu thereof the words “colleges in this state except”.

On page fifty-five, section four, lines eighty-three and eighty-four, by striking out all of subsection (h).

And, by relettering the remaining subsections.

On page sixty-one, section six, line thirteen, by striking out the word “or” and inserting in lieu thereof the word “and”.

On page seventy-six, section eight, line fifty-seven, by striking out the words “under the jurisdiction of the commission”.

On page seventy-six, section eight, line sixty-six, by striking out the words “under the jurisdiction of the commission”.

On page ninety-seven, section thirteen, after line seven, by inserting a new subsection, designated subsection (b), to read as follows:

“(b) Notwithstanding any provision of this code to the contrary, any acquisition, bequest, donation or construction of new buildings, office space or grounds exceeding \$1 million in appraised value or requiring \$1 million in repairs and renovation or lease payments over the lifetime of the lease, made or accepted by an institution’s research corporation established by article twelve of this chapter or an affiliated foundation of an institution under the jurisdiction of the council, shall be approved by the council.”

And, by relettering the remaining subsections.

And,

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §18B-1-5a and §18B-1-10 of the Code of West Virginia, 1931, as amended, be repealed; that §18B-1A-3 of said code be repealed; that §18B-1B-10 and §18B-1B-13 of said code be repealed; that §18B-2-5 and §18B-2-7 of said code be repealed; that §18B-5-2a of said code be repealed; that §18B-1-2 and §18B-1-6 of said code be amended and reenacted; that §18B-1B-1, §18B-1B-2, §18B-1B-4 and §18B-1B-6 of said code be amended and reenacted; that §18B-1D-2, §18B-1D-4 and §18B-1D-7 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-1F-10; that §18B-2A-3 and §18B-2A-4 of said code be amended and reenacted; that §18B-3-1 of said code be amended and reenacted; that §18B-4-7 of said code be amended and reenacted; that §18B-5-4, §18B-5-6, §18B-5-7 and §18B-5-9 of said code be amended and reenacted; that §18B-10-1, §18B-10-1c, §18B-10-8 and §18B-10-16 of said code be amended and reenacted; that §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 be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18B-19-19, all to read as follows” and a colon.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2815 – “A Bill to repeal §18B-1-5a and 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 said code by adding thereto a new section, designated §18B-1F-10; 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 a 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; directing the commission to examine general revenue appropriations of higher education institutions and to report findings to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability with a recommendation to the Legislature on a formula for allocation of general revenue to be appropriated to the institutions; 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; providing for a study by the West Virginia Development Office relating to foundations and private entities who focus on research and job development and that receive or have received since July 1, 2012, appropriation support from the State of West Virginia; 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 propose 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; requiring notice to certain local governmental entities and legislators for certain sales and leases of land; 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; providing for 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; providing additional requirements for governing boards to enter into sale lease-back transactions; and requiring certain governing boards to provide certain information to 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. 534**), 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 Wagner.

Absent and Not Voting: Kessinger.

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. 2815) 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 amendment, a bill of the House of Delegates, as follows:

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

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

On page four, section seven, after line four, by inserting a new subdivision, designated subdivision (2), to read as follows:

“(2) Any observer of the collection of urine samples shall be of the same sex as the employee.”

And,

By renumbering the remaining subdivisions.

And,

By amending the title of the bill 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 Workplaces Act; permitting employers to test employees and prospective employees for drugs and alcohol under certain circumstances; providing a short title; defining terms; declaring public policy; providing for

exceptions to the applicability of the West Virginia Safer Workplaces Act for employers covered by other drug and alcohol testing statutes; clarifying the right of privacy as defined by the West Virginia Supreme Court is outweighed by the public policy set forth in the West Virginia Safer Workplaces Act if an employer complies with the act; providing for the collection of samples, scheduling of tests and testing procedures; requiring employers to adhere to the accuracy and fairness safeguards of the West Virginia Safer Workplaces Act to qualify for the bar from being subjected to legal claims for acting in good faith on the results of a drug or alcohol test; providing for an employee's ability to request split sample be tested to challenge a positive test result; requiring employers to pay for certain drug or alcohol tests and transportation expenses, if any; requiring employer to conduct tests during or immediately before or after a regular work period; providing that testing by an employer is worked time for purposes of compensation and benefits for current employees; establishing responsibility for cost of split sample testing; setting forth testing policy requirements; requiring confirmatory tests before disciplinary action may be taken under the West Virginia Safer Workplaces Act; establishing requirements for confirmatory drug tests; providing for disciplinary procedures; addressing disciplinary action for sensitive employees; describing sensitive employees; providing employers who are obligated to perform drug testing under a federal or state mandated drug testing statute will be required to follow whatever additional requirements are mandated by those statutes; providing protection from liability for certain legal claims under certain circumstances; clarifying that no causes of action for certain acts exists under the West Virginia Safer Workplaces Act; addressing potential causes of action related to false positive test results; addressing claims for defamation arising from circumstances covered by the West Virginia Safer Workplaces Act; clarifying employers are not required to adopt a drug and alcohol testing policy or to conduct drug or alcohol tests of employees or prospective employees; providing for confidentiality and exceptions to confidentiality requirement; addressing discipline for positive drug or alcohol tests including but not limited to termination of employment; providing for forfeiture of certain benefits under certain circumstances including

unemployment compensation and workers' compensation 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; requiring employers to provide notice to employees of the potential forfeiture of certain benefits; providing employers waive the right to assert eligibility for benefits is forfeited if notice is not provided; and requiring employers to have written drug and alcohol testing policies and procedures when implementing drug and alcohol testing.”

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. 535**), and there were—yeas 82, nays 17, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Caputo, Diserio, Ferro, Fleischauer, Fluharty, Hornbuckle, Longstreth, Lovejoy, Lynch, Marcum, Pushkin, Pyles, Rodighiero, Rowe, Thompson and Williams.

Absent and Not Voting: Kessinger.

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. 2857) 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 amendment, a bill of the House of Delegates, as follows:

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

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

On page four, section one, after line seventy-one, by adding a new subsection, designated subsection (i), to read as follows:

“(i) The contracting public entity shall not award a contract pursuant to this section to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees. Any governmental entity may submit to the Division of Purchasing information which identifies vendors that qualify as being in default on a monetary obligation to the entity. The contracting public entity shall take reasonable steps to verify whether the lowest qualified bidder is in default pursuant to this subsection prior to awarding a contract.”

And,

By relettering the remaining subsections.

And,

By amending the title of the bill to read 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 generally to competitive bidding for public construction contracts; defining the term ‘alternates’; limiting the number of alternates that may be included on any solicitation of bids for government construction contracts; establishing procedures for acceptance of alternate bids and determination of the lowest qualified responsible bidder; providing procedures for the required submission of a list of subcontractors who will perform more than \$25,000 of work on certain projects; providing procedures for the required submission of a drug-free workplace affidavit for any solicitation for a public improvement contract; and providing procedures for the required submission of a contractor’s license number with certain bid

documents; prohibiting public construction contracts from being awarded to bidders that are in default on monetary obligations owed to the state or a political subdivision; and exempting competitive bidding requirements on certain contracts for emergency repairs.”

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. 536**), 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: Kessinger.

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. 2897) 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 amendment, a bill of the House of Delegates, as follows:

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

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 section and inserting in lieu thereof the following:

“ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-10b. Malicious assault; unlawful assault; battery; and assault on governmental representatives, health care providers, utility workers, law-enforcement officers, correctional employees and emergency medical service personnel; definitions; penalties.

(a) For purposes of this section:

(1) ‘Government representative’ means any officer or employee of the state or a political subdivision thereof, or a person under contract with a state agency or political subdivision thereof.

(2) ‘Health care worker’ means any nurse, nurse practitioner, physician, physician assistant or technician practicing at, and all persons employed by or under contract to a hospital, county or district health department, long-term care facility, physician’s office, clinic or outpatient treatment facility.

(3) ‘Emergency service personnel’ means any paid or volunteer firefighter, emergency medical technician, paramedic, or other emergency services personnel employed by or under contract with an emergency medical service provider or a state agency or political subdivision thereof.

(4) ‘Utility worker’ means any individual employed by a public utility or electric cooperative or under contract to a public utility, electric cooperative or interstate pipeline.

(5) ‘Law-enforcement officer’ has the same definition as this term is defined in W.Va. Code §30-29-1, except for purposes of this section, ‘law-enforcement officer’ shall additionally include those individuals defined as ‘chief executive’ in W.Va. Code §30-29-1.

(6) ‘Correctional employee’ means any individual employed by the West Virginia Division of Corrections, the West Virginia Regional Jail Authority, and the West Virginia Division of Juvenile Services and an employee of an entity providing services to incarcerated, detained or housed persons pursuant to a contract with such agencies.

(b) *Malicious assault.* — Any person who maliciously shoots, stabs, cuts or wounds or by any means causes bodily injury with intent to maim, disfigure, disable or kill a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law-enforcement officer acting in his or her official capacity, and the person

committing the malicious assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than three nor more than fifteen years.

(c) *Unlawful assault.* — Any person who unlawfully but not maliciously shoots, stabs, cuts or wounds or by any means causes a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law-enforcement officer acting in his or her official capacity bodily injury with intent to maim, disfigure, disable or kill him or her and the person committing the unlawful assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than two nor more than five years.

(d) *Battery.* — Any person who unlawfully, knowingly and intentionally makes physical contact of an insulting or provoking nature with a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law-enforcement officer acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully and intentionally causes physical harm to that person acting in such capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not less than one month nor more than twelve months or both fined and confined. If any person commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned. Any person who commits a third violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned.

(e) *Assault.* — Any person who unlawfully attempts to commit a violent injury to the person of a government representative, health care worker, utility worker, emergency service personnel, correctional employee or law-enforcement officer, acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully commits an act which places that person acting in his or her official capacity in reasonable apprehension of immediately receiving a violent injury and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than twenty-four hours nor more than six months, fined not more than \$200, or both fined and confined.

(f) Any person convicted of any crime set forth in this section who is incarcerated in a facility operated by the West Virginia Division of Corrections or the West Virginia Regional Jail Authority, or is in the custody of the Division of Juvenile Services and is at least eighteen years of age or subject to prosecution as an adult, at the time of committing the offense and whose victim is a correctional employee may not be sentenced in a manner by which the sentence would run concurrent with any other sentence being served at the time the offense giving rise to the conviction of a crime set forth in this section was committed.”

And,

By amending the title of the bill 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; defining correctional employee; including correctional employees as persons to whom the criminal penalties for malicious assault, unlawful assault, battery and assault in this section apply; establishing penalties; and prohibiting certain persons so convicted from receiving concurrent sentences under certain circumstances.”

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. 537**), 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: Kessinger.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3018) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3093, Establishing Broadband Enhancement and Expansion Policies.

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 §31-15C-1, §31-15C-2, §31-15C-3, §31-15C-4, §31-15C-5, §31-15C-6, §31-15C-7, §31-15C-8, §31-15C-9, §31-15C-12 and §31-15C-13 of the Code of West Virginia, 1931, as amended, be repealed; that §12-6C-11 of said code be amended and reenacted; that §31-15-8 of said code be amended and reenacted; and that said code be amended by adding thereto a new chapter, designated §31G-1-1, §31G-1-2, §31G-1-3, §31G-1-4, §31G-1-5, §31G-1-6, §31G-1-7, §31G-1-8, §31G-1-9, §31G-1-10, §31G-1-11, §31G-1-12, §31G-1-13; §31G-1-14; §31G-2-1, §31G-2-2, §31G-2-3, §31G-2-4, §31G-2-5, §31G-2-6, §31G-2-7, §31G-2-8, §31G-2-9, §31G-2-10, §31G-2-11, §31G-2-12, §31G-2-13; §31G-2-14, §31G-2-15, §31G-2-16, §31G-2-17, §31G-2-18, §31G-2-19, §31G-2-20, §31G-2-21, §31G-2-22, §31G-2-23, §31G-2-24, §31G-2-25, §31G-2-26, §31G-2-27; §31G-3-1, §31G-3-2; §31G-4-1, §31G-4-2 and §31G-4-3, all to read as follows:

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**ARTICLE 6C. WEST VIRGINIA BOARD OF TREASURY INVESTMENTS.****§12-6C-11. Legislative findings; loans for industrial development; availability of funds and interest rates.**

(a) The Legislature finds and declares that the citizens of the state benefit from the creation of jobs and businesses within the state; that business and industrial development loan programs provide for economic growth and stimulation within the state; that loans from pools established in the Consolidated Fund will assist in providing the needed capital to assist business and industrial development; and that time constraints relating to business and industrial development projects prohibit duplicative review by both the Board and West Virginia Economic Development Authority Board. The Legislature further finds and declares that an investment in the West Virginia Enterprise Capital Fund, LLC, of moneys in the Consolidated Fund as hereinafter provided will assist in creating jobs and businesses within the state and provide the needed risk capital to assist business and industrial development. This section is enacted in view of these findings.

(b) The West Virginia Board of Treasury Investments shall make available, subject to a liquidity determination, in the form of a revolving loan, up to \$175 million from the Consolidated Fund to loan the West Virginia Economic Development Authority for business or industrial development projects authorized by section seven, article fifteen, chapter thirty-one of this code and to consolidate existing loans authorized to be made to the West Virginia Economic Development Authority pursuant to this section and pursuant to section twenty, article fifteen, chapter thirty-one of this code which authorizes a \$175 million revolving loan and article eighteen-b of said chapter which authorizes a \$50 million investment pool: *Provided*, That the West Virginia Economic Development Authority may not loan more than \$15 million for any one business or industrial development project. The revolving loan authorized by this subsection shall be secured by one note at a variable interest rate equal to the twelve-month average of the

board's yield on its cash liquidity pool. The rate shall be set on ~~the first day of~~ July 1 and adjusted annually on the same date. The maximum annual adjustment may not exceed one percent. Monthly payments made by the West Virginia Economic Development Authority to the board shall be calculated on a 120-month amortization. The revolving loan is secured by a security interest that pledges and assigns the cash proceeds of collateral from all loans under this revolving loan pool. The West Virginia Economic Development Authority may also pledge as collateral certain revenue streams from other revolving loan pools which source of funds does not originate from federal sources or from the board.

(c) The outstanding principal balance of the revolving loan from the board to the West Virginia Economic Development Authority may at no time exceed one hundred three percent of the aggregate outstanding principal balance of the business and industrial loans from the West Virginia Economic Development Authority to economic development projects funded from this revolving loan pool. The independent audit of the West Virginia Economic Development Authority financial records shall annually certify that one hundred three percent requirement.

(d) The interest rates and maturity dates on the loans made by the West Virginia Economic Development Authority for business and industrial development projects authorized by section seven, article fifteen, chapter thirty-one of this code shall be at competitive rates and maturities as determined by the West Virginia Economic Development Authority Board.

(e) Any and all outstanding loans made by the West Virginia Board of Treasury Investments, or any predecessor entity, to the West Virginia Economic Development Authority are refundable by proceeds of the revolving loan contained in this section and the board shall make no loans to the West Virginia Economic Development Authority pursuant to section twenty, article fifteen, chapter thirty-one of this code or article eighteen-b of said chapter.

(f) The directors of the board shall bear no fiduciary responsibility with regard to any of the loans contemplated in this section.

(g) Subject to cash availability, the board shall make available to the West Virginia Economic Development Authority, from the Consolidated Fund, a ~~non-resource~~ nonrecourse loan in an amount up to \$25 million, for the purpose of the West Virginia Economic Development Authority making a loan or loans from time to time to the West Virginia Enterprise Advancement Corporation, an affiliated nonprofit corporation of the West Virginia Economic Development Authority. The respective loans authorized by this ~~subsection~~ subsection by the board to the West Virginia Economic Development Authority to the West Virginia Enterprise Advancement Corporation shall each be evidenced by one note and shall each bear interest at the rate of three percent per annum. The proceeds of any and all loans made by the West Virginia Economic Development Authority to the West Virginia Enterprise Advancement Corporation pursuant to this subsection shall be invested by the West Virginia Enterprise Corporation in the West Virginia Enterprise Capital Fund, LLC, the manager of which is the West Virginia Enterprise Advancement Corporation. The loan to West Virginia Economic Development Authority authorized by this subsection shall be nonrevolving, and advances under the loan shall be made at times and in amounts requested or directed by the West Virginia Economic Development Authority, upon reasonable notice to the board. The loan authorized by this subsection is not subject to or included in the limitations set forth in subsection (b) of this section with respect to the \$15 million limitation for any one business or industrial development project and limitation of one hundred three percent of outstanding loans, and may not be included in the revolving fund loan principal balance for purposes of calculating the loan amortization in subsection (b) of this section. The loan authorized by this subsection to the West Virginia Economic Development Authority shall be classified by the board as a long-term fixed income investment, shall bear interest on the outstanding principal balance of the loan at the rate of three percent per annum payable annually on or before June 30 of each year, and the principal of which shall be repaid no later than June 30, 2022, in annual installments due on or before June 30 of each year. The annual installments, which need not be equal shall commence no later than June 30, 2005, in annual principal amounts agreed upon between the board and the West Virginia Economic Development

Authority. The loan authorized by this subsection shall be nonrecourse and shall be payable by the West Virginia Economic Development Authority solely from amounts or returns received by the West Virginia Economic Development Authority in respect of the loan authorized by this subsection to the West Virginia Enterprise Advancement Corporation, whether in the form of interest, dividends, realized capital gains, return of capital or otherwise, in all of which the board shall have a security interest to secure repayment of the loan to the West Virginia Economic Development Authority authorized by this subsection. Any and all loans from the West Virginia Enterprise Advancement Corporation made pursuant to this subsection shall also bear interest on the outstanding principal balance of the loan at the rate of three percent per annum payable annually on or before June 30 of each year, shall be nonrecourse and shall be payable by the West Virginia Enterprise Advancement Corporation solely from amounts of returns received by the West Virginia Enterprise Advancement Corporation in respect to its investment in the West Virginia Enterprise Capital Fund, LLC, whether in the form of interest, dividends, realized capital gains, return of capital or otherwise, in all of which that board shall have a security interest to secure repayment of the loan to the West Virginia Economic Development Authority authorized by this subsection. In the event the amounts or returns received by the West Virginia Enterprise Corporation in respect to its investment in the West Virginia Enterprise Capital Fund, LLC, are not adequate to pay when due the principal or interest installments, or both, with respect to the loan authorized by this subsection by the board to the West Virginia Economic Development Authority, the principal or interest, or both, as the case may be, due on the loan made to the West Virginia Economic Development Authority pursuant to this subsection shall be deferred and any and all past due principal and interest payments shall promptly be paid to the fullest extent possible upon receipt by the West Virginia Enterprise Advancement Corporation of moneys in respect to its investments in the West Virginia Enterprise Capital Fund, LLC. The directors or the board shall bear no fiduciary responsibility as provided in section thirteen of this article with regard to the loan authorized by this subsection.

(h) Notwithstanding any provision in this code to the contrary, subject to a liquidity determination and cash availability, the board shall make available to the West Virginia Economic Development Authority, from the Consolidated Fund, in the form of a nonrecourse revolving loan, \$50 million, for the purpose of insuring the payment or repayment of all or any part of the principal, the redemption or prepayment premiums or penalties on, and interest on any form of debt instrument entered into by an enterprise, public body or authority of the state with a financial institution, including, but not limited to, banks, insurance companies and other institutions in the business of lending money, as authorized and as set forth in section eight, article fifteen, chapter thirty-one of this code, but only for the purpose of providing insurance on such debt instruments relating solely to the deployment of broadband under said section: *Provided*, That the West Virginia Economic Development Authority may not insure more than \$10 million for any one enterprise, public body or authority of the state in any single calendar year. The loan authorized by this subsection may not be included in the revolving fund loan principal balance for purposes of calculating the loan amortization in subsection (b) of this section. The loan authorized by this subsection shall be classified by the board as a long-term fixed income investment, and shall bear interest on the outstanding principal balance of the loan at a variable interest rate equal to the twelve-month average of the board's yield on its cash liquidity pool. The rate shall be set on July 1, 2017, and adjusted quarterly during each year thereafter. The maximum annual adjustment may not exceed one percent. Quarterly, the West Virginia Economic Development Authority shall make a payment sufficient to pay in full all accrued interests on the loan for the prior quarter. The loan authorized by this subsection is nonrecourse and is payable by the West Virginia Economic Development Authority solely from moneys received by the West Virginia Economic Development Authority in respect to insured debt instruments relating to providing broadband service under section eight, article fifteen, chapter thirty-one of this code. Upon payment in full of any said insured debt instruments, the West Virginia Economic Development Authority shall reduce the outstanding balance of the loan by a like amount. Additionally, quarterly, the West Virginia

Economic Development Authority shall determine the outstanding balance of all such insured debt instruments and shall accordingly adjust the outstanding balance of the loan to equal the outstanding obligations of the West Virginia Economic Development Authority for all said insured debt instruments. The loan is hereby secured by a security interest that pledges and assigns the cash proceeds of all collateral securing all insurance agreements entered into by the authority respecting debt instruments relating to the deployment of broadband under said section. In the event moneys received by the West Virginia Economic Development Authority respecting any individual insured debt instrument relating to providing broadband service under said section is insufficient to pay when due the principal or interest installments, or both, with respect to the loan authorized by this subsection by the board to the authority, the principal or interest, or both, as the case may be, due on the loan made to the authority pursuant to this subsection shall be deferred and any and all past-due principal and interest payments shall promptly be paid to the fullest extent possible upon receipt by the authority of all moneys respecting said debt instruments. The directors of the board bear no fiduciary responsibility as provided in section thirteen of this article with regard to the loan authorized by this subsection.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-8. Insurance fund.

(a) There is hereby created an insurance fund which shall be a continuing, nonlapsing, revolving fund that consists of:

(1) Moneys appropriated by the state to the insurance fund;

(2) Premiums, fees and any other amounts received by the authority with respect to financial assistance provided by the authority from the insurance fund;

(3) Upon the satisfaction of any indebtedness or other obligation owed on any property held or acquired by the authority,

such proceeds as designated by the authority from the sale, lease or other disposition of such property;

(4) Income from investments made from moneys in the insurance fund; and

(5) Any other moneys transferred to the insurance fund or made available to it for the purposes described under this section, under this article or pursuant to any other provisions of this code.

Subject to the provisions of any outstanding insurance agreements entered into by the authority under this section, the authority may enter into covenants or agreements with respect to the insurance fund, and establish accounts within the insurance fund which may be used to implement the purposes of this article. If the authority elects to establish separate accounts within the insurance fund, the authority may allocate its revenues and receipts among the respective accounts in any manner the authority considers appropriate.

If the authority at any time finds that more money is needed to keep the reserves of the insurance fund at an adequate level, the authority, with the consent of the chairman, shall send a written request to the Legislature for additional funds.

(b) The insurance fund shall be used for the following purposes by the authority to financially assist projects so long as such financial assistance will, as determined by the authority, fulfill the public purposes of this article:

(1) To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or penalties on, and interest on bonds or notes whether issued under ~~the provisions of~~ this article or under the Industrial Development and Commercial Development Bond Act, the West Virginia Hospital Finance Authority Act or, with respect to health care facilities only, article thirty-three, chapter eight of this code;

(2) To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or penalties on, and interest on any instrument executed, obtained or delivered in

connection with the issuance and sale of bonds or notes whether under ~~the provisions of~~ this article or under the Industrial Development and Commercial Development Bond Act, the West Virginia Hospital Finance Authority Act or, with respect to health care facilities only, article thirty-three, chapter eight of this code;

(3) To insure the payment or repayment of all or any part of the principal of, prepayment premiums or penalties on, and interest on any form of debt instrument entered into by an enterprise, public body or authority of the state with a financial institution, including, but not limited to, banks, insurance companies and other institutions in the business of lending money, which debt instruments shall include, but not be limited to, instruments relating to loans for working capital and to the refinancing of existing debt: *Provided*, That nothing contained in this subsection or any other provision of this article shall be construed as permitting the authority to insure the refinancing of existing debt except when such insurance will result in the expansion of the enterprise whose debt is to be refinanced or in the creation of new jobs;

(4) To pay or insure the payment of any fees or premiums necessary to obtain insurance, guarantees, letters of credit or other credit support from any person or financial institution in connection with financial assistance provided by the authority under this section; ~~and~~

(5) To pay any and all expenses of the authority, including, but not limited to:

(i) Any and all expenses for administrative, legal, actuarial, and other services related to the operation of the insurance fund; and

(ii) All costs, charges, fees and expenses of the authority related to the authorizing, preparing, printing, selling, issuing and insuring of bonds or notes (including, by way of example, bonds or notes, the proceeds of which are used to refund outstanding bonds or notes) and the funding of reserves; and

(6) To insure, for up to twenty years, the payment or repayment of all or any part of the principal of and interest on any form of debt

instrument entered into by an enterprise, public body or authority of the state with a financial institution, including, but not limited to, banks, insurance companies and other institutions in the business of lending money, which debt instruments are to be solely for capital costs relating to:

(i) Providing broadband service, as defined in section one, article one, chapter thirty-one-g of this code, to a household or business located in an unserved area, as defined in section two of said article, or in an area with access to Internet service, by wireline or fixed wireless technology, but that fifteen percent or more of households and businesses in the area are served by Internet service with an actual downstream data rate less than ten megabits per second and an upstream data rate less than one megabit per second, and no part of the area has three or more wireline or fixed wireless broadband service providers; or

(ii) Building a segment of a telecommunications network that links a network operator's core network to a local network plant that serves either an unserved area, as defined in section two, article one, chapter thirty-one-g of this code, or an area in which no more than two wireline providers are operating.

The authority may not insure the payment or repayment of any part of the principal of and interest on any form of debt instrument under this subdivision, unless the participating financial institution provides written certification to the authority that, but for the authority's insuring the debt instrument, the financial institution would not otherwise make the loan based solely on the creditworthiness of the loan applicant: *Provided*, That nothing contained in this subsection or any other provision of this article may be construed as permitting the authority to insure the refinancing of existing debt.

Upon the filing of an application for loan insurance under this subsection, the broadband provider shall cause to be published as a Class II legal advertisement in compliance with article three, chapter fifty-nine of this code, notice of the filing of the application and that the authority may approve the same unless within ten business days after completion of publication a written objection is

received by the authority from a person or persons challenging that the proposed broadband project does not satisfy the provisions of this subsection. The publication area for such notice is to be the county or counties in which any portion of the proposed broadband project is to be constructed. The notice shall be in such form as the authority shall direct, and shall include a map of the area or areas to be served by the proposed broadband project. The applicant shall also cause to be mailed by first class, on or before the first day of publication of the notice, a copy of the notice to all known current providers of broadband service within the area proposed to be served. If a challenge under this paragraph is timely received by the authority, the authority shall advise the Broadband Enhancement Council, established in article one of chapter thirty-one-g of this code, in writing within five business days. The council shall set the matter for hearing on a date within thirty days of receipt of notice from the authority. The Broadband Enhancement Council shall issue a decision on whether the proposed project satisfies the requirements of this subsection or not within thirty days of completion of such hearing. Any party participating in said hearing may appeal the council's decision within thirty days of the issuance of said decision to the Circuit Court of Kanawha County. This provision shall apply to all applicants except to those broadband providers that plan on providing a downstream data rate of at least one gigabyte per second to the end user.

(c) The Except as relating to insured portions of debt instruments under subdivision (6), subsection (b) of this section, the total aggregate amount of insurance from the insurance fund with respect to the insured portions of principal of bonds or notes or other instruments may not exceed at any time an amount equal to five times the balance in the insurance fund.

(d) The authority may, in its sole and absolute discretion, set the premiums and fees to be paid to it for providing financial assistance under this section. The premiums and fees set by the authority shall be payable in the amounts, at the time, and in the manner that the authority, in its sole and absolute discretion, requires. The premiums and fees need not be uniform among

transactions, and may vary in amount: (1) Among transactions; and (2) at different stages during the terms of transactions.

(e) The authority may, in its sole and absolute discretion, require the security it believes sufficient in connection with its insuring of the payment or repayment of any bonds, notes, debt or other instruments described in subdivisions (1), (2), (3) and (4), subsection (b) of this section.

(f) The authority may itself approve the form of any insurance agreement entered into under this section or may authorize the chairman or his or her designee to approve the form of any such agreement. Any payment by the authority under an agreement entered into by the authority under this section shall be made at the time and in the manner that the authority, in its sole and absolute discretion, determines.

(g) The obligations of the authority under any insurance agreement entered into pursuant to this article shall not constitute a debt or a pledge of the faith and credit or taxing powers of this state or of any county, municipality or any political subdivision of this state for the payment of any amount due thereunder or pursuant thereto, but the obligations evidenced by such insurance agreement shall be payable solely from the funds pledged for their payment. All such insurance agreements shall contain on the face thereof a statement to the effect that such agreements and the obligations evidenced thereby are not debts of the state or any county, municipality or political subdivision thereof but are payable solely from funds pledged for their payment.

CHAPTER 31G. BROADBAND ENHANCEMENT AND EXPANSION POLICIES.

ARTICLE 1. BROADBAND ENHANCEMENT COUNCIL.

§31G-1-1. Legislative findings and purpose.

The Legislature finds as follows:

(1) That it is a primary goal of the Governor, the Legislature and the citizens of this state, by the year 2020, to make every

municipality, community, and rural area in this state, border to border, accessible to Internet communications through the expansion, extension and general availability of broadband services and technology.

(2) That although broadband access has been extended to many of West Virginia's cities, towns, and other concentrated population areas, some areas of the state, mostly rural, remain unserved.

(3) That the issues which have hindered the provision of broadband access to rural areas of the state especially disadvantage the elderly and low-income households.

(4) That fair and equitable access to twenty-first century technology is essential to maximize the functionality of educational resources and educational facilities that enable our children to receive the best of future teaching and learning is essential to the future development of this state. A quality educational system of the twenty-first century should have access to the best technology tools and processes. Administrators should have the electronic resources to monitor student performance, to manage data, and to communicate effectively. In the classroom, every teacher in every school should be provided with online access to and the ability to deliver the best available educational technology resources to the students of West Virginia. Schools of the twenty-first century require facilities that accommodate changing technologies.

(5) Accordingly, it is the purpose of the Legislature to provide for the development of policies, plans, processes and procedures to be employed and dedicated to extending broadband access to West Virginians, and to their families, by removing restraint on the development of those services and for encouraging and facilitating the construction of the necessary infrastructure to meet their needs and demands.

§31G-1-2. Definitions.

For the purposes of this article:

(1) ‘Broadband’ or ‘broadband service’ means any service providing advanced telecommunications capability with the same downstream data rate and upstream data rate as is specified by the Federal Communications Commission and that does not require the end-user to dial up a connection, that has the capacity to always be on, and for which the transmission speeds are based on regular available bandwidth rates, not sporadic or burstable rates, with latency suitable for real-time applications and services such as voice-over Internet protocol and video conferencing, and with monthly usage capacity reasonably comparable to that of residential terrestrial fixed broadband offerings in urban areas: *Provided*, That as the Federal Communications Commission updates the downstream data rate and the upstream data rate the council will publish the revised data rates in the State Register within sixty days of the federal update.

(2) ‘Council’ means the Broadband Enhancement Council.

(3) ‘Downstream data rate’ means the transmission speed from the service provider source to the end-user.

(4) ‘Internet protocol address’ or ‘IP address’ means a unique string of numbers separated by periods that identifies each computer using the Internet Protocol to communicate over a network.

(5) ‘Upstream data rate’ means the transmission speed from the end-user to the service provider source.

(6) ‘Unserved area’ means a community that has no access to broadband service.

§31G-1-3. Broadband Enhancement Council; members of council; administrative support.

(a) The Broadband Enhancement Council is hereby established and continued. The current members, funds, and personnel shall continue in effect and be wholly transferred; except as may be hereinafter provided. With regard to the terms of the public members appointed under subdivision five of subsection (d) of this section, at the next regular meeting of the council following July 1,

2017, the currently serving public members shall draw by lot for the length of their terms, three members to serve for one additional year, three members to serve for two additional years and the last three members to serve for three additional years, with all public members in future to serve for the duration of the term described below.

(b) The council is a governmental instrumentality of the state. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties are considered and held to be, and are hereby determined to be, essential governmental functions and for a public purpose. The council is created under the Department of Commerce for administrative, personnel and technical support services only.

(c) The council shall consist of thirteen voting members, designated as follows:

(1) The Secretary of Commerce or his or her designee;

(2) The Chief Technology Officer or his or her designee;

(3) The Vice Chancellor for Administration of the Higher Education Policy Commission or his or her designee;

(4) The State Superintendent of Schools or his or her designee;
and

(5) Nine public members that shall serve three-year terms from the date of their appointment and are appointed by the Governor with the advice and consent of the Senate, as follows:

(i) One member representing users of large amounts of broadband services in this state;

(ii) One member from each congressional district representing rural business users in this state;

(iii) One member from each congressional district representing rural residential users in this state;

(iv) One member representing urban business users in this state; and

(v) One member representing urban residential users in this state.

(6) In addition to the thirteen voting members of the council, the President of the Senate shall name two senators from the West Virginia Senate, one from each party, and the Speaker of the House shall name two delegates from the West Virginia House of Delegates, one from each party, each to serve in the capacity of an ex officio, nonvoting advisory member of the council.

(d) The Secretary of Commerce shall chair the first meeting at which time a chair and vice chair shall be elected from the members of the council. In the absence of the chair, the vice chair shall serve as chair. The council shall appoint a secretary-treasurer who need not be a member of the council and who, among other tasks or functions designated by the council, shall keep records of its proceedings.

(e) The council may appoint committees or subcommittees to investigate and make recommendations to the full council. Members of these committees or subcommittees need not be members of the council.

(f) Seven voting members of the council constitute a quorum and the affirmative vote of a simple majority of those members present is necessary for any action taken by vote of the council.

(g) The gubernatorial appointed members shall be deemed part-time public officials, and may pursue and engage in another business or occupation or gainful employment. Any person employed by, owning an interest in or otherwise associated with a broadband deployment project, project sponsor or project participant may serve as a council member and is not disqualified from serving as a council member because of a conflict of interest prohibited under section five, article two, chapter six-b of this code and is not subject to prosecution for violation of said section when the violation is created solely as a result of his or her relationship

with the broadband deployment project, project sponsor or project participant so long as the member recuses himself or herself from board participation regarding the conflicting issue in the manner set forth in section five, article two, chapter six-b of this code and the legislative rules promulgated by the West Virginia Ethics Commission.

(h) No member of the council who serves by virtue of his or her office may receive any compensation or reimbursement of expenses for serving as a member. The public members and members of any committees or subcommittees are entitled to be reimbursed for actual and necessary expenses incurred for each day or portion thereof engaged in the discharge of his or her official duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(i) No person is subject to antitrust or unfair competition liability based on membership or participation in the council, which provides an essential governmental function and enjoys state action immunity.

§31G-1-4. Powers and duties of the council generally.

(a) The council shall:

(1) Explore any and all ways to expand access to broadband services, including, but not limited to, middle mile, last mile and wireless applications;

(2) Gather data regarding the various speeds provided to consumers in comparison to what is advertised. The council may request the assistance of the Legislative Auditor in gathering this data;

(3) Explore the potential for increased use of broadband service for the purposes of education, career readiness, workforce preparation and alternative career training;

(4) Explore ways for encouraging state and municipal agencies to expand the development and use of broadband services for the purpose of better serving the public, including audio and video

streaming, voice-over Internet protocol, teleconferencing and wireless networking; and

(5) Cooperate and assist in the expansion of electronic instruction and distance education services.

(b) In addition to the powers set forth elsewhere in this article, the council is hereby granted, has and may exercise the powers necessary or appropriate to carry out and effectuate the purpose and intent of this article, as enumerated herein. The council shall have the power and capacity to:

(1) Provide consultation services to project sponsors in connection with the planning, acquisition, improvement, construction or development of any broadband deployment project;

(2) Promote awareness of public facilities that have community broadband access that can be used for distance education and workforce development;

(3) Advise on deployment of e-government portals such that all public bodies and political subdivisions have homepages, encourage one-stop government access and that all public entities stream audio and video of all public meetings;

(4) Make and execute contracts, commitments and other agreements necessary or convenient for the exercise of its powers, including, but not limited to, the hiring of consultants to assist in the mapping of the state and categorization of areas within the state;

(5) Acquire by gift or purchase, hold or dispose of real property and personal property in the exercise of its powers and performance of its duties as set forth in this article;

(6) Receive and dispense funds appropriated for its use by the Legislature or other funding sources or solicit, apply for and receive any funds, property or services from any person, governmental agency or organization to carry out its statutory duties;

(7) To oversee the use of conduit installed pursuant to section two of article three of this chapter; and to

(8) Perform any and all other activities in furtherance of its purpose.

(c) The council shall exercise its powers and authority to advise and make recommendations to the Legislature on bringing broadband service to unserved and underserved areas, as well as to propose statutory changes that may enhance and expand broadband in the state.

(d) The council shall report to the Joint Committee on Government and Finance on or before January 1 of each year. The report shall include the action that was taken by the council during the previous year in carrying out the provisions of this article. The council shall also make any other reports as may be required by the Legislature or the Governor.

§31G-1-5. Creation of the Broadband Enhancement Fund.

All moneys collected by the council, which may, in addition to appropriations, include gifts, bequests or donations, shall be deposited in a special revenue account in the State Treasury known as the Broadband Enhancement Fund. The fund shall be administered by and under the control of the Secretary of the Department of Commerce. 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 two, chapter eleven-b of this code.

§31G-1-6. Mapping of areas within state.

(a) Based on its analysis of data, broadband demand, and other relevant information, the council shall establish a mapping of broadband services in the state. The council shall publish an annual assessment and map of the status of broadband, including specifically designations of unserved and underserved areas of the state.

(b) To the extent possible, and subject to limitations contained in subsection (f) of this section, the council may additionally establish an interactive public map reflecting estimated downstream data rate and upstream data rate in a particular region, area, community, street or location. Any such mapping may only specify data rates at a particular street address or physical location, and shall not make public the IP address or the name of the specific individual at such location. Such mapping may also contain data concerning capacity, based upon fiber count.

(c) The mapping provided for in this section may be based on information collected or received by the council, including but not limited to, data collected from: (1) State and federal agencies or entities that collect data on broadband services; (2) industry provided information; and (3) consumer data provided to the council pursuant to section nine of this article.

(d) Any entity that has received or hereinafter receives state or federal moneys, and which has used those moneys to install infrastructure used for broadband services, shall furnish detailed information concerning the location, type, and extent of such infrastructure to the council for use in mapping.

(e) The mapping and designations provided for under this section may be revised on a continuing basis by the council as warranted by the data and information provided.

(f) In addition to the provisions of section thirteen of this article, the mapping of broadband services may exclude from public accessibility and availability: (1) The location or identity of any critical infrastructure used by public or private entities in furtherance of their internet services; (2) personal name and personal IP addresses connected with particular data rates; and (3) information designated as confidential for public security reasons by either state or federal homeland security agencies: *Provided*, That it shall be duty of the public and private entities to make the council aware of such confidential designation: *Provided, however*, That unless the council determines good cause exists, the actual or estimated upstream and downstream data rates of an area or region of the state shall not be excluded from public or private availability.

§31G-1-7. Retention of outside expert consultant.

(a) In order to assist the council with the highly technical task of categorizing the areas of the state, the council may retain outside expert consultants to assist in the purposes of this article. The experts may assist the council to map the state on the basis of broadband availability, to evaluate and categorize data, to assist in public outreach and education in order to stimulate demand and to provide other support and assistance as necessary to accomplish the purposes of this article.

(b) The retention and contracting of all expert consultants shall be transparent, including specifically, making publicly available any contracts, retention agreements, payments and invoicing for services.

§31G-1-8. Public awareness and education.

In order to implement and carry out the intent of this article, the council may take such actions as it deems necessary or advisable in order to increase awareness of issues concerning broadband services and to educate and inform the public.

§31G-1-9. Collection of data.

(a) In order to ascertain, categorize, analyze, map, and update the status of broadband in the state, as well as to enable the council to make informed policy and legislative recommendations, the council may establish a voluntary data collection program. The program may include voluntarily submitted data from internet service providers, including any home or region data rate meters utilized by the provider. The program may also utilize and collect voluntarily submitted data rate information submitted by any person reflecting the person's personal data rate at a particular IP address. This personal data rate may be based upon a web-based test or analysis program.

(b) Any and all data collected by the council shall not be deemed public information and is not subject to public release or availability pursuant to chapter twenty-nine-b of this code.

(c) Any data collection program established by the council shall:

(1) Make clear to those providers or persons submitting information that the data rate speed may become public, including specific reference to the person's physical address;

(2) Make clear this is a voluntary data collection program and that submission of information shall be deemed consent to use and make public such data rate information; and

(3) Not include any person's personal web history or search information, or otherwise publicly identify the person's name in connection with an IP address or physical address.

(d) The council may establish guidelines and additional rules governing a data collection program through the legislative rulemaking process, pursuant to the provisions of article three, chapter twenty-nine-a of this code.

§31G-1-10. Pilot Project for cooperatives by political subdivisions.

(a) Notwithstanding any provision in the code to the contrary, the council may create guidelines and recommend to the Legislature a pilot project for no more than three municipalities or counties, either individually or in conjunction with one another, to establish non-profit cooperative associations to provide high-speed internet and broadband services.

(b) Nothing herein shall preclude or prohibit the establishment of a cooperative association by non-political subdivisions outside the purview or authority of the council. It is not a requirement that a cooperative association established under article two of this chapter seek approval or guidance from the council, and such cooperative associations established under article two of this chapter shall not be under the authority of, nor subject to, the council.

§31G-1-11. Voluntary donation and easement programs.

(a) The council shall create guidelines for, and recommend to the Legislature a means of implementing a voluntary donation program to allow for pipeline, railroad, and other similar structures

and rights-of-way in the state to be donated to the state for use by public or private entities to facilitate broadband service and availability through placement of fiber.

(b) The council shall create guidelines for, and recommend to the Legislature a means of implementing a program to allow for an easement program to be established to allow public or private entities to facilitate broadband service and availability through placement of fiber.

§31G-1-12. Grants.

In furtherance of the purposes of this article, the council is permitted to seek non-state funding and grants. The council may utilize funding and grants to support the responsibilities, initiatives and projects set forth this article. The council may additionally disburse such monies to fund projects and initiatives in furtherance of the enhancement and expansion of broadband services in this state, and the other purposes of this article.

§31G-1-13. Protection of proprietary business information.

(a) Broadband deployment information provided to the council or its consultants and other agents, including, but not limited to, physical plant locations, subscriber levels, and market penetration data, constitutes proprietary business information and, along with any other information that constitutes trade secrets, shall be exempt from disclosure under the provisions of chapter twenty-nine-b of this code: *Provided*, That the information is identified as confidential information when submitted to the council.

(b) Trade secrets or proprietary business information obtained by the council from broadband providers and other persons or entities shall be secured and safeguarded by the state. Such information or data shall not be disclosed to the public or to any firm, individual or agency other than officials or authorized employees of the state. Any person who makes any unauthorized disclosure of such confidential information or data is guilty of a misdemeanor and, upon conviction thereof, may be fined not more

than \$5,000 or confined in a correctional facility for not more than one year, or both.

(c) The official charged with securing and safeguarding trade secrets and proprietary data for the council is the Secretary of Administration, who is authorized to establish and administer appropriate security measures. The council chair shall designate two additional persons to share the responsibility of securing trade secrets or proprietary information. No person will be allowed access to trade secrets or proprietary information without written approval of a minimum of two of the three authorized persons specified above.

§31G-1-14. Legislative rule-making authority.

In order to implement and carry out the intent of this article, the Secretary of the Department of Commerce, at the direction and recommendation of the council, may propose rules for legislative approval, pursuant to the provisions of article three, chapter twenty-nine-a of this code.

ARTICLE 2. COOPERATIVE ASSOCIATIONS.

§31G-2-1. Definitions.

As used in this article:

(1) ‘Cooperative association’ or ‘association’ means any corporation organized under this article. Each association shall also comply with the requisite business corporation provisions of chapter thirty-one-d or thirty-one-f of this code, or the nonprofit corporation provisions of chapter thirty-one-e of this code.

(2) ‘Internet services’ means providing access to, and presence on, the internet and other services. Data may be transmitted using several technologies, including dial-up, DSL, cable modem, wireless, or dedicated high-speed interconnects.

(3) ‘Member’ means a member of an association without capital stock and a holder of common stock in an association organized with capital stock.

(4) ‘Qualified person’ means a person who is engaged in the use of internet services, either in an individual capacity or as a business.

(5) ‘Qualified activity’ means using internet services.

§31G-2-2. Who may organize.

Notwithstanding any provision of this code to the contrary, twenty or more qualified persons engaged in the use of internet services may form a cooperative association, with or without capital stock, under this article.

§31G-2-3. Legislative findings and purposes.

(a) It is the finding of the Legislature that:

(1) West Virginia’s cities, towns, and other concentrated population areas, areas of the state, mostly rural, remain unserved or underserved by broadband access; and

(2) The lack of affordable, accessible broadband service in the underserved and unserved areas in this state necessitates consideration of alternative means and methods of providing internet services.

(b) It is the purpose of this article that individuals and businesses be able to form cooperative associations for the purpose of obtaining internet services within their respective regions and communities.

§31G-2-4. Powers.

(a) A cooperative association shall have the following powers:

(1) To engage in any qualified activity in connection with any internet service; or any activity in connection with the purchase, providing or use by its members of internet services; or in the financing, directly, through the association of any qualified activities. All transactions with nonmembers shall be on terms fixed by the association and nonmembers shall not otherwise participate in any benefits derived from such transactions;

(2) To borrow money without limitation as to amount of corporate indebtedness or liability, and to make advance payments and advances to members; to execute, issue, draw, make, accept, endorse and guarantee, without limitation, promissory notes, bills of exchange, drafts, warrants, certificates, mortgages, and any other form of obligation or negotiable or transferable bills of any kind; to become the surety, guarantor, maker, and/or endorser for accommodation or otherwise of bills, notes, securities and other evidences of debt of any association or person, anything in any other statutes or law of this state to the contrary notwithstanding;

(3) To act as the agent or representative of any member or members in any of the above-mentioned activities;

(4) To purchase or otherwise acquire, and to hold, own and exercise all rights of ownership in, and to sell, transfer or pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the providing and marketing of any of the products handled by the association;

(5) To establish reserves and to invest the funds thereof in bonds or in such other property as may be provided in the bylaws;

(6) To buy, hold and exercise all privileges of ownership over real or personal property as may be necessary or convenient for the conduct and operation of any of the business of the association, or incidental thereto;

(7) To establish, secure, own and develop patents, trademarks and copyrights; and

(8) To do each and every thing necessary, suitable, or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the subjects herein enumerated, or conducive to or not contrary to the interest or benefit of the association; and to contract accordingly; and, in addition, to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or

to the activities in which it is engaged, and any other rights, powers, and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the purposes of this article.

§31G-2-5. Members.

(a) Under the terms and conditions prescribed in the bylaws adopted by it, a cooperative association may admit as members, or issue common stock to, only qualified persons.

(b) If a member of a nonstock association be other than a natural person, the member may be represented by an individual, associate, officer or manager or member thereof, duly authorized in writing.

(c) One association organized hereunder may become a member or stockholder of any other association or associations organized under this article or similar laws of any state.

§31G-2-6. Articles of incorporation.

Each association formed under this article shall prepare and file articles of incorporation, setting forth:

(1) The name of the association, which shall include the words 'cooperative', 'co-operative', or 'co-op', and words or abbreviations designating a corporation;

(2) The purposes for which it is formed;

(3) The place where its principal business will be transacted;

(4) The period, if any prescribed, for the duration of the corporation;

(5) The number of incorporators which is not less than twenty, the number of directors which is not less than twenty and any number in excess of those minimums, or it may be set forth that the number of directors will be fixed by the bylaws;

(6) If organized without capital stock, whether the property rights and interest of each member are equal or unequal; and if unequal, the general rules applicable to the classes of members whose property rights and interest are determined and fixed; and provision for the admission of new members who may be entitled to share in the property of the association with the old members, in accordance with the general rules. This provision of the articles of incorporation may not be altered, amended or repealed except by the written consent or vote of three fourths of the members;

(7) If organized with capital stock and authorized to issue only one class of stock, the total number of shares of stock which the association has authority to issue, including: (A) The par value of each of the shares; or (B) a statement that all the shares are to be without par value;

(8) If the association is authorized to issue more than one class of stock, the total number of shares of all classes of stock which the association may issue, including: (A) The number of shares of each class that have a par value and the par value of each share by class; (B) the number of shares that are to be without par value; and (C) a statement of the powers, preferences, rights, qualifications, limitations or restrictions that are permitted by section thirteen of this article in respect to a class of stock fixed by the articles of incorporation or by resolution of the board of directors;

(9) The articles shall be signed and filed in accordance with the provisions of the business or nonprofit corporation laws of this state; and

(10) The articles may also contain any provisions managing, defining, limiting or regulating the powers and affairs of the association, the directors, the stockholders or members of the association.

§31G-2-7. Amendments to articles of incorporation.

The articles of incorporation may be altered or amended at any regular meeting or any special meeting called for that purpose. An amendment must first be approved by two thirds of the directors

and then adopted by a vote representing a majority of all the members of the association. Amendments to the articles of incorporation, when so adopted, shall be filed in accordance with the provisions of the general corporation laws of this state.

§31G-2-8. Bylaws.

Each association incorporated under this article, must, within thirty days after its incorporation, adopt for its government and management a code of bylaws, not inconsistent with the powers granted by this article. A majority vote of the members or stockholders, or their written assent, is necessary to adopt such bylaws. Each association, under its bylaws, may provide for any or all of the following matters:

(1) The time, place and manner of calling and conducting its meetings;

(2) The number of stockholders or members constituting a quorum;

(3) The right of members or stockholders to vote by proxy or by mail or both; and the conditions, manner, form, and effect of such votes;

(4) The number of directors constituting a quorum; and, if authority therefor is given in the articles of incorporation, the total number of directors;

(5) The qualifications, compensation, duties and term of office of directors and officers; time of their election and the mode and manner of giving notice thereof;

(6) Penalties for violation of the bylaws;

(7) The amount of entrance, organization and membership fees, if any; the manner and method of collecting the same; and the purposes for which they may be used;

(8) The amount which each member or stockholder shall be required to pay annually or from time to time, if at all, to carry on

the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to him or her and the time of payment and the manner of collection; and the marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign; and

(9) The number and qualifications of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members and of the shares of common stock; the conditions upon which and time when membership of any member shall cease; the automatic suspension of the rights of a member when he or she ceases to be eligible to membership in the association; the mode, manner and effect of the expulsion of a member; the manner of determining the value of a member's interest, and provision for its purchase by the association, at its option, upon the death or withdrawal of a member or stockholder, or upon the expulsion of a member or forfeiture of his or her membership, or, at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors, or at the election of the board, such property interests may be sold at public auction to the association itself, or to any person eligible to membership in such association and the proceeds of such sale paid over to the personal representative of such deceased member, or to the member withdrawing or expelled, as the case may be.

§31G-2-9. General and special meetings.

In its bylaws, each association shall provide for one or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time; and ten percent of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. Such meeting must thereupon be called by the directors. Notice of all meetings, together with a statement of the purposes thereof, shall be mailed to each member at least ten days prior to the meeting: *Provided*, That the bylaws may require instead

that such notice may be given as provided by this section, namely, as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the principal place of business of the association is located.

§31G-2-10. Directors.

(a) The affairs of the association shall be managed by a board of not less than three directors, elected by the members or stockholders.

(b) The bylaws may provide that the territory in which the association has members shall be divided into districts and that the directors be elected either directly or by district delegates elected by the members in that district. The bylaws shall specify the number of directors to be elected by each district, the manner of reapportioning the directors and the method of redistricting the territory covered by the association. The bylaws may provide that primary elections shall be held in each district to elect the directors apportioned to the districts and that the results of all the primary elections may be ratified during the next regular meeting of the association or may be considered final.

(c) The bylaws may provide that one or more directors may be appointed by a public official, commission or by the other directors. These public directors shall represent the interest of the general public in the associations. The public directors need not be members or stockholders of the association, but shall have the same powers and rights as other directors. The directors shall not number more than one fifth of the entire number of directors.

(d) An association may provide a fair remuneration for the time actually spent by its officers and directors in its service and for the service of the members of its executive committee. No director, during the term of his or her office, shall be a party to a contract for profit with the association differing from the contractual terms accorded regular members or holders of common stock of the association.

(e) The bylaws may provide that no director, except the president and secretary, shall occupy a position in the association on regular salary or substantially full-time pay.

(f) The bylaws may provide for an executive committee and may allot to the committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

(g) When a vacancy on the board of directors occurs other than by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the bylaws provide for an election of directors by district. In that case the board of directors shall immediately call a special meeting of the members or stockholders in that district to fill the vacancy.

§31G-2-11. Officers.

The directors shall elect from their number a president and one or more vice presidents. They shall also elect a secretary and a treasurer, who need not be directors or members of the association; and they may combine the two latter offices and designate the combined office as secretary-treasurer; or unite both functions and titles in one person. The treasurer may be a bank or any depository, and, as such, shall not be considered an officer, but as a function of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds shall be deposited only as and where authorized by the board of directors.

§31G-2-12. Officers, employees and agents to be bonded.

Every officer, employee and agent handling funds or negotiable instruments or property of or for any association created hereunder shall be required to execute and deliver adequate bonds for the faithful performance of his or her duties and obligations.

§31G-2-13. Stock; membership certificate; voting; liability; limitations on transfer and ownership.

(a) When a member of an association established without capital stock has paid his or her membership fee in full, he or she

shall receive a certificate of membership. An association shall have power to issue one or more classes of stock, or one or more series of stock within any class thereof, any or all of which classes may be of stock with par value or stock without par value, with such voting powers, full or limited, or without voting powers and in such series, and with such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the articles of incorporation, or in any amendment thereto, or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation or of any amendment thereto.

(b) No association shall issue stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note; but such retention as security shall not affect the member's right to vote.

(c) No member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his or her membership fee or his or her subscription to the capital stock, including any unpaid balance on any promissory notes given in payment thereof.

(d) An association in its bylaws may limit the amount of common stock which one member may own. No member or stockholder shall be entitled to more than one vote, regardless of the number of shares of common stock owned by him or her.

(e) Any association organized with stock under this article may issue preferred stock, with or without the right to vote. Such stock may be sold to any person, member or nonmember, and may be redeemable or retireable by the association on such terms and conditions as may be provided for by the articles of incorporation and printed on the face of the certificate. The bylaws shall prohibit the transfer of the common stock of the association to persons who are not qualified persons, or organizations that are not engaged in

qualified activities handled by the association, or to persons or organizations that are not members of credit associations financing such products; and such restrictions shall be printed upon every certificate of stock subject thereto.

(f) Other kinds and classes of stock may be issued in compliance with the provisions of the articles of incorporation, the terms of the bylaws, or special resolutions of the board of directors.

(g) The association may, at any time, as specified in the bylaws, except when the debts of the association exceed fifty percent of the assets thereof, buy in or purchase its common stock at the book value thereof, as conclusively determined by the board of directors, and pay for it in cash within one year thereafter.

§31G-2-14. Removal of officer or director.

(a) Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by five percent of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer against whom such charges have been brought shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses; and the person or persons bringing the charges against him or her shall have the same opportunity.

(b) In case the bylaws provide for election of directors by districts with primary elections in each district, then the petition for removal of a director must be signed by twenty percent of the members residing in the district from which he or she was elected. The board of directors must call a special meeting of the members residing in that district to consider the removal of the director; and by a vote of the majority of the members of that district the director in question shall be removed from office.

§31G-2-15. Referendum.

Upon demand of one third of the entire board of directors, made immediately and so recorded, at the same meeting at which the original motion was passed, any matter of policy that has been approved or passed by the board must be referred to the entire membership or the stockholders for decision at the next special or regular meeting; and a special meeting may be called for the purpose.

§31G-2-16. Marketing contract.

The association and its members may take and execute marketing contracts, requiring the members, for any period of time not over five years, to use, receive or provide all or any specified part of an internet service exclusively to or through the association, or any facilities to be created by the association. If they contract a sale to the association, it shall be conclusively held that title to the products, goods and services passes absolutely and unreservedly, except for recorded liens, to the association upon delivery, or at any other specified time if expressly and definitely agreed in such contract. The contract may provide, among other things, that the association may sell or resell the products, goods and services delivered by its members, with or without taking title thereto, and pay over to its members the resale price, after deducting all necessary selling, overhead and other costs and expenses, including interest or dividends on stock, not exceeding eight percent per annum, and reserves for retiring the stock, if any; and any other proper reserves; or any other deductions.

§31G-2-17. Remedies for breach of contract.

The bylaws or the marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by him or her of any provision of the marketing contract regarding the sale or delivery or withholding of internet services, and may further provide that the member will pay all costs, premiums for bonds, expenses and fees, in case the association shall prevail in any action brought by it upon the contract; and any such provisions shall be valid and enforceable

in the courts of this state; and such clauses providing for liquidated damages shall be enforceable as such and shall not be regarded as penalties.

In the event of any such breach or threatened breach of such marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance thereof. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach, and upon filing a sufficient bond, the association may be entitled to a temporary restraining order and preliminary injunction against the member.

In any action upon such marketing agreement, it shall be presumed as between the parties that the landowner, landlord or lessor claiming therein so to be is able to control the delivery of internet services produced on his or her land by tenants or others, whose tenancy or possession or work on such land or the terms of whose tenancy or possession or labor thereon were created or changed after execution by the landowner, landlord or lessor of such marketing agreement; and in such actions the foregoing remedies for nondelivery or breach shall lie and be enforceable against such landowner, landlord or lessor.

§31G-2-18. Purchasing property of other associations, persons, firms or corporations.

Whenever an association, organized under this article with preferred capital stock, shall purchase the stock of any property, or any interest in any property, or any person, firm or corporation or association, it may discharge the obligations so incurred, wholly or in part, by exchanging for the acquired interest shares of its preferred capital stock to an amount which at par value would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. In that case the transfer to the association of the stock or interest purchased shall be equivalent to payment in cash for the shares of stock issued.

§31G-2-19. Annual reports.

Each association formed under this article shall prepare an annual report on forms provided by and filed with the Secretary of State pursuant to the requirements of section two-a, article one, chapter fifty-nine of this code.

§31G-2-20. Conflicting laws not to apply.

Any provisions of law which are in conflict with this article shall be construed as not applying to the association herein provided for.

§31G-2-21. Interest in other corporations or associations.

An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other corporation or corporations, with or without capital stock, and engaged in qualified activities regarding internet services.

§31G-2-22. Contracts and agreements with other associations.

Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations, agreements and contracts and arrangements with any other cooperative corporation, association or associations, formed in this or in any other state, for the cooperative and more economical carrying on of its business or any part or parts thereof. Any two or more associations may, by agreement between them, unite in employing and using, or may separately employ and use, the same personnel, methods, means and agencies for carrying on and conducting their respective business.

§31G-2-23. Rights and remedies apply to similar associations of other states.

Any corporation or association heretofore or hereafter organized under generally similar laws of another state shall be allowed to carry on any proper activities, operations and functions in this state upon compliance with the general regulations

applicable to foreign corporations desiring to do business in this state, and all contracts made by or with such associations, which could be made by any association incorporated hereunder, shall be legal and valid and enforceable in this state with all of the remedies set forth in this article.

§31G-2-24. Associations heretofore organized may adopt provisions of article.

Any corporation or association organized in this state under previously existing statutes may, by a majority vote of its stockholders or members, be brought under the provisions of this article by limiting its membership and adopting the other restrictions as provided herein. It shall make out in duplicate a statement signed and sworn to by its directors to the effect that the corporation or association has, by a majority vote of the stockholders or members, decided to accept the benefits and be bound by the provisions of this article and has authorized all changes accordingly. Articles of incorporation shall be filed as required in section six of this article, except that they shall be signed by the members of the then board of directors. The filing fee shall be the same as for filing an amendment to articles of incorporation.

Where any association may be incorporated under this article, all contracts made prior to the date of incorporation, by or on behalf of such association by the promoters thereof in anticipation of its becoming incorporated under the laws of this state, whether or not such contracts be made by or in the name of some corporation organized elsewhere, and when they would have been valid if entered into subsequent to such date, shall be held valid as if made after such date.

§31G-2-25. Liability as to delivery of products in violation of marketing agreements.

Any person who solicits, persuades or permits any member of any association organized hereunder to breach his or her marketing contract with the association or one association with another, by accepting or receiving such member's products for sale or for

auction or for display for sale, contrary to the terms of any marketing agreement of which such person has knowledge or notice, shall be liable to the association aggrieved in a civil suit for damages therefor. Courts of equity shall have jurisdiction to enjoin further breaches of such contract.

§31G-2-26. Associations to be deemed not in restraint of trade.

No association organized under this article and complying with the terms thereof shall be deemed to be a conspiracy or a combination in restraint of trade or an illegal monopoly or an attempt to lessen competition or to fix prices arbitrarily; nor shall the marketing contract and agreements between the association and its members or any agreements authorized in this article be considered illegal as such or in unlawful restraint of trade or as part of a conspiracy or combination to accomplish an improper or illegal purpose.

§31G-2-27. Application of business corporation laws; nonprofit corporation laws.

The provisions of the business corporation laws in chapter thirty-one-d or the nonprofit corporation laws in chapter thirty-one-e of this code and all powers and rights thereunder shall apply to the associations organized under this article and may be used by them, except when the provisions are in conflict with or inconsistent with the express provisions of this article.

ARTICLE 3. CONDUIT INSTALLATION; MICROTRENCHING.

§31G-3-1. Definitions.

‘Microtrenching’ means a technique of deploying cables, including specifically for broadband networks, using a cutting wheel to cut a trench with smaller dimensions than can be achieved with conventional trench digging equipment; with the trench dimensions being no greater than three inches in width, and a depth between one and two feet.

§31G-3-2. Microtrenching permitted; notification.

(a) A person may perform microtrenching, where such is feasible, to the extent allowed by a permit issued by the appropriate municipality, county or state agency. All microtrenching work performed must be in accordance with the National Electrical Safety Code and other generally accepted safety codes.

(b) A person must install conduit in a way that will readily permit another owner to add length to the microtrenching by connecting its own conduit to the first owner's conduit. Where an owner connects its own conduit to another owner's previously installed conduit, the owner must install conduit that has the same number of pathways or pipes as the previous owner's conduit.

(c) A person must install a vacant conduit of the same size as its own conduit when performing microtrenching operations. Other persons desiring use of conduit in the same area may make use of this vacant conduit upon application to the Broadband Enhancement Council.

(d) When applying for a permit a person must notify the appropriate permitting entity of the intended dates of the start and completion of microtrenching construction. Notification must be made on a form and in a format prescribed by the appropriate permitting entity. No fee shall be charged for such application, as the installation of additional vacant conduit under the provisions of this section shall function in lieu of a fee. The person shall submit the following documents to the appropriate permitting entity:

(1) Proof of insurance; or

(2) An indemnification agreement.

(e) Promptly after completion of microtrenching construction, but no longer than forty calendar days after issuance of the permit for microtrenching, the entity must file a document with the appropriate permitting entity containing the following information:

(1) An 'as-built' drawing of the conduit installed. The 'as-built' drawing will be treated as proprietary and confidential, to the extent permitted by law.

(2) A map showing the street location of the conduit including the side of the street the conduit is on, the beginning and ending points of the conduit, the number of ducts in the conduit, and the number of ducts of excess capacity in the conduit. The map must accurately reflect the addresses of buildings that are passed by the conduit.

ARTICLE 4. MAKE-READY POLE ACCESS.

§31G-4-1. Definitions.

As used in this article, the following terms are defined as follows:

(1) ‘Attacher’ means any person, corporation, or other entity, or the agents or contractors of such seeking to permanently or temporarily fasten or affix any type of equipment, antenna, line or facility of any kind to a utility pole in the right of way or its adjacent ground space.

(2) ‘Attachment Application’ means the application made by an Attacher to a Pole Owner for attachment of equipment, antenna, line or facility of any kind to a utility pole. It shall include:

(A) Proof of insurance; or

(B) An indemnification agreement prepared by the Pole Owner.

(3) ‘Make Ready Costs’ means the costs incurred by an Attacher associated with the transfer of the facilities, antenna, lines or equipment of a Pre-Existing Third Party User, undertaken by an Attacher to enable attachment to the utility pole or similar structure. Make-Ready Costs that are to be paid by an Attacher include, without limitation, all costs and expenses to relocate or alter the attachments or facilities of any Pre-Existing Third Party User as may be necessary to accommodate an Attacher’s attachment.

(4) ‘Pole Owner’ means a person, corporation or entity having ownership of a pole or similar structure in the right of way to which

utilities, including without limitation, electric and communications facilities, are located or may be located whether such ownership is in fee simple or by franchise.

(5) ‘Pre-Existing Third Party User’ means the owner of any currently operating facilities, antenna, lines or equipment on a pole or its adjacent ground space in the right of way.

§31G-4-2. Attachment to third party facilities.

(a) Upon approval of an Attachment Application, an Attacher may relocate or alter the attachments or facilities of any Pre-Existing Third Party User as may be necessary to accommodate an Attacher’s attachment using Pole Owner approved contractors; provided, however, that an Attacher will not effectuate a relocation or alteration of a Pre-Existing Third Party User’s facilities that causes or would reasonably be expected to cause a customer outage without first providing forty-five days prior written notice to the Pre-Existing Third Party User, in order to permit the Pre-Existing Third Party User to relocate its facilities on its own.

(b) In the event the Pre-Existing Third Party Users of such other facilities fail to transfer or rearrange their facilities within forty-five days from receipt of notice of relocation or alteration of a Pre-Existing Third Party User’s facilities that causes or would reasonably be expected to cause a customer outage, an Attacher may undertake such work.

(c) Within thirty days of the completion of any relocation or alteration, an Attacher shall send notice of the move and as-built reports to the Pre-Existing Third Party User and the owner of all poles or other structures on which such relocations or alterations were made. The as-built reports shall include a unique field label identifier, and an address or coordinates.

(d) Upon receipt of the as-built reports, the Pre-Existing Third Party User and pole or structure owner(s) may conduct an inspection within fourteen days at an Attacher’s expense. An Attacher shall pay the actual, reasonable, and documented expenses incurred by the Pre-Existing Third Party User and pole or

structure owner for the inspection. If any such relocation or alteration results in the facilities of the Pre-Existing Third Party User on the pole or other structure failing to conform with the applicable safety Pole Owner's standards, the Pre-Existing Third Party User shall, within seven days of the inspection, notify an Attacher of such failure to conform.

(e) In a notice, the Pre-Existing Third Party User may elect to either:

(1) Perform the correction itself and bill the Attacher for the actual, reasonable and documented costs of the correction; or

(2) Instruct the Attacher to correct such conditions at Attacher's expense. Any post-inspection corrections performed by the Attacher must be completed within thirty days of such notification.

(f) As a condition of exercising the ability to relocate, rearrange, or alter a Pre-Existing Third Party User's facilities pursuant to this section, an Attacher shall indemnify, defend and hold harmless the owner or owners of all poles or other structures on which such relocation, rearrangement or alteration takes place, the affiliates of such owner or owners, and the officers, directors and employees of such owner or owners and their affiliates, each being deemed an Indemnitee, from and against all third party damage, loss, claim, demand, suit, liability, penalty or forfeiture of every kind and nature, including, but not limited to, costs and expenses of defending against the same, payment of any settlement or judgment therefor and reasonable attorney's fees, that are actually and reasonably incurred by an Indemnitee, by reason of any claim by an affected Pre-Existing Third Party User or any person or entity claiming through such Pre-Existing Third Party User arising from such relocation, rearrangement or alteration.

(g) All work performed must be in accordance with the National Electrical Safety Code and other generally accepted safety codes.

§31G-4-3. Exceptions.

(a) Notwithstanding any provision of this code to the contrary, the provisions of this article shall not apply to:

(1) Facilities located above the ‘Communication Worker Safety Zone’ as such term is defined in the National Electrical Safety Code; or

(2) Any electric supply facilities wherever located.

(b) This article does not authorize any activity requiring an electric supply outage.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 3093 – “A Bill to repeal §31-15C-1, §31-15C-2, §31-15C-3, §31-15C-4, §31-15C-5, §31-15C-6, §31-15C-7, §31-15C-8, §31-15C-9, §31-15C-12 and §31-15C-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §12-6C-11 of said code; to amend and reenact §31-15-8 of said code; and to amend said code by adding thereto a new chapter, designated §31G-1-1, §31G-1-2, §31G-1-3, §31G-1-4, §31G-1-5, §31G-1-6, §31G-1-7, §31G-1-8, §31G-1-9, §31G-1-10, §31G-1-11, §31G-1-12, §31G-1-13, §31G-1-14; §31G-2-1, §31G-2-2, §31G-2-3, §31G-2-4, §31G-2-5, §31G-2-6, §31G-2-7, §31G-2-8, §31G-2-9, §31G-2-10, §31G-2-11, §31G-2-12, §31G-2-13, §31G-2-14, §31G-2-15, §31G-2-16, §31G-2-17, §31G-2-18, §31G-2-19, §31G-2-20, §31G-2-21, §31G-2-22, §31G-2-23, §31G-2-24, §31G-2-25, §31G-2-26, §31G-2-27; §31G-3-1, §31G-3-2; §31G-4-1, §31G-4-2 and §31G-4-3, all relating to broadband services generally; requiring the Board of Treasury Investments make funds available to the West Virginia Economic Development Authority for the purpose of 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; providing for 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; establishing Broadband Enhancement and Expansion Polices; re-establishing and continuing the Broadband Enhancement Council; defining terms; revising council powers and duties; directing council to publish an annual assessment and map of broadband in the state; authorizing council to create an interactive map of broadband services; revising terms for retention of expert consultants; authorizing collection of data by council; authorizing creation of guidelines and recommendations to the Legislature for pilot project for municipalities and counties to form non-profit cooperative associations for internet services; authorizing creation of guidelines and recommendations to the Legislature for voluntary pipeline donation program to facilitate broadband services; authorizing creation of guidelines and recommendations to the Legislature for easement program to facilitate broadband services; authorizing council to seek, utilize and dispense non-state funding and grants; providing for legislative rule-making authority; authorizing formation of cooperative associations for internet services; providing for who may organize a cooperative association; defining terms; setting forth legislative findings and purpose; establishing the powers of such associations; setting forth all conditions, rights and responsibilities of such cooperative associations; declaring that cooperative association not deemed a restraint in trade; providing for the application of corporation laws; providing for microtrenching; defining terms; providing for make-ready pole access; defining terms; setting forth procedure for attaching items to third-party facilities and poles; and providing for exceptions to make-ready pole access.”

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. 538**), 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, Lewis and McGeehan.

Absent and Not Voting: Kessinger.

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. 3093) 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 by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, with further amendment, of

Com. Sub. for S. B. 240, Creating crime of nonconsensual distribution of sexual images.

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

On page one of the House amendment, section twenty-eight-a, subsection (b), after the word “coerce”, by striking out the comma and the words “or profit from”.

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

On passage of the bill, the yeas and nays were taken (**Roll No. 539**), 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: Bates and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 240) passed.

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

Miscellaneous Business

The Speaker recognized the Clerk of the House, who presented service pins to the following Members:

5 Year Pins:

Ambler

Arvon

Butler

Cooper

Espinosa

Folk

Hamrick

Lane

Lynch

McGeehan

Sponaugle

Westfall

15 Year Pins:

Hamilton

Hartman

Love

Sobonya

25 Year Pins:

Anderson

Pethtel

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. 2329, Prohibiting the production, manufacture or possession of fentanyl.

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 Sobonya, Hollen 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 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. 2579, Increasing the penalties for transporting controlled substances.

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 Sobonya, Hollen 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 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. 2585, Creating felony crime of conducting financial transactions involving proceeds of criminal activity.

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 Sobonya, Hollen 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 that the Senate had agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses, as to

S. B. 172, Eliminating salary for Water Development Authority board members.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Blair, Smith and Woelfel.

A message from the Senate, by

The Clerk of the Senate announced that the Senate had agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses, as to

S. B. 554, Relating to false swearing in legislative proceeding.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Weld, Clements and Beach.

A message from the Senate, by

The Clerk of the Senate announced that the Senate had agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses, as to

Com. Sub. for S. B. 224, Repealing requirement for employer's bond for wages and benefits.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Swope, Karnes and Ojeda.

A message from the Senate, by

The Clerk of the Senate, requests the return of

Com. Sub. for S. B. 238, Increasing tax credits allowed for rehabilitation of certified historic structures.

At 2:42 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 4:00 p.m.

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Afternoon Session

* * * * *

-continued-

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, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2002, Relating to parental notification of abortions performed on unemancipated minors.

Delegate Cowles moved that the House concur in the following amendment of the bill by the Senate:

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

“ARTICLE 2F. PARENTAL NOTIFICATION OF ABORTIONS PERFORMED ON UNEMANCIPATED MINORS.

§16-2F-1. Legislative findings and intent.

(a) The Legislature finds that immature minors often lack the ability to make fully informed choices that take into account both immediate and long-range consequences of their actions; that the medical, emotional and psychological consequences of abortion are serious and of indeterminate duration, particularly when the patient is immature; that in its current abortion policy as expressed in *Bellotti v. Baird*, 443 U. S. 622 (1979), ~~and~~ *H. L. v. Matheson*, 450 U. S. 398 (1981), and *Hodgson v. Minnesota*, 497 U.S. 417, (1990), the United States Supreme Court ~~clearly relies on physician’s commitment to consider all factors, physical and otherwise, before performing abortions on minors held that notification of a parent with a judicial waiver procedure is Constitutional;~~ that parents ordinarily possess information essential to a physician’s exercise of his or her best medical judgment concerning their child; and that parents who are aware that their minor daughter has had an abortion may better ensure that the minor receives adequate medical attention after her abortion.

(b) The Legislature further finds that parental consultation regarding abortion is usually desirable and in the best interests of the minor.

~~(c) The Legislature further finds in accordance with the U. S. Supreme Court's decision in Bellotti v. Baird, 443 U. S. 622 (1979), and H. L. v. Matheson, 450 U. S. 398 (1981), that there exists important and compelling state interests:~~

~~(i) (1) In protecting minors against their own immaturity,~~

~~(ii) (2) In fostering the family structure and preserving it as a viable social unit, and~~

~~(iii) (3) In protecting the rights of parents to rear their own children in their own household.~~

(d) It is, therefore, the intent of the Legislature to further these important and compelling state interests by enacting this parental notice provision.

§16-2F-2. Definitions.

For purposes of this article, unless the context in which used clearly requires otherwise:

~~(1) 'Minor' means any person under the age of eighteen years who has not graduated from high school.~~

~~(2) 'Unemancipated minor' means any minor who is neither married nor who has been emancipated as pursuant to applicable federal law or as provided by section twenty seven, article seven, chapter forty nine of this code.~~

~~(3) 'Actual notice' means the giving of notice directly, in person or by telephone.~~

~~(4) 'Constructive notice' means the giving of notice by certified mail to the last known address of the parents or legal guardian, return receipt requested.~~

~~(5) ‘Abortion’ means the use of any instrument, medicine, drug or any other substance or device with intent to terminate the pregnancy of a female known to be pregnant and with intent to cause the expulsion of a fetus other than by live birth: *Provided*, That nothing in this article shall be construed so as to prevent the prescription, sale or transfer of intrauterine contraceptive devices or other contraceptive devices or other generally medically accepted contraceptive devices, instruments, medicines or drugs for a female who is not known to be pregnant and for whom such contraceptive devices, instruments, medicines or drugs were prescribed by a physician solely for contraceptive purposes and not for the purpose of inducing or causing the termination of a known pregnancy.~~

As used in this article:

(1) ‘Abortion’ means the use of any instrument, medicine, drug or any other substance or device with intent to terminate the pregnancy of a female known to be pregnant and with intent to cause the expulsion of a fetus other than by live birth. This article does not prevent the prescription, sale or transfer of intrauterine contraceptive devices, other contraceptive devices or other generally medically accepted contraceptive devices, instruments, medicines or drugs for a female who is not known to be pregnant and for whom the contraceptive devices, instruments, medicines or drugs were prescribed by a physician solely for contraceptive purposes and not for the purpose of inducing or causing the termination of a known pregnancy.

(2) ‘Medical emergency’ means the same as that term is defined in section two, article two-m of this chapter.

(3) ‘Secretary’ means the Secretary of the West Virginia Department of Health and Human Resources.

(4) ‘Unemancipated minor’ means any person less than eighteen years of age who is not, or has not been, married, who is under the care, custody and control of the person’s parent or parents, guardian or court of competent jurisdiction pursuant to

applicable federal law or as provided in section twenty-seven, article seven, chapter forty-nine of this code.

§16-2F-3. Parental notification required for abortions performed on unemancipated minors.

~~(a) No physician may perform an abortion upon an unemancipated minor unless such physician has given or caused to be given at least twenty four hours actual notice to one of the parents or to the legal guardian of the pregnant minor of his intention to perform the abortion, or, if the parent or guardian cannot be found and notified after a reasonable effort to do so, without first having given at least forty eight hours constructive notice computed from the time of mailing to the parent or to the legal guardian of the minor: *Provided*, That prior to giving the notification required by this section, the physician shall advise the unemancipated minor of the right of petition to the circuit court for waiver of notification: *Provided, however*, That any such notification may be waived by a duly acknowledged writing signed by a parent or the guardian of the minor.~~

~~(b) Upon notification being given to any parent or to the legal guardian of such pregnant minor, the physician shall refer such pregnant minor to a counselor or caseworker of any church or school or of the department of human services or of any other comparable agency for the purpose of arranging or accompanying such pregnant minor in consultation with her parents. Such counselor shall thereafter be authorized to monitor the circumstances and the continued relationship of and between such minor and her parents.~~

~~(c) Parental notification required by subsection (a) of this section may be waived by a physician, other than the physician who is to perform the abortion, if such other physician finds that the minor is mature enough to make the abortion decision independently or that notification would not be in the minor's best interest. *Provided*, That such The other physician shall not be associated professionally or financially with the physician proposing to perform the abortion.~~

(a) A physician may not perform an abortion upon an unemancipated minor until notice of the pending abortion as required by this section is complete.

(b) A physician or his or her agent may personally give notice directly, in person, by telephone or by letter to the parent, the guardian or conservator of the unemancipated minor at their usual place of residence and shall be delivered personally by the physician or his or her agent. Upon delivery of the notice, forty-eight hours shall pass until the abortion may be performed.

(c) A physician or his or her agent may provide notice by certified mail addressed to the parent, the guardian or conservator of the unemancipated minor at their usual place of residence, return receipt requested. The delivery shall be sent restricted delivery assuring that the letter is delivered only to the addressee. Time of delivery shall be deemed to occur at twelve o'clock noon on the next day on which regular mail delivery takes place unless upon delivery of the notice, forty-eight hours shall pass until the abortion may be performed.

(d) Notice may be waived if the person entitled to notice certifies in writing that he or she has been notified.

§16-2F-4. Process to obtain waiver of notification.

~~(a) A minor~~ An unemancipated minor who objects to ~~such the~~ notice being given to her parent or legal guardian may petition for a waiver of ~~such the~~ notice to the circuit court of the county in which the ~~minor~~ unemancipated minor resides or in which the abortion is to be performed, or to the judge of either of such courts. ~~Such minor may so petition and proceed in her own right or, at her option, by a next friend.~~

(b) ~~Such~~ The petition need not be made in any specific form and shall be sufficient if it fairly sets forth the facts and circumstances of the matter, but shall contain the following information:

(i) The age of the ~~petitioner~~ unemancipated minor and her educational level;

(ii) The county and state in which she resides; and

(iii) A brief statement of ~~petitioner's~~ unemancipated minor's reason or reasons for the desired waiver of notification of the parent or guardian of such ~~minor petitioner~~ unemancipated minor.

No such petition shall be dismissed nor shall any hearing thereon be refused because of any defect in the form of the petition.

~~(c) Upon the effective date of this article or as soon thereafter as may be,~~ The Attorney General shall prepare suggested form petitions and accompanying instructions and shall make the same available to the ~~several~~ clerks of the circuit courts. ~~Such~~ The clerks shall see that a sufficient number of such suggested make the form petitions and instructions ~~are~~ available in the clerks office. ~~for the use of any person desiring to use the same for the purposes of this section.~~

(d) ~~All~~ The proceedings held pursuant to this article shall be confidential and the court shall conduct ~~all such~~ the proceedings in camera. The court shall inform the ~~minor petitioner~~ unemancipated minor of her right to be represented by counsel. ~~and that~~ If ~~she~~ the unemancipated minor is without the requisite funds to retain the services of an attorney, ~~that~~ the court will appoint an attorney to represent ~~her~~ the unemancipated minor's interest in the matter. If the ~~minor petitioner~~ unemancipated minor desires the services of an attorney, an attorney shall be appointed to represent ~~such~~ the minor petitioner unemancipated minor, if ~~she~~ the unemancipated minor advises the court under oath or affidavit that ~~she~~ the unemancipated minor is financially unable to retain counsel. ~~Any~~ An attorney appointed to represent ~~such~~ the minor petitioner unemancipated minor shall be appointed and paid for his ~~or her~~ services pursuant to the provisions of article twenty-one, chapter twenty-nine of this code. ~~Provided, That~~ The pay ~~to any such attorney pursuant to such appointment~~ shall not exceed the sum of \$100.

(e) The court shall conduct a hearing upon the petition without delay, but ~~in no event shall the delay~~ may not exceed the next succeeding judicial day. ~~and~~ The court shall render its decision

immediately upon its submission and, ~~in any event, an order reflecting the findings of fact and conclusions of law reached by the court and its judgement shall be endorsed by the judge thereof~~ its written order not later than twenty-four hours following such submission and shall be forthwith entered of in the record by the clerk of the court. All testimony, documents, ~~and other evidence, presented to the court, as well as the petition, and any orders entered thereon and all records of whatsoever nature and kind relating to the matter shall be sealed by the clerk and shall not be opened to any person except upon order of the court and, then, only upon a showing of good cause. being shown therefor.~~ A separate order book for the purposes of this article shall be maintained by ~~such~~ the clerk and shall ~~likewise~~ be sealed and not open to inspection by any person save upon order of the court for good cause shown.

(f) Notice as required by section three of this article shall be ordered waived by the court if the court finds either:

(1) That the ~~minor petitioner~~ unemancipated minor is mature and well informed sufficiently to make the decision to proceed with the abortion independently and without the notification or involvement of her parent or legal guardian; or

(2) That notification to the person or persons to whom ~~such the~~ notification would otherwise be required would not be in the best interest of the ~~minor petitioner~~ unemancipated minor.

(g) ~~If or when the circuit court, or the judge thereof, shall refuse to order the waiver of the notification required by section three of this article, a copy of the petition and all orders entered in the matter and all other documents and papers submitted to the circuit court, may be presented to the Supreme Court of Appeals, or to any justice thereof if such court then be in vacation, and such court or justice if deemed proper, may thereupon order the waiver of notification otherwise required by section three of this article. The Supreme Court of Appeals or justice thereof shall hear and decide the matter without delay and shall enter such orders as such court or justice may deem appropriate.~~

~~(h) If either the circuit court or the Supreme Court of Appeals, or any judge or justice thereof if either of such courts be then in vacation, shall order a waiver of the notification required by section three of this article, any physician to whom a certified copy of said order shall be presented may proceed to perform the abortion to the same extent as if such physician were in compliance with the provisions of said section three and, notwithstanding the fact that no notification is given to either the parent or legal guardian of any such unemancipated minor, any such physician shall not be subject to the penalty provisions which may be prescribed by this article for such failure of notification.~~

(g) A confidential appeal shall be available to any unemancipated minor to whom a court denies an order authorizing an abortion without notification. An order authorizing an abortion without notification may not be appealed. Access to the trial court and the Supreme Court of Appeals shall be given to an unemancipated minor.

~~(i) (h) No Filing fees may be~~ are not required of any unemancipated minor who avails herself of any of the procedures provided by this section.

§16-2F-5. Emergency exception from notification requirements.

(a) The notification requirements of section three of this article do not apply where the attending physician certifies that there is an emergency a need for an abortion to be performed if the continuation of the pregnancy constitutes an immediate threat and grave risk to the life or health of the pregnant minor and the attending physician so certifies in writing setting forth the nature of such threat or risk and the consequences which may be attendant to the continuation of the pregnancy due to a medical emergency. Such writing A description of the medical emergency shall be maintained with the other unemancipated minor's medical records, relating to such minor which are maintained. by the physician and the facility at which such abortion is performed.

(b) If the physician who is to perform the abortion concludes under subsection (a) of this section that a medical emergency exists

and that there is insufficient time to provide the notice required by section three of this article, the physician shall make a reasonable effort to inform, in person or by telephone, the parent, managing conservator, or guardian of the unemancipated minor within 24 hours after the time a medical emergency abortion is performed on the minor of:

(1) The performance of the abortion; and

(2) The basis for the physician's determination that a medical emergency existed that required the performance of a medical emergency abortion without fulfilling the requirements of section three.

(c) A physician who performs an abortion under the circumstances described in subsection (a) of this section shall, not later than 48 hours after the abortion is performed, send a written notice that a medical emergency occurred and that the parent, managing conservator, or guardian may contact the physician for more information and medical records, to the last known address of the parent, managing conservator, or guardian by certified mail, restricted delivery, return receipt requested. The physician may rely on last known address information if a reasonable and prudent person, under similar circumstances, would rely on the information as sufficient evidence that the parent, managing conservator, or guardian resides at that address. The physician shall keep in the minor's medical record:

(1) The return receipt from the written notice; or

(2) If the notice was returned as undeliverable, the notice.

(d) A physician who performs an abortion on an unemancipated minor during a medical emergency as described in subsection (a) of this section shall execute for inclusion in the medical record of the minor an affidavit that explains the specific medical emergency that necessitated the immediate abortion.

§16-2F-6. Reporting requirements for physicians.

(a) ~~Any~~ A physician performing an abortion upon an unemancipated minor shall provide the ~~department of health~~

secretary a written report of the procedure within thirty days after having performed the abortion. ~~The department of health shall provide reporting forms for this purpose to all physicians and public health facilities required to be licensed pursuant to article five b of this chapter.~~ The following information, in addition to any other information which may be required by the ~~department of health~~ secretary, regarding ~~the minor~~ an unemancipated minor receiving the abortion shall be included in ~~such~~ the reporting form:

- (1) Age;
- (2) Educational level;
- (3) Previous pregnancies;
- (4) Previous live births;
- (5) Previous abortions;
- (6) Complications, if any, of the abortion being reported;
- (7) Reason for waiver of notification, ~~of the minor's parent or guardian~~ if such notice was waived; and
- (8) The city and county in which the abortion was performed.

(b) ~~Any such~~ The report shall not contain the name, address or other information by which the ~~minor~~ unemancipated minor receiving the abortion may be identified.

§16-2F-8. Penalties.

~~Any person who knowingly performs an abortion upon an unemancipated minor in violation of this article or who knowingly fails to conform to any requirement of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 or imprisoned in the county jail not more than thirty days, or both fined and imprisoned.~~

(a) Any physician or other licensed medical practitioner who intentionally or recklessly performs or induces an abortion in violation of this article is considered to have acted outside the

scope of practice permitted by law or otherwise in breach of the standard of care owed to patients, and is subject to discipline from the applicable licensure board for that conduct, including, but not limited to, loss of professional license to practice.

(b) A person, not subject to subsection (a) of this section, who intentionally or recklessly performs or induces an abortion in violation of this article is considered to have engaged in the unauthorized practice of medicine in violation of section thirteen, article three, chapter thirty of this code, and upon conviction, subject to the penalties contained in that section.

(c) In addition to the penalties set forth in subsections (a) and (b) of this section, a patient may seek any remedy otherwise available to such patient by applicable law.

(d) No penalty may be assessed against any patient upon whom an abortion is performed or induced or attempted to be performed or induced.”

And,

By amending the title of the bill to read 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 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 parental notice following abortion due to medical emergency; requiring reporting; providing for disciplinary actions; and modifying penalties.”

On the motion to concur, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered they were taken (**Roll No. 540**), and there were—yeas 75, nays 23, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Atkinson, Baldwin, Barrett, Brewer, Caputo, Diserio, Ellington, E. Evans, Fleischauer, Fluharty, Hornbuckle, Longstreth, Love, Miley, R. Miller, Pethtel, Pushkin, Pyles, Robinson, Rowe, Shott, Storch and Ward.

Absent and Not Voting: Kessinger and Lynch.

So, a majority of the members present and voting having voted in the affirmative, the House concurred in the Senate amendments.

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. 541**), and there were—yeas 82, nays 17, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Caputo, Diserio, Ellington, E. Evans, Fleischauer, Hornbuckle, Longstreth, Love, Miley, Pethtel, Pushkin, Pyles, Robinson, Rowe and Shott.

Absent and Not Voting: Kessinger.

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. 2002) 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 amendment, a bill of the House of Delegates, as follows:

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

Delegate Cowles moved that the House of Delegates concur in the following amendment of the bill by the Senate, with further amendment:

On page nine, after the article heading, by inserting the following:

“§18-2E-1a. Standards, Assessment assessment and accountability programs; duties of the state board.

(a) ~~In order to further the purpose of this article, on or before the first day of January, one thousand nine hundred ninety nine, Prior to adoption or revision of academic standards in mathematics, English language arts, science and social studies, the state board shall develop and recommend to the~~ constructively engage with the legislative oversight commission on education accountability as outlined in subsection (b). Prior to adoption of a new statewide summative assessment, the state board shall constructively engage with the legislative oversight commission on education accountability on the an assessment program it intends to adopt to measure the progress of public school students in attaining a high quality education. ~~In addition, to further the purposes of this article, on or before the first day of January, one thousand nine hundred ninety nine, the~~ Prior to the full implementation of a new accountability system, state board shall develop and recommend to the legislative oversight commission on education accountability an accountability program to help ensure a thorough and efficient system of schools. In developing the standards, assessment program and the accountability program, the state board shall take into consideration recommendations arising from any legislative interim study undertaken at the direction of the joint committee on government and finance and also shall take into consideration any recommendations made by the legislative oversight commission on education accountability.

(b) As part of their on-going responsibility for developing and implementing a program of standards, assessments and a program of accountability, the state board ~~shall perform the following functions:~~

(1) Is prohibited from implementing the Common Core academic standards;

(2) Shall allow West Virginia educators the opportunity to participate in the development of the academic standards;

(3) Shall provide by rule for a cyclical review, by West Virginia educators, of any academic standards that are proposed by the state board;

~~(2) Review~~ (4) Shall review assessment tools, including tests of student performance and measures of school and school system performance, and determine when any improvements or additions are necessary;

~~(3) Consider~~ (5) Shall consider multiple assessments, including, but not limited to, a state testing program developed in conjunction with the state's professional educators with assistance from such knowledgeable consultants as may be necessary, which may include criterion referenced tests;

(6) Is prohibited from adopting the Smarter Balanced Assessment system or the PARCC assessment system as the statewide summative assessment;

~~(4) Review~~ (7) Shall review all accountability measures, such as the accreditation and personnel evaluation systems and consider any improvements or additions deemed necessary; and

~~(5) Ensure~~ (8) Shall ensure that all statewide assessments of student performance are secure.

(c) The state board shall not adopt any national or regional testing program tied to federal funding, or national or regional academic standards tied to federal funding, without oversight by the legislative oversight commission on education accountability."

On page nine, section five, line nineteen, after the word "Legislature", by inserting the words "as provided in section one, article two-h of this chapter".

On page eleven, section five, line sixty-nine, by striking out the word “Curriculum” and inserting in lieu thereof the words “Academic standards”.

On page thirteen, section five, line one hundred one, by striking out the word “nine” and inserting in lieu thereof the word “eight”.

On page thirteen, section five, line one hundred one, by striking out the word “ten” and inserting in lieu thereof the word “nine”.

On page thirteen, section five, lines one hundred five through one hundred nine, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision (3), to read as follows:

“(3) In accordance with articles two and two-e, chapter eighteen of this code, the state board shall review or develop, and adopt a college and career readiness assessment to be administered in grade eleven: *Provided*, That the adopted college and career readiness assessment administered in grade eleven counts toward the statewide student assessment and must be used by a significant number of regionally accredited higher education institutions for determining college admissions.”

On page thirteen, section five, line one hundred twenty-two, by striking out the word “and”.

On page fourteen, section five, line one hundred twenty-five, by changing the period to a semicolon and adding the word “and”.

On page fourteen, section five, after line one hundred twenty-five, by inserting four new subdivisions, designated subdivisions (7), (8), (9) and (10), to read as follows:

“(7) The comprehensive statewide student assessment adopted prior to the testing window of the 2017-2018 school year shall continue to be used for at least a total of four consecutive years;

(8) No summative assessment approved by the state board may take more than two percent of a student’s instructional time;

(9) No student may be required to complete a greater number of summative assessments than is required by the Every Student Succeeds Act except as otherwise required by this subsection; and

(10) Collection of personal data as part of the assessment process except for what is necessary for the student's instruction, academic and college and career search needs is prohibited.”

On page twenty-nine, section five, line five hundred eight, by striking out the words “Providing or recommending to” and inserting in lieu thereof the word “Recommending”.

On page twenty-nine, section five, line five hundred thirteen, by striking out the words “Allocating funds” and inserting in lieu thereof the words “Directing educational expertise and support services”.

On pages forty through forty-six, by striking out all of section thirteen-c and inserting in lieu thereof a new section thirteen-c, to read as follows:

“§18-5-13c. Educational services cooperatives; purpose; establishment; governance; authorized functions and services.

(a) Pursuant to subsection (q), section thirteen of this article, a county board is authorized to enter into a cooperative agreement with one or more other county boards to establish educational services cooperatives which shall serve as regional units to provide for high quality, cost effective lifelong education programs and services to students, schools, school systems, and communities in accordance with this section. Each educational services cooperative may serve as a regional public multi-service agency to develop, manage, and provide such services or programs as determined by its governing council and as provided in this section or otherwise provided in this code. All references in this code to regional education service agencies or RESA's mean an educational services cooperative as authorized under this section.

(b) The regional education service agencies previously established by section twenty-six, article two of this chapter and

W. Va. 126 C. S. R. 72, filed October 15, 2015, and effective November 16, 2015, shall remain and may continue to operate in accordance with said section and rule unless and until modified by a cooperative agreement entered into by county boards within the boundaries of the agency or dissolved by said county boards: *Provided*, That on July 1, 2018, the regional education service agencies as provided under prior provisions of section twenty-six, article two of this chapter are dissolved. If a regional education service agency is reconfigured pursuant to a cooperative agreement or is dissolved, all property, equipment and records held by the regional education service agency necessary to effectuate the purposes of this section shall be transferred or liquidated and disbursed in accordance with the following priority order: (1) To any successor educational services cooperative substantially covering the same geographical area; (2) to the county boards who were members of the regional education service agency as agreed upon by those counties; or (3) to the state board or to other appropriate entities as provided by law.

(c) An educational services cooperative shall be under the direction and control of a governing council consisting of the following members:

(1) The county superintendent of each county participating in the cooperative agreement;

(2) A member of the board of education from each county participating in the cooperative agreement selected by the county board of education as provided in the bylaws of the governing council of the educational services cooperative; and

(3) The following representatives, if any, to be selected by the educational services cooperative administrator with the consent of the governing council:

(A) Representatives of institutions of higher education and community and technical colleges serving the geographical area covered by the educational services cooperative;

(B) One non-superintendent chief instructional leader employed by a member county;

(C) One school principal employed by a member county;

(D) One teacher employed by a member county; and

(E) Additional members representing business and industry, or other appropriate entities, as the governing council determines fit to meet its responsibilities.

(d) The governing council of an educational services cooperative:

(1) Shall adopt bylaws concerning the appointment and terms of its members, including the authorization of designees by its members, the selection of officers and their terms, the filling of vacancies, the appointment of task forces and study groups, the evaluation of the executive director and staff and any other provisions necessary for the operation of the educational services cooperative. A quorum for governing council meetings shall be a simple majority of the number of members of each governing council;

(2) Shall appoint an individual to serve as the educational services cooperative administrator who shall serve at the will and pleasure of the governing council and shall implement the policies of the governing council;

(3) May employ regular full-time and part-time staff, as necessary, after a majority of the members of a governing council, by vote, verify that such employment is necessary for effective provision of services and to perform services or other projects that may require staff and support services for effective implementation. Staff who are hired into a position that requires a specified certification must maintain the certification for the duration of employment. The governing council is the sole employer of the educational services cooperative's personnel it employs and shall be responsible for any benefit and liability programs necessitated by such employment. Employees of the educational services cooperative are considered state employees

for the purposes of participation in the state's public employees' insurance and retirement programs. A recipient of personnel services from the educational services cooperative is not deemed an employer because of the exercise of supervision or control over any personnel services provided;

(4) May purchase, hold, encumber and dispose of real property, in the name of the educational services cooperative, for use as its office or for any educational service provided by the educational services cooperative if a resolution to do so is adopted by a two-thirds vote of the members of the governing council and then approved by three-fourths of the county boards in the educational services cooperative by majority vote of each county board;

(5) Shall operate as Local Educational Agencies (LEA's) for financial purposes, including grants and cooperative purchasing, and collectively as essential agencies responsible for performing service functions to the total community. An educational services cooperative is eligible as an LEA to participate in partnership with or on behalf of any county school system or school in those programs that will accomplish implementation of the strategic plan and/or state education initiative of the system or school, or to further statutory priorities consistent with educational services cooperative operations;

(6) May receive, expend and disburse funds from the state and federal governments, from member counties, or from gifts and grants and may contract with county boards of education, the West Virginia Department of Education, institutions of higher education, persons, companies, or other agencies to implement programs and services at the direction of the council. The state board, department of education, or any member of a county board may request implementation of programs and services by the educational services cooperative. An educational services cooperative may also receive funds from profit-generating enterprises, the funds of which will contribute to the educational services cooperative initiatives. Each educational services cooperative is encouraged to partner with member school systems, particularly those designated as low-performing, and other organizations as appropriate to attract and leverage resources available from federal programs to

maximize its capacity for meeting the needs of member schools and school systems. Educational services cooperatives are recognized as eligible LEA's for the purposes of applying, on behalf of school systems, for grant funds consistent with performing regional services and functions and/or supportive of education initiatives of the educational services cooperative;

(7) Upon the request of one or more county boards of education, or by the state board as permitted or contracted, and if directed by law, an educational services cooperative may assume responsibility for one or more functions otherwise performed by one or more county boards of education;

(8) May offer technical assistance, including targeted comprehensive staff development services, or other technical assistance to any member school or school system, and give priority to those schools and school systems that are found to be out of compliance with a state law or federal law;

(9) May serve as repositories of research-based teaching and learning practices, and shall use technology, particularly web-based technology, to ensure maximum access to such practices by public schools in the region and state; and

(10) Shall develop and/or implement any other programs or services as directed by law or the governing council, or requested by individual member counties or groups of member counties subject to available funds. The Legislature expects that the assistance and programs developed and/or implemented by the educational services cooperatives may differ among the schools, counties and educational services cooperatives.

(e) The administrator of each educational services cooperative shall submit annually a plan to the governing council that identifies the programs and services which are suggested for implementation by the educational services cooperative during the following year. The plan shall contain components of long-range planning determined by the governing council. These programs and services may include, but are not limited to, the following areas:

- (1) Administrative services;
- (2) Curriculum development;
- (3) Data processing;
- (4) Distance learning and other telecommunication services;
- (5) Evaluation and research;
- (6) Staff development;
- (7) Media and technology centers;
- (8) Publication and dissemination of materials;
- (9) Pupil personnel services;
- (10) Planning;
- (11) Secondary, post-secondary, community, adult, and adult vocational education;
- (12) Teaching and learning services, including services for students with special talents and special needs;
- (13) Employee personnel and employment services;
- (14) Vocational rehabilitation;
- (15) Health, diagnostic, and child development services and centers;
- (16) Leadership or direction in early childhood and family education;
- (17) Community services;
- (18) Fiscal services and risk management programs;
- (19) Legal services;
- (20) Technology planning, training, and support services;

(21) Health and safety services;

(22) Student academic challenges;

(23) Cooperative purchasing services; and

(24) Other programs and services as may be provided pursuant to other provisions of this code.

(f) The educational services cooperative administrator, with advice and assistance of the governing council, may select as its fiscal agent one of the county boards of education comprising the educational services cooperative. The county board so selected may maintain a separate bank account or accounts for the receipt and disbursement of all educational services cooperative funds and perform the accounting functions specified in the policies adopted by the state board. A county board of education serving as a fiscal agent may not initiate action, direct the programs or substitute its judgment for that of the educational services cooperative administrator as advised by the governing council. The county board of education may reject an action of the educational services cooperative administrator if sufficient funds are not available, or if it perceives a legal conflict. The educational services cooperative administrator shall make arrangements for an annual audit to be conducted in accordance with the requirements of the OMB Uniform Guidance (2 C. F. R. 200) and the cost of the audit shall be incurred by the educational services cooperative. Prior to making those arrangements, the educational services cooperative administrator must coordinate with the respective fiscal agent to ensure the audit addresses all applicable issues.

(g) Notwithstanding any other provision of this code to the contrary, employees of educational services cooperatives shall be reimbursed for travel, meals and lodging at the same rate as state employees under the travel management office of the Department of Administration.

(h) Notwithstanding any other provision of this code to the contrary, county board members serving on governing councils of educational services cooperatives may receive compensation at a

rate not to exceed \$100 per meeting attended, not to exceed fifteen meetings per year. County board members serving on governing councils may be reimbursed for travel at the same rate as state employees under the rules of the travel management office of the Department of Administration. A county board member may not be an employee of an educational services cooperative.”

On pages forty-six through fifty-one, by striking out all of section forty-five and inserting in lieu thereof a new section forty-five, to read as follows:

“§18-5-45. School calendar.

(a) As used in this section:

(1) ‘Instructional day’ means a day within the instructional term which meets the following criteria:

(A) Instruction is offered to students for at least the minimum amount of hours provided by a state board rule;

(B) Instructional time is used for instruction and cocurricular activities; and

(C) Other criteria as the state board determines appropriate.

(2) Cocurricular activities are activities that are closely related to identifiable academic programs or areas of study that serve to complement academic curricula as further defined by the state board.

(b) *Findings.* —

(1) The primary purpose of the school system is to provide instruction for students.

(2) The school calendar, as defined in this section, is designed to define the school term both for employees and for instruction.

(3) The school calendar shall provide for one hundred eighty ~~separate~~ instructional days.

(c) The county board shall provide a school term for its schools that contains the following:

(1) An employment term that excludes Saturdays and Sundays and consists of at least two hundred days, which need not be successive. The beginning and closing dates of the employment term may not exceed forty-eight weeks;

(2) Within the employment term, an instructional term for students of no less than one hundred eighty ~~separate~~ instructional days, which includes an inclement weather and emergencies plan designed to guarantee an instructional term for students of no less than one hundred eighty ~~separate~~ instructional days;

(3) Within the employment term, noninstructional days shall total twenty and shall be comprised of the following:

(A) Seven paid holidays;

(B) Election day as specified in section two, article five, chapter eighteen-a of this code;

(C) Six days to be designated by the county board to be used by the employees outside the school environment, with at least four outside the school environment days scheduled to occur after the one hundred thirtieth instructional day of the school calendar; ~~and~~

(D) One day to be designated by the county board to be used by the employees for preparation for opening school and one day to be designated by the county board to be used by the employees for preparation for closing school: *Provided*, That the school preparation days may be used for the purposes set forth in paragraph (E) of this subdivision at the teacher's discretion; and

~~(D)~~ (E) The remaining days to be designated by the county board for purposes to include, but not be limited to:

(i) Curriculum development;

~~(ii) Preparation for opening and closing school;~~

~~(iii)~~ (ii) Professional development;

~~(iv)~~ (iii) Teacher-pupil-parent conferences;

~~(v)~~ (iv) Professional meetings;

~~(vi)~~ (v) Making up days when instruction was scheduled but not conducted; and

~~(vii)~~ (vi) At least ~~four~~ six two-hour blocks of time for faculty senate meetings with ~~each a~~ at least one two-hour block of time scheduled in the first month of the employment term, at least one two-hour block of time scheduled in the last month of the employment term and once at least every forty five instructional days at least one two-hour block of time scheduled in each of the months of October, December, February and April; and

(4) Scheduled out-of-calendar days that are to be used for instructional days in the event school is canceled for any reason.

(d) A county board of education shall develop a policy that requires additional minutes of instruction in the school day or additional days of instruction to recover time lost due to late arrivals and early dismissals first. Any remaining minutes accrued may be used for instructional minutes or days lost due to inclement weather or emergencies.

(e) If it is not possible to complete one hundred eighty ~~separate~~ instructional days with the current school calendar, the county board shall schedule instruction on any available noninstructional day, regardless of the purpose for which the day originally was scheduled, or an out-of-calendar day and the day will be used for instruction of students: *Provided*, That the provisions of this subsection do not apply to:

(A) Holidays;

(B) Election day;

(C) Saturdays and Sundays.

(f) The instructional term shall commence and terminate on a date selected by the county board.

(g) The state board may not schedule the primary statewide assessment program more than thirty days prior to the end of the instructional year unless the state board determines that the nature of the test mandates an earlier testing date.

(h) The following applies to cocurricular activities:

(1) The state board shall determine what activities may be considered cocurricular;

(2) The state board shall determine the amount of instructional time that may be consumed by cocurricular activities; and

(3) Other requirements or restrictions the state board may provide in the rule required to be promulgated by this section.

(i) Extracurricular activities may not be used for instructional time.

(j) Noninstructional interruptions to the instructional day shall be minimized to allow the classroom teacher to teach.

(k) Prior to implementing the school calendar, the county board shall secure approval of its proposed calendar from the state board or, if so designated by the state board, from the state superintendent.

(l) In formulation of a school's calendar, a county school board shall hold at least two public meetings that allow parents, teachers, teacher organizations, businesses and other interested parties within the county to discuss the school calendar. The public notice of the date, time and place of the public hearing must be published in a local newspaper of general circulation in the area as a Class II legal advertisement, in accordance with the provisions of article three, chapter fifty-nine of this code.

(m) The county board may contract with all or part of the personnel for a longer term of employment.

(n) The minimum instructional term may be decreased by order of the state superintendent in any county declared a federal disaster

area and where the event causing the declaration is substantially related to a reduction of instructional days.

(o) Notwithstanding any provision of this code to the contrary, the state board may grant a waiver to a county board for its noncompliance with provisions of chapter eighteen, eighteen-a, eighteen-b and eighteen-c of this code to maintain compliance in reaching the mandatory one hundred eighty ~~separate~~ instructional days established in this section.

(p) The use of reimagining student instructional days to achieve the one hundred eighty instructional day requirement is strongly encouraged in order to minimize scheduling instructional days too early or late in the school year.

~~(p)~~ (q) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the purpose of implementing the provisions of this section.

~~(q) The amendments to this section during the 2013 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2014, and the provisions of this section existing immediately prior to the 2013 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2014.”~~

On page fifty-one, after line one hundred twenty-four, by inserting the following:

“ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-5. Public school faculty senates established; election of officers; powers and duties.

(a) There is established at every public school in this state a faculty senate which is comprised of all permanent, full-time professional educators employed at the school who shall all be voting members. ‘Professional educators’, as used in this section, means ‘professional educators’ as defined in chapter eighteen-a of this code. A quorum of more than one half of the voting members of the faculty shall be present at any meeting of the faculty senate

at which official business is conducted. Prior to the beginning of the instructional term each year, but within the employment term, the principal shall convene a meeting of the faculty senate to elect a chair, vice chair and secretary and discuss matters relevant to the beginning of the school year. The vice chair shall preside at meetings when the chair is absent. Meetings of the faculty senate shall be held during the times provided in accordance with subdivision (12), subsection (b) of this section as determined by the faculty senate. Emergency meetings may be held during noninstructional time at the call of the chair or a majority of the voting members by petition submitted to the chair and vice chair. An agenda of matters to be considered at a scheduled meeting of the faculty senate shall be available to the members at least two employment days prior to the meeting. For emergency meetings the agenda shall be available as soon as possible prior to the meeting. The chair of the faculty senate may appoint such committees as may be desirable to study and submit recommendations to the full faculty senate, but the acts of the faculty senate shall be voted upon by the full body.

(b) In addition to any other powers and duties conferred by law, or authorized by policies adopted by the state or county board or bylaws which may be adopted by the faculty senate not inconsistent with law, the powers and duties listed in this subsection are specifically reserved for the faculty senate. The intent of these provisions is neither to restrict nor to require the activities of every faculty senate to the enumerated items except as otherwise stated. Each faculty senate shall organize its activities as it considers most effective and efficient based on school size, departmental structure and other relevant factors.

(1) Each faculty senate shall control funds allocated to the school from legislative appropriations pursuant to section nine, article nine-a of this chapter. From those funds, each classroom teacher and librarian shall be allotted \$100 for expenditure during the instructional year for academic materials, supplies or equipment which, in the judgment of the teacher or librarian, will assist him or her in providing instruction in his or her assigned academic subjects or shall be returned to the faculty senate:

Provided, That nothing contained herein prohibits the funds from being used for programs and materials that, in the opinion of the teacher, enhance student behavior, increase academic achievement, improve self-esteem and address the problems of students at risk. The remainder of funds shall be expended for academic materials, supplies or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to the contrary, funds not expended in one school year are available for expenditure in the next school year: *Provided, however*, That the amount of county funds budgeted in a fiscal year may not be reduced throughout the year as a result of the faculty appropriations in the same fiscal year for such materials, supplies and equipment. Accounts shall be maintained of the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies or equipment shall be interpreted broadly, but does not include materials, supplies or equipment which will be used in or connected with interscholastic athletic events.

(2) A faculty senate may establish a process for members to interview or otherwise obtain information regarding applicants for classroom teaching vacancies that will enable the faculty senate to submit recommendations regarding employment to the principal. To facilitate the establishment of a process that is timely, effective, consistent among schools and counties, and designed to avoid litigation or grievance, the state board shall promulgate a rule pursuant to article three-b, chapter twenty-nine-a of this code to implement the provisions of this subdivision. The rule may include the following:

(A) A process or alternative processes that a faculty senate may adopt;

(B) If determined necessary, a requirement and procedure for training for principals and faculty senate members or their designees who may participate in interviews and provisions that may provide for the compensation based on the appropriate daily rate of a classroom teacher who directly participates in the training for periods beyond his or her individual contract;

(C) Time lines that will assure the timely completion of the recommendation or the forfeiture of the right to make a recommendation upon the failure to complete a recommendation within a reasonable time;

(D) The authorization of the faculty senate to delegate the process for making a recommendation to a committee of no less than three members of the faculty senate; and

(E) Such other provisions as the state board determines are necessary or beneficial for the process to be established by the faculty senate.

(3) A faculty senate may nominate teachers for recognition as outstanding teachers under state and local teacher recognition programs and other personnel at the school, including parents, for recognition under other appropriate recognition programs and may establish such programs for operation at the school.

(4) A faculty senate may submit recommendations to the principal regarding the assignment scheduling of secretaries, clerks, aides and paraprofessionals at the school.

(5) A faculty senate may submit recommendations to the principal regarding establishment of the master curriculum schedule for the next ensuing school year.

(6) A faculty senate may establish a process for the review and comment on sabbatical leave requests submitted by employees at the school pursuant to section eleven, article two of this chapter.

(7) Each faculty senate shall elect three faculty representatives to the local school improvement council established pursuant to section two of this article.

(8) Each faculty senate may nominate a member for election to the county staff development council pursuant to section eight, article three, chapter eighteen-a of this code.

(9) Each faculty senate shall have an opportunity to make recommendations on the selection of faculty to serve as mentors

for beginning teachers under beginning teacher internship programs at the school.

(10) A faculty senate may solicit, accept and expend any grants, gifts, bequests, donations and any other funds made available to the faculty senate: *Provided*, That the faculty senate shall select a member who has the duty of maintaining a record of all funds received and expended by the faculty senate, which record shall be kept in the school office and is subject to normal auditing procedures.

(11) Any faculty senate may review the evaluation procedure as conducted in their school to ascertain whether the evaluations were conducted in accordance with the written system required pursuant to section twelve, article two, chapter eighteen-a of this code or pursuant to section two, article three-c, chapter eighteen-a of this code, as applicable, and the general intent of this Legislature regarding meaningful performance evaluations of school personnel. If a majority of members of the faculty senate determine that such evaluations were not so conducted, they shall submit a report in writing to the State Board of Education: *Provided*, That nothing herein creates any new right of access to or review of any individual's evaluations.

(12) A local board shall provide to each faculty senate ~~a at least six two-hour block blocks~~ of time for a faculty senate meeting meetings on a day scheduled for the opening of school prior to the beginning of the instructional term and at least four additional two-hour blocks of time during noninstructional days, with each two-hour block of time scheduled once at least every forty five instructional days with at least one two-hour block of time scheduled in the first month of the employment term, one two-hour block of time scheduled in the last month of the employment term and at least one two-hour block of time scheduled in each of the months of October, December, February and April. A faculty senate may meet for an unlimited block of time during noninstructional days to discuss and plan strategies to improve student instruction and to conduct other faculty senate business. A faculty senate meeting scheduled on a noninstructional day shall be considered as part of the purpose for which the noninstructional

day is scheduled. This time may be used and determined at the local school level and includes, but is not limited to, faculty senate meetings.

(13) Each faculty senate shall develop a strategic plan to manage the integration of special needs students into the regular classroom at their respective schools and submit the strategic plan to the superintendent of the county board periodically pursuant to guidelines developed by the State Department of Education. Each faculty senate shall encourage the participation of local school improvement councils, parents and the community at large in developing the strategic plan for each school.

Each strategic plan developed by the faculty senate shall include at least: (A) A mission statement; (B) goals; (C) needs; (D) objectives and activities to implement plans relating to each goal; (E) work in progress to implement the strategic plan; (F) guidelines for placing additional staff into integrated classrooms to meet the needs of exceptional needs students without diminishing the services rendered to the other students in integrated classrooms; (G) guidelines for implementation of collaborative planning and instruction; and (H) training for all regular classroom teachers who serve students with exceptional needs in integrated classrooms.”

On page fifty-two, section fourteen, line fifteen, by striking out everything after the period and inserting in lieu thereof the following:

“Educators shall receive uninterrupted time for planning periods each day. Administrators may not require a teacher to use the planning period time allotted to complete duties beyond instructional planning, including, but not limited to, administrative tasks and meetings.”

And,

On page one, by striking out the enacting section and inserting in lieu thereof a 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-1a and §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 §18-5A-5 of said code be amended and reenacted; that §18-9A-8a of said code be amended and reenacted; and that §18A-4-14 of said code be amended and reenacted, all to read as follows” and a colon.

Delegate Espinosa moved to amend the Senate amendment on page eleven, by striking out §18-5-45 in its entirety and inserting in lieu thereof the following:

“§18-5-45. School calendar.

(a) As used in this section:

(1) ‘Instructional day’ means a day within the instructional term which meets the following criteria:

(A) Instruction is offered to students for at least the minimum ~~amount of hours provided by state board rule~~ number of minutes as follows:

(i) For early childhood programs as provided in subsection (d) section forty-four of this article;

(ii) For schools with grade levels kindergarten through and including grade five, 315 minutes of instructional time per day;

(iii) For schools with grade levels six through and including grade eight, 330 minutes of instructional time per day; and

(iv) For schools with grade levels nine through and including grade twelve, 345 minutes of instructional time per day.

(B) Instructional time is used for instruction and cocurricular activities; and

(C) Other criteria as the state board determines appropriate.

(2) ‘Cocurricular activities’ are activities that are closely related to identifiable academic programs or areas of study that serve to complement academic curricula as further defined by the state board; and

(3) ‘Instruction delivered through alternative methods’ means a plan developed by a county board and approved by the state board for teachers to assign and grade work to be completed by students on days when schools are closed due to inclement weather or other unforeseen circumstances.

(b) *Findings.* –

(1) The primary purpose of the school system is to provide instruction for students.

(2) The school calendar, as defined in this section, is designed to define the school term both for employees and for instruction.

(3) The school calendar shall provide for one hundred eighty separate instructional days or an equivalent amount of instructional time as provided in this section.

(c) The county board shall provide a school term for its schools that contains the following:

(1) An employment term that excludes Saturdays and Sundays and consists of at least two hundred days, which need not be successive. The beginning and closing dates of the employment term may not exceed forty-eight weeks;

(2) Within the employment term, an instructional term for students of no less than one hundred eighty separate instructional days, which includes an inclement weather and emergencies plan designed to guarantee an instructional term for students of no less than one hundred eighty separate instructional days, subject to the following:

(A) A county board may increase the length of the instructional day as defined in this section by at least thirty minutes per day to ensure that it achieves at least an amount of instructional time

equivalent to one hundred and eighty separate instructional days within its school calendar and:

(i) Apply up to five days of this equivalent time to cancel days lost due to necessary school closures;

(ii) Plan within its school calendar and not subject to cancellation and rescheduling as instructional days up to an additional five days or equivalent portions of days, without students present, to be used as determined by the county board exclusively for activities by educators at the school level designed to improve instruction; and

(iii) Apply any additional equivalent time to recover time lost due to late arrivals and early dismissals;

(B) Subject to approval of its plan by the state board, a county board may 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; and

(C) 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.

(3) Within the employment term, noninstructional days shall total twenty and shall be comprised of the following:

(A) Seven paid holidays;

(B) Election day as specified in section two, article five, chapter eighteen-a of this code;

(C) Six days to be designated by the county board to be used by the employees outside the school environment, with at least four outside the school environment days scheduled to occur after the

one hundred and thirtieth instructional day of the school calendar;
~~and~~

(D) One day to be designated by the county board to be used by the employees for preparation for opening school and one day to be designated by the county board to be used by the employees for preparation for closing school: *Provided*, That the school preparation days may be used for the purposes set forth in paragraph (E) of this subdivision at the teacher's discretion; and

~~(D)~~ (E) The remaining days to be designated by the county board for purposes to include, but not be limited to:

(i) Curriculum development;

~~(ii) Preparation for opening and closing school;~~

~~(iii)~~ (ii) Professional development;

~~(iv)~~ (iii) Teacher-pupil-parent conferences;

~~(v)~~ (iv) Professional meetings;

~~(vi)~~ (v) Making up days when instruction was scheduled but not conducted; and

~~(vii)~~ (vi) At least ~~four~~ six two-hour blocks of time for faculty senate meetings with ~~each a~~ at least one two-hour block of time scheduled in the first month of the employment term, at least one two-hour block of time scheduled in the last month of the employment term and once at least every forty-five instructional days at least one two-hour block of time scheduled in each of the months of October, December, February and April; and

(4) Scheduled out-of-calendar days that are to be used for instructional days in the event school is canceled for any reason.

(d) A county board of education shall develop a policy that requires additional minutes of instruction in the school day or additional days of instruction to recover time lost due to late arrivals and early dismissals.

(e) If it is not possible to complete one hundred eighty separate instructional days with the current school calendar and the additional five days of instructional time gained by increasing the length of the instructional day as provided in subsection (c) of this section are insufficient to offset the loss of separate instructional days, the county board shall schedule instruction on any available noninstructional day, regardless of the purpose for which the day originally was scheduled, or an out-of-calendar day and the day will be used for instruction of students: *Provided*, That the provisions of this subsection do not apply to:

~~(A)~~ (1) Holidays;

~~(B)~~ (2) Election day;

~~(C)~~ (3) Saturdays and Sundays; and

(4) The five days or equivalent portions of days planned within the school calendar exclusively for activities by educators at the school level to improve instruction that are gained by increasing the length of the instructional day as provided in subsection (c) of this section.

(f) The instructional term shall commence and terminate on a date selected by the county board.

(g) The state board may not schedule the primary statewide assessment program more than thirty days prior to the end of the instructional year unless the state board determines that the nature of the test mandates an earlier testing date.

(h) The following applies to cocurricular activities:

(1) The state board shall determine what activities may be considered cocurricular;

(2) The state board shall determine the amount of instructional time that may be consumed by cocurricular activities; and

(3) Other requirements or restrictions the state board may provide in the rule required to be promulgated by this section.

(i) Extracurricular activities may not be used for instructional time.

(j) Noninstructional interruptions to the instructional day shall be minimized to allow the classroom teacher to teach.

(k) Prior to implementing the school calendar, the county board shall secure approval of its proposed calendar from the state board or, if so designated by the state board, from the state superintendent.

(l) In formulation of a school's calendar, a county school board shall hold at least two public meetings that allow parents, teachers, teacher organizations, businesses and other interested parties within the county to discuss the school calendar. The public notice of the date, time and place of the public hearing must be published in a local newspaper of general circulation in the area as a Class II legal advertisement, in accordance with the provisions of article three, chapter fifty-nine of this code.

(m) The county board may contract with all or part of the personnel for a longer term of employment.

(n) The minimum instructional term may be decreased by order of the state superintendent in any county declared a federal disaster area and in any county subject to an emergency or disaster declaration by the Governor and where when the event causing the declaration is substantially related to ~~a reduction~~ the loss of instructional days in the county.

(o) Notwithstanding any provision of this code to the contrary, the state board may grant a waiver to a county board for its noncompliance with provisions of chapter eighteen, eighteen-a, eighteen-b and eighteen-c of this code to maintain compliance in reaching the mandatory one hundred eighty separate instructional days established in this section.

(p) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the purpose of implementing the provisions of this section.

~~(c) The amendments to this section during the 2013 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2014, and the provisions of this section existing immediately prior to the 2013 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2014.”~~

On the motion to concur in the amendment of the bill by the Senate, with further amendment by the House, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 542**), and there were—yeas 59, nays 41, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Brewer, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Frich, Hartman, Hicks, Hornbuckle, Iaquinta, Isner, Kelly, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Pyles, Queen, Rodighiero, Rohrbach, Rowe, Sponaugle, Storch, Thompson, Ward and Williams.

So, a majority of the members present and voting having voted in the affirmative, the House of Delegates concurred in the Senate amendment as amended.

The bill, as amended by the Senate, and further amended by the House of Delegates, was put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 543**), and there were—yeas 69, nays 31, absent and not voting none, with the nays being as follows:

Nays: Barrett, Butler, Canestraro, Diserio, Eldridge, E. Evans, Ferro, Fluharty, Folk, Hicks, Hornbuckle, Iaquinta, Kelly, Lewis, Love, Lynch, Marcum, Martin, McGeehan, Miley, R. Miller, Paynter, Phillips, Pyles, Queen, Rodighiero, Sponaugle, Storch, Thompson, Wagner and Williams.

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. 2711) passed.

On motion of Delegate Espinosa, the title of the bill was amended to read 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-1a and §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 §18-5A-5 of said code; 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; requiring state board to constructively engage with the legislative oversight commission on education accountability prior to adopting certain standards and prior to adoption of a new statewide summative assessment; requiring certain state board actions before full implementation of a new accountability system; modifying state board prohibitions and duties as part of its on-going responsibility for developing and implementing a program of standards, assessments and a program of accountability; clarifying responsibilities and authority of Legislature and state board with respect to process for improving education and purposes and intent of system of accountability; modifying areas for which the state board is required to adopt high-quality education standards; 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 means 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 minimum length of instructional day; defining instruction delivered through alternative methods; allowing equivalent instructional time alternative to one hundred eighty separate instructional days; authorizing county board to increase length of instructional day by certain amount and use instructional time gained for certain purposes; authorizing delivery of instruction through alternative methods upon plan approved by state board and counting as instructional and employment days; designating one noninstructional day for teachers as a preparation day for opening school and another for teachers as a preparation day for closing school; allowing teacher preparation days to be used for certain other purposes at teacher's discretion; increasing number of two-hour blocks for faculty senate meetings from four to six; removing requirement that faculty senate meetings be held once every forty-five days; modifying requirement for rescheduling days to be used for instruction to reflect instructional time gained by lengthening instructional day; exempting certain days from rescheduling when instructional day lengthened; authorizing decrease of instructional term in county subject to emergency or disaster declaration by Governor; reducing foundation allowance for regional education service agencies; removing requirement for planning period to be within instructional day; requiring educators to receive uninterrupted time for planning periods each day; prohibiting

administrators from requiring a teacher to use the planning period time to complete duties beyond instructional planning; and making technical improvements and removing obsolete provisions.”

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

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. 2402, Relating to abandoned antique vehicles.

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

On page eight, section four, line eighty-three, by striking out “\$7,500” and inserting in lieu thereof “\$9,500”.

On page eight, section four, lines eighty-seven and eighty-eight, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

“(3) This amount will be increased every five years on September 1 of the fifth year based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index; and”.

And,

On page eight, section four, after line ninety-four, by inserting a new paragraph, designated paragraph (D), to read as follows:

“(D) The motor vehicle is not claimed by the owner or a lienholder after notice within the time set forth in subsection (d) of this section.”

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. 544**), 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. 2402) 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 amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2428, Establishing additional substance abuse treatment facilities.

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 the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-53-1, §16-53-2 and §16-53-3, all to read as follows:

**ARTICLE 53. ESTABLISHING ADDITIONAL
SUBSTANCE ABUSE TREATMENT FACILITIES.**

§16-53-1. Establishment of substance abuse treatment facilities.

(a) The Secretary of the Department of Health and Human Resources shall ensure that beds for purposes of providing substance abuse treatment services in existing or newly constructed facilities are made available in locations throughout the state which the Bureau for Behavioral Health and Health Facilities determines

to be the highest priority for serving the needs of the citizens of the state.

(b) The secretary shall identify and allocate the beds to privately owned facilities to provide substance abuse treatment services.

(c) These facilities shall:

(1) Give preference to West Virginia residents;

(2) Accept payment from private pay patients, third party payors or patients covered by Medicaid;

(3) Offer long term treatment, based upon need, of up to one year; and

(4) Work closely with the Adult Drug Court Program, provided for in article fifteen, chapter sixty-two of this code.

(d) Any facility subject to the provisions of this article must be licensed by this state to provide addiction and substance abuse services.

§16-53-2. Establishing the Ryan Brown Addiction Prevention and Recovery Fund.

The Ryan Brown Addiction Prevention and Recovery Fund is hereby created in the state treasury as a special revenue account. The fund shall be administered by the Secretary of the Department of Health and Human Resources and shall consist of all moneys made available for the purposes of this article from any source, including, but not limited to, all grants, bequests or transfers from any source, any moneys that may be appropriated and designated for those purposes by the Legislature and all interest or other return earned from investment of the fund, gifts, and all other sums available for deposit to the special revenue account from any source, public or private. 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 the fulfillment of the provisions set forth in article two, chapter eleven-b of this code. Upon the effective date of this section, the attorney general and any public official with custody or control of the proceeds recovered for the state pursuant to settlement agreement dated January 9, 2017, in that certain civil action then pending in Boone County, designated Civil Action No. 12-C-141, shall forthwith transfer, or cause the transfer, of those proceeds into the Ryan Brown Addiction Prevention and Recovery Fund in the manner directed by the state treasurer pursuant to articles one and two, chapter twelve of this code and all other applicable law.

§16-53-3. Rulemaking.

The Secretary of the West Virginia Department of Health and Human Resources shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to effectuate the provisions of this article.”

And,

By amending the title of the bill to read 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, §16-53-2 and §16-53-3, all relating to ensuring additional beds for purposes of providing substance abuse treatment; requiring these beds are made available in locations throughout the state; providing duties of the Secretary of the Department of Health and Human Resources; providing for requirements of facilities accepting funds; requiring facilities be appropriately licensed; creating the Ryan Brown Addiction Prevention and Recovery Fund; providing for administration of fund by the Secretary of the Department of Health and Human Resources; providing what moneys the fund shall consist of; directing the transfer of money recovered on behalf of the state arising out of the settlement of a certain civil action to the fund; and providing for rulemaking.”

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. 545**), 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. 2428) passed.

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

On this question, the yeas and nays were taken (**Roll No. 546**), 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 (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.

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. 2479, Uniform Deployed Parents Custody and Visitation Act.

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 §48-1-233.3, §48-1-233.4 and §48-9-404 of the Code of West Virginia, 1931, as amended, be repealed; and that said code be amended by adding thereto a new article, designated §48-31-101, §48-31-102, §48-31-103, §48-31-104, §48-31-105, §48-31-106, §48-31-107, §48-31-201, §48-31-202, §48-31-203, §48-31-204, §48-31-205, §48-31-301, §48-31-302, §48-31-303, §48-31-304, §48-31-305, §48-31-306, §48-31-307, §48-31-308, §48-31-309, §48-31-310, §48-31-401, §48-31-402, §48-31-403, §48-31-404, §48-31-501, §48-31-502 and §48-31-503, all to read as follows:

**ARTICLE 31. UNIFORM DEPLOYED PARENTS
CUSTODY AND VISITATION ACT.**

§48-31-101. Short title.

This article may be cited as the Uniform Deployed Parents Custody and Visitation Act.

§48-31-102. Definitions.

In this article:

(1) ‘Adult’ means an individual who has attained eighteen years of age or an emancipated minor.

(2) ‘Caretaking authority’ means the right to live with and care for a child on a day-to-day basis. The term includes physical custody, parenting time, right to access, and visitation.

(3) ‘Child’ means:

(A) An unemancipated individual who has not attained eighteen years of age; or

(B) An adult son or daughter by birth or adoption, or under law of this state other than this article, who is the subject of a court order concerning custodial responsibility.

(4) ‘Close and substantial relationship’ means a relationship in which a significant bond exists between a child and a nonparent.

(5) ‘Court’ means a tribunal, authorized under law of this state other than this article to make, enforce, or modify a decision regarding custodial responsibility.

(6) ‘Custodial responsibility’ has the same meaning as in section two hundred nineteen, article one of this chapter.

(7) ‘Decision-making authority’ means the power to make important decisions regarding a child, including decisions regarding the child’s education, religious training, health care, extracurricular activities, and travel. The term does not include the power to make decisions that necessarily accompany a grant of caretaking authority.

(8) ‘Deploying parent’ means a service member, who is deployed or has been notified of impending deployment and is:

(A) A parent of a child under law of this state other than this article; or

(B) An individual who has custodial responsibility for a child under law of this state other than this article;

(9) ‘Deployment’ means the movement or mobilization of a service member for more than ninety days but less than eighteen months pursuant to uniformed service orders that:

(A) Are designated as unaccompanied;

(B) Do not authorize dependent travel; or

(C) Otherwise do not permit the movement of family members to the location to which the service member is deployed.

(10) ‘Family member’ means a sibling, aunt, uncle, cousin, step-parent or grandparent of a child or an individual recognized to be in a familial relationship with a child under law of this state other than this article.

(11) ‘Limited contact’ means the authority of a nonparent to visit a child for a limited time. The term includes authority to take the child to a place other than the residence of the child.

(12) ‘Nonparent’ means an individual other than a deploying parent or other parent.

(13) ‘Other parent’ means an individual who, in common with a deploying parent, is:

(A) A parent of a child under law of this state other than this article; or

(B) An individual who has custodial responsibility for a child under law of this state other than this article.

(14) ‘Record’ means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) ‘Return from deployment’ means the conclusion of a service member’s deployment as specified in uniformed service orders.

(16) ‘Service member’ means a member of a uniformed service.

(17) ‘Sign’ means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound or process.

(18) ‘State’ means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(19) ‘Uniformed service’ means:

(A) Active and reserve components of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States;

(B) The United States Merchant Marine;

(C) The commissioned corps of the United States Public Health Service;

(D) The commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(E) The National Guard of a state.

§48-31-103. Remedies for noncompliance.

In addition to other remedies under law of this state other than this article, if a court finds that a party to a proceeding under this article has acted in bad faith or intentionally failed to comply with this article or a court order issued under this article, the court may assess reasonable attorney's fees and costs against the party and order other appropriate relief.

§48-31-104. Jurisdiction.

(a) A court may issue an order regarding custodial responsibility under this article only if the court has jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act.

(b) If a court has issued a temporary order regarding custodial responsibility pursuant to this article, the residence of the deploying parent is not changed by reason of the deployment for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act during the deployment.

(c) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to the provisions of this article, the residence of the deploying parent is not changed by reason of the deployment for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act.

(d) If a court in another state has issued a temporary order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not

changed because of the deployment for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act.

(e) This section does not prevent a court from exercising temporary emergency jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act.

§48-31-105. Notification required of deploying parent.

(a) Except as otherwise provided in subsection (c) or (d) of this section, a deploying parent shall notify in a record the other parent of a pending deployment not later than seven days after receiving notice of deployment unless reasonably prevented from doing so by the circumstances of service. If the circumstances of service prevent giving notification within the seven days, the deploying parent shall give the notification as soon as reasonably possible.

(b) Except as otherwise provided in subsection (c) or (d) of this section, each parent shall provide in a record the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment. Each parent shall provide the plan as soon as reasonably possible after notification of deployment is given under subsection (a) of this section.

(c) If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under subsection (a) of this section, or notification of a plan for custodial responsibility during deployment under subsection (b) of this section, may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.

(d) Notification in a record under subsection (a) or (b) of this section is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.

(e) In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

§48-31-106. Duty to notify of change of address.

(a) Except as otherwise provided in subsection (b) of this section, an individual to whom custodial responsibility has been granted during deployment pursuant to the provisions of this article shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated. The individual shall provide the notice to any court that has issued a custody or child support order concerning the child which is in effect.

(b) If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under subsection (a) of this section may be made only to the court that issued the order. The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.

§48-31-107. General consideration in custody proceeding of parent's military service.

In a proceeding for custodial responsibility of a child of a service member, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interest of the child but may consider any significant impact on the best interest of the child of the parent's past or possible future deployment.

§48-31-201. Form of agreement addressing custodial responsibility during deployment.

(a) The parents of a child may enter into a temporary agreement under this article granting custodial responsibility during deployment.

(b) An agreement under subsection (a) of this section shall be:

(1) In writing; and

(2) Signed by both parents and any nonparent to whom custodial responsibility is granted.

(c) Subject to subsection (d) of this section, an agreement under subsection (a), if feasible, shall:

(1) Identify the destination, duration, and conditions of the deployment that is the basis for the agreement;

(2) Specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent;

(3) Specify any decision-making authority that accompanies a grant of caretaking authority;

(4) Specify any grant of limited contact to a nonparent;

(5) If under the agreement custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;

(6) Specify the frequency, duration and means, including electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact;

(7) Specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available;

(8) Acknowledge that any party's child-support obligation cannot be modified by the agreement, and that changing the terms of the obligation during deployment requires modification in the appropriate court;

(9) Provide that the agreement will terminate according to the procedures specified in this article after the deploying parent returns from deployment; and

(10) If the agreement must be filed pursuant to section two hundred five of this article, specify which parent is required to file the agreement.

(d) The omission of any of the items specified in subsection (c) of this section does not invalidate an agreement under this section.

§48-31-202. Nature of authority created by agreement.

(a) An agreement under this article is temporary and terminates pursuant to the provisions of this article after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under section two hundred three of this article. The agreement does not create an independent, continuing right to caretaking authority, decision-making authority or limited contact in an individual to whom custodial responsibility is given.

(b) A nonparent who has caretaking authority, decision-making authority or limited contact by an agreement under this article has standing to enforce the agreement until it has been terminated by court order, by modification under section two hundred three of this article, or under other provisions of this article.

§48-31-203. Modification of agreement.

(a) By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made pursuant to this article.

(b) If an agreement is modified under subsection (a) of this section before deployment of a deploying parent, the modification shall be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

(c) If an agreement is modified under subsection (a) of this section during deployment of a deploying parent, the modification shall be agreed to in a record by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

§48-31-204. Power of attorney.

A deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility

under law of this state other than this article, or if a court order currently in effect prohibits contact between the child and the other parent. The deploying parent may revoke the power of attorney by signing a revocation of the power.

§48-31-205. Filing agreement or power of attorney with court.

An agreement or power of attorney under this article shall be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child who is the subject of the agreement or power. The case number and heading of the pending case concerning custodial responsibility or child support shall be provided to the court with the agreement or power.

§48-31-301. Proceeding for temporary custody order.

(a) After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue a temporary order granting custodial responsibility unless prohibited by the Service Members Civil Relief Act, 50 U.S.C. §3931 and §3932. A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

(b) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion shall be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under section one hundred four of this article or, if there is no pending proceeding in a court with jurisdiction under section one hundred four of this article, in a new action for granting custodial responsibility during deployment.

§48-31-302. Expedited hearing.

If a motion to grant custodial responsibility is filed under subsection (b) of section three hundred one of this article before a deploying parent deploys, the court shall conduct an expedited hearing.

§48-31-303. Testimony by electronic means.

In a proceeding under this article, a party or witness who is not reasonably available to appear personally may appear, provide testimony and present evidence by electronic means unless the court finds good cause to require a personal appearance.

§48-31-304. Effect of prior judicial order or agreement.

In a proceeding for a grant of custodial responsibility pursuant to this article, the following rules apply:

(1) A prior judicial order, designating custodial responsibility if there is deployment, is binding on the court unless the circumstances meet the requirements of law of this state other than this article for modifying a judicial order regarding custodial responsibility.

(2) The court shall enforce a prior written agreement between the parents for designating custodial responsibility if there is deployment, including an agreement executed under section two hundred one of this article, unless the court finds that the agreement is contrary to the best interest of the child.

§48-31-305. Grant of caretaking or decision-making authority to nonparent.

(a) On motion of a deploying parent and in accordance with law of this state other than this article, if it is in the best interest of the child, a court may grant caretaking authority to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship.

(b) Unless a grant of caretaking authority to a nonparent under subsection (a) of this section is agreed to by the other parent, the grant is limited to an amount of time not greater than:

(1) The amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child; or

(2) In the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.

(c) A court may grant part of a deploying parent's decision-making authority, if the deploying parent is unable to exercise that authority, to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship. If a court grants the authority to a nonparent, the court shall specify the decision-making powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities and travel.

§48-31-306. Grant of limited contact.

On motion of a deploying parent, and in accordance with law of this state other than this article, unless the court finds that the contact would be contrary to the best interest of the child, a court shall grant limited contact to a nonparent who is a family member of the child or an individual with whom the child has a close and substantial relationship.

§48-31-307. Nature of authority created by temporary custody order.

(a) A grant of authority under this article is temporary and terminates under the provisions of this article after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order. The grant does not create an independent, continuing right to caretaking authority, decision-making authority or limited contact in an individual to whom it is granted.

(b) A nonparent granted caretaking authority, decision-making authority or limited contact under this article may enforce the grant until it is terminated by court order or under other provisions of this article.

§48-31-308. Content of temporary custody order.

(a) An order granting custodial responsibility under this article shall:

(1) Designate the order as temporary; and

(2) Identify to the extent feasible the destination, duration and conditions of the deployment.

(b) If applicable, an order for custodial responsibility under this article shall:

(1) Specify the allocation of caretaking authority, decision-making authority or limited contact among the deploying parent, the other parent, and any nonparent;

(2) If the order divides caretaking or decision-making authority between individuals, or grants caretaking authority to one individual and limited contact to another, provide a process to resolve any dispute that may arise;

(3) Provide for liberal communication between the deploying parent and the child during deployment, including through electronic means, unless contrary to the best interest of the child, and allocate any costs of communications;

(4) Provide for liberal contact between the deploying parent and the child during the time the deploying parent is on leave or otherwise available, unless contrary to the best interest of the child;

(5) Provide for reasonable contact between the deploying parent and the child after return from deployment until the temporary order is terminated, even if the time of contact exceeds the time the deploying parent spent with the child before entry of the temporary order; and

(6) Provide that the order will terminate pursuant to the provisions of this article after the deploying parent returns from deployment.

§48-31-309. Order for child support.

If a court has issued an order granting caretaking authority under this article, or an agreement granting caretaking authority has been executed under section two hundred one of this article, the court may enter a temporary order for child support consistent with law of this state other than this article if the court has jurisdiction under the Uniform Interstate Family Support Act.

§48-31-310. Modifying or terminating grant of custodial responsibility to nonparent.

(a) Except for an order under section three hundred four of this article, except as otherwise provided in subsection (b) of this section, and consistent with the Service Members Civil Relief Act, 50 U.S.C. §3931 and §3932, on motion of a deploying or other parent or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with this article and it is in the best interest of the child. A modification is temporary and terminates pursuant to the provisions of this article after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

(b) On motion of a deploying parent, the court shall terminate a grant of limited contact.

§48-31-401. Procedure for terminating temporary grant of custodial responsibility established by agreement.

(a) At any time after return from deployment, a temporary agreement granting custodial responsibility under section two hundred one of this article may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(b) A temporary agreement under section two hundred one of this article granting custodial responsibility terminates:

(1) If an agreement to terminate under subsection (a) of this section specifies a date for termination, on that date; or

(2) If the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by the deploying parent and the other parent.

(c) In the absence of an agreement under subsection (a) of this section to terminate, a temporary agreement granting custodial responsibility terminates under this article sixty days after the deploying parent gives notice to the other parent that the deploying parent returned from deployment.

(d) If a temporary agreement granting custodial responsibility was filed with a court pursuant to section two hundred five of this article, an agreement to terminate the temporary agreement also shall be filed with that court within a reasonable time after the signing of the agreement. The case number and heading of the case concerning custodial responsibility or child support shall be provided to the court with the agreement to terminate.

§48-31-402. Consent procedure for terminating temporary grant of custodial responsibility established by court order.

At any time after a deploying parent returns from deployment, the deploying parent and the other parent may file with the court an agreement to terminate a temporary order for custodial responsibility. After an agreement has been filed, the court shall issue an order terminating the temporary order effective on the date specified in the agreement. If a date is not specified, the order is effective immediately.

§48-31-403. Visitation before termination of temporary grant of custodial responsibility.

After a deploying parent returns from deployment until a temporary agreement or order for custodial responsibility established under this article is terminated, the court shall issue a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child, even if the time of contact exceeds the time the deploying parent spent with the child before deployment.

§48-31-404. Termination by operation of law of temporary grant of custodial responsibility established by court order.

(a) If an agreement between the parties to terminate a temporary order for custodial responsibility under this article has not been filed, the order terminates sixty days after the deploying parent gives notice to the other parent and any nonparent granted custodial responsibility that the deploying parent has returned from deployment.

(b) A proceeding seeking to prevent termination of a temporary order for custodial responsibility is governed by law of this state other than this article: *Provided*, That no agreement of the parties made pursuant to the provisions of this article shall be the basis for a modification of the parents' permanent parenting plan made pursuant to section four hundred two, article nine of this chapter.

§48-31-501. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§48-31-502. Relation to Electronic Signatures in Global and National Commerce Act.

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7001 *et seq.*, but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. Section 7003(b).

§48-31-503. Savings clause.

This article does not affect the validity of a temporary court order concerning custodial responsibility during deployment which was entered before the effective date of this article.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2479 - “A Bill to repeal §48-1-233.3, §48-1-233.4 and §48-9-404 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §48-31-101, §48-31-102, §48-31-103, §48-31-104, §48-31-105, §48-31-106, §48-31-107, §48-31-201, §48-31-202, §48-31-203, §48-31-204, §48-31-205, §48-31-301, §48-31-302, §48-31-303, §48-31-304, §48-31-305, §48-31-306, §48-31-307, §48-31-308, §48-31-309, §48-31-310, §48-31-401, §48-31-402, §48-31-403, §48-31-404, §48-31-501, §48-31-502 and §48-31-503, all relating to adoption of the Uniform Deployed Parents Custody and Visitation Act; providing a short title; defining terms; providing for enforcement through assessment of attorney fees and costs; defining jurisdiction; providing that the residence of deploying parent is not changed by reason of deployment for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act; providing for emergency jurisdiction; providing notification requirements; providing notification requirements for change of address; establishing procedures to determine matters of child custody and visitation when parents are deployed in military or other national service; requiring notices from deployed parent; providing for out-of-court agreements and establishing minimum requirements therefor; providing that an agreement under this article is temporary and terminates after the deploying parent returns from deployment, unless terminated prior to by court order; a deploying parent, by power of attorney, may delegate all or part of custodial responsibilities to a certain persons under certain circumstances; providing that the power of attorney may be revoked; prohibiting consideration of past or future deployments in determining the best interest of the child; authorizing orders for payment of child support during deployment; providing that a court may issue a temporary order granting custodial responsibilities under certain circumstances; providing that parents may file a motion regarding custodial responsibility of a child during deployment; providing for expediting hearings; providing that testimony and evidence may be accepted by electronic means; providing effect to prior judicial orders or agreements; providing that a court may grant caretaking authority to certain nonparent

individuals; providing for a court's grant of limited contact upon motion of a deploying parent; providing requirements for an order granting custodial responsibility; providing that the court may enter a temporary order for child support under certain circumstances; providing for modification and termination of orders and agreements and the procedures thereof; providing that the court shall issue a temporary order granting the deploying parent reasonable contact with the child under certain circumstances; and giving guidance for interpretation and construction in conjunction with other laws and orders.”

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. 547**), 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. 2479) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2526, Classifying additional drugs to Schedules I, II, IV and V of controlled substances.

Delegate Cowles moved that the House of Delegates concur in the following amendment of the bill by the Senate, with further amendment:

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

“ARTICLE 2. STANDARDS AND SCHEDULES.**§60A-2-201. Authority of State Board of Pharmacy; recommendations to Legislature.**

(a) The State Board of Pharmacy shall administer the provisions of this chapter. It shall also, on the first day of each regular legislative session, recommend to the Legislature which substances should be added to or deleted from the schedules of controlled substances contained in this article or reschedule therein. The State Board of Pharmacy shall also have the authority between regular legislative sessions, on an emergency basis, to add to or delete from the schedules of controlled substances contained in this article or reschedule such substances based upon the recommendations and approval of the federal food, drug and cosmetic agency, and shall report such actions on the first day of the regular legislative session immediately following said actions.

In making any such recommendation regarding a substance, the State Board of Pharmacy shall consider the following factors:

- (1) The actual or relative potential for abuse;
- (2) The scientific evidence of its pharmacological effect, if known;
- (3) The state of current scientific knowledge regarding the substance;
- (4) The history and current pattern of abuse;
- (5) The scope, duration and significance of abuse;
- (6) The potential of the substance to produce psychic or physiological dependence liability; and
- (7) Whether the substance is an immediate precursor of a substance already controlled under this article.

(b) After considering the factors enumerated in subsection (a), the State Board of Pharmacy shall make findings with respect to the substance under consideration. If it finds that any substance not

already controlled under any schedule has a potential for abuse, it shall recommend to the Legislature that the substance be added to the appropriate schedule. If it finds that any substance already controlled under any schedule should be rescheduled or deleted, it shall so recommend to the Legislature.

(c) If the State Board of Pharmacy designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled or deleted as a controlled substance under federal laws and notice thereof is given to the State Board of Pharmacy, the board shall recommend similar control of such substance to the Legislature, specifically stating that such recommendation is based on federal action and the reasons why the federal government deemed such action necessary and proper.

(e) The authority vested in the board by subsection (a) of this section shall not extend to distilled spirits, wine, malt beverages or tobacco as those terms are defined or used in other chapters of this code nor to any nonnarcotic substance if such substance may under the 'Federal Food, Drug and Cosmetic Act' and the law of this state lawfully be sold over the counter without a prescription.

(f) Notwithstanding any provision of this chapter to the contrary, the sale, wholesale, distribution or prescribing of a cannabidiol in a product approved by the Food and Drug Administration is permitted and shall be placed on the schedule as provided for by the Drug Enforcement Administration.

§60A-2-204. Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers,

whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (for purposes of subdivision (34) of this subsection only, the term isomer includes the optical and geometric isomers):

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]—phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(– propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]—phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);

(13) Betameprodine;

(14) Betamethadol;

(15) Betaprodine;

- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxeridine;

(29) Fentanyl analog or derivative, as that term is defined in article one of this chapter: *Provided*, That fentanyl remains a Schedule II substance, as set forth in section two hundred six of this article;

- ~~(29)~~ (30) Furethidine;
- ~~(30)~~ (31) Hydroxypethidine;
- ~~(31)~~ (32) Ketobemidone;
- ~~(32)~~ (33) Levomoramide;
- ~~(33)~~ (34) Levophenacilmorphan;

~~(34)~~ (35) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

~~(35)~~ (36) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4- piperidiny]—phenylpropanamide);

~~(36)~~ (37) Morpheridine;

~~(37)~~ (38) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

~~(38)~~ (39) Noracymethadol;

~~(39)~~ (40) Norlevorphanol;

~~(40)~~ (41) Normethadone;

~~(41)~~ (42) Norpipanone;

~~(42)~~ (43) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny] propanamide);

~~(43)~~ (44) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

~~(44)~~ (45) Phenadoxone;

~~(45)~~ (46) Phenampromide;

~~(46)~~ (47) Phenomorphan;

~~(47)~~ (48) Phenoperidine;

~~(48)~~ (49) Piritramide;

~~(49)~~ (50) Proheptazine;

~~(50)~~ (51) Properidine;

~~(51)~~ (52) Propiram;

~~(52)~~ (53) Racemoramide;

~~(53)~~ (54) Thiofentanyl (N-phenyl-N-[1-(2-thienyl) ethyl-4-piperidiny]-propanamide);

~~(54)~~ (55) Tilidine;

~~(55)~~ (56) Trimeperidine.

(c) *Opium derivatives.* — Unless specifically excepted or unless listed in another schedule, any of the following opium immediate derivatives, its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except HCl Salt);
- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;

- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(d) *Hallucinogenic substances*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term ‘isomer’ includes the optical, position and geometric isomers):

(1) Alpha-ethyltryptamine; some trade or other names: tryptamine; Monase; alpha-ethy-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

(2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;

(3) 4-bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

(4)(A) N-(2-Methoxybenzyl)-4-bromo-2, 5-dimethoxyphenethylamine. The substance has the acronym 25B-NBOMe.

(B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe).

(C) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe).

(5) 2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;

(6) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;

(7) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

(8) 4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;

(9) 5-methoxy-3, 4-methylenedioxy-amphetamine;

(10) 4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; 'DOM'; and 'STP';

(11) 3,4-methylenedioxy amphetamine;

(12) 3,4-methylenedioxymethamphetamine (MDMA);

(13) 3,4-methylenedioxy-N-ethylamphetamine (also known as – ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);

(14) N-hydroxy-3,4-methylenedioxyamphetamine (also known as – hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and – hydroxy MDA);

(15) 3,4,5-trimethoxy amphetamine;

(16) 5-methoxy-N, N-dimethyltryptamine (5-MeO-DMT);

(17) Alpha-methyltryptamine (other name: AMT);

(18) Bufotenine; some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(19) Diethyltryptamine; some trade and other names: N, N-Diethyltryptamine; DET;

(20) Dimethyltryptamine; some trade or other names: DMT;

(21) 5-Methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT);

(22) Ibogaine; some trade and other names: 7-Ethyl-6, 6 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe iboga;

(23) Lysergic acid diethylamide;

(24) Marijuana;

(25) Mescaline;

(26) Parahexyl-7374; some trade or other names: 3-Hexyl -1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;

(27) Peyote; meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, immediate derivative, mixture or preparation of such plant, its seeds or extracts;

(28) N-ethyl-3-piperidyl benzilate;

(29) N-methyl-3-piperidyl benzilate;

(30) Psilocybin;

(31) Psilocyn;

(32) Tetrahydrocannabinols; synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, immediate derivatives and their isomers with similar chemical structure and pharmacological activity such as the following:

delta-1 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3,4 Cis or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

(33) Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(34) Pyrrolidine analog of phencyclidine; some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(35) Thiophene analog of phencyclidine; some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine; TPCP, TCP;

(36) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy.

(37) 4-methylmethcathinone (Mephedrone);

(38) 3,4-methylenedioxypropylvalerone (MDPV);

(39) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

(40) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)

(41) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)

(42) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)

(43) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)

(44) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)

(45) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)

(46) 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)

(47) 2-(2,5-Dimethoxy-

4-(n)-propylphenyl)ethanamine (2C-P)

(48) 3,4-Methylenedioxy-N-methylcathinone (Methylone)

(49) (2,5-dimethoxy-4-(n)-propyltghiophenethylamine (2C-T-7, itsoptical isomers, salts and salts of isomers

(50) 5-methoxy-N, N-dimethyltryptamine some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT(5-MeO-DMT)

(51) Alpha-methyltryptamine (other name: AMT)

(52) 5-methoxy-N, N-diisopropyltryptamine (other name: 5-MeO-DIPT)

(53) Synthetic Cannabinoids as follows:

(A) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol {also known as CP 47,497 and homologues};

(B) rel-2-[(1S,3R)-3-hydroxycyclohexyl] -5-(2-methylnonan-2-yl) phenol {also known as CP 47,497-C8 homolog};

(C) [(6aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[c]chromen-1-ol)] {also known as HU-210};

(D) (dexanabinol);

(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo

l[c]chromen-1-ol) {also known as HU-211};

(E) 1-Pentyl-3-(1-naphthoyl) indole {also known as JWH-018};

- (F) 1-Butyl-3-(1-naphthoyl) indole { also known as JWH-073};
- (G) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone { also known as JWH-015};
- (H) (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone { also known as JWH-019};
- (I) [1-[2-(4-morpholinyl) ethyl] -1H-indol-3-yl]-1-naphthalenyl-methanone { also known as JWH-200};
- (J) 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone { also known as JWH-250};
- (K) 2-((1S,2S,5S)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl)-5-(2-methyloctan-2-yl)phenol { also known as CP 55,940};
- (L) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone { also known as JWH-122};
- (M) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone { also known as JWH-398};
- (N) (4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone { also known as RCS-4};
- (O) 1-(1-(2-cyclohexylethyl) -1H-indol-3-yl) -2-(2-methoxyphenyl) ethanone { also known as RCS-8};
- (P) 1-pentyl-3-[1-(4-methoxynaphthoyl) indole (JWH-081);
- (Q) 1-(5-fluoropentyl)-3-(1-naphthoyl) indole (AM2201); and
- (R) 1-(5-fluoropentyl)-3-(2-iodobenzoyl) indole (AM694).

(54) Synthetic cannabinoids or any material, compound, mixture or preparation which contains any quantity of the following substances, including their analogues, congeners, homologues, isomers, salts and salts of analogues, congeners, homologues and isomers, as follows:

(A) CP 47,497 AND homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-YL) phenol);

(B) HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-6A,7,10, 10A-tetrahydrobenzo[C] chromen-1-OL)];

(C) HU-211, (dexanabinol, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-methyloctan-2-YL)-6A,7,10,10atetrahydrobenzo [C] chromen-1-OL);

(D) JWH-018, 1-pentyl-3-(1-naphthoyl) indole;

(E) JWH-019, 1-hexyl-3-(1-naphthoyl) indole;

(F) JWH-073, 1-butyl-3-(1-naphthoyl) indole;

(G) JWH-200, (1-(2-morpholin-4-ylethyl) indol-3-yl)-Naphthalen-1-ylmethanone;

(H) JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl) indole.

(55) Synthetic cannabinoids including any material, compound, mixture or preparation that is not listed as a controlled substance in Schedule I through V, is not a federal Food and Drug Administration approved drug or used within legitimate and approved medical research and which contains any quantity of the following substances, their salts, isomers, whether optical positional or geometric, analogues, homologues and salts of isomers, analogues and homologues, unless specifically exempted, whenever the existence of these salts, isomers, analogues, homologues and salts of isomers, analogues and homologues if possible within the specific chemical designation:

(A) Tetrahydrocannabinols meaning tetrahydrocannabinols which are naturally contained in a plant of the genus cannabis as well as synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis or synthetic substances, derivatives and their isomers with analogous

chemical structure and or pharmacological activity such as the following:

(i) DELTA-1 CIS OR trans tetrahydrocannabinol and their Optical isomers.

(ii) DELTA-6 CIS OR trans tetrahydrocannabinol and their Optical isomers.

(iii) DELTA-3,4 CIS OR their trans tetrahydrocannabinol and their optical isomers.

(B) Naphthoyl indoles or any compound containing a 3-(1-Naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include the following:

- (i) JWH 015;
- (ii) JWH 018;
- (iii) JWH 019;
- (iv) JWH 073;
- (v) JWH 081;
- (vi) JWH 122;
- (vii) JWH 200;
- (viii) JWH 210;
- (ix) JWH 398;
- (x) AM 2201;
- (xi) WIN 55,212.

(56) Synthetic Phenethylamines (including their optical, positional, and geometric isomers, salts and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers):

(A) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe/ 2C-I-NBOMe);

(B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe/2C-C-NBOMe);

(C) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe/ 2C-B-NBOMe);

(57) Synthetic Opioids (including their isomers, esters, ethers, salts and salts of isomers, esters and ethers):

(A) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);

(B) furanyl fentanyl;

(C) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-47700);

(D) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide, (butyryl fentanyl);

(E) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, also known as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide, (beta-hydroxythiofentanyl).

(58) Opioid Receptor Agonist (including its isomers, esters, ethers, salts, and salts of isomers, esters and ethers):

(A) AH-7921 (3,4-dichloro-N-(1dimethylamino)cyclohexylmethyl)(benzamide).

~~(56)~~ (59) Naphylmethylindoles or any compound containing a 1hindol-3-yl-(1-naphthyl) methane structure with a substitution at the nitrogen atom of the indole ring whether or not further

substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 175 and JWH 184.

~~(57)~~ (60) Naphthoylpyrroles or any compound containing a 3-(1-Naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 147 and JWH 307.

~~(58)~~ (61) Naphthylmethylindenes or any compound containing a Naphthylideneindene structure with substitution at the 3-Position of the indene ring whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 176.

~~(59)~~ (62) Phenylacetylindoles or any compound containing a 3-Phenylacetylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

- (A) RCS-8, SR-18 OR BTM-8;
- (B) JWH 250;
- (C) JWH 203;
- (D) JWH 251;
- (E) JWH 302.

~~(60)~~ (63) Cyclohexylphenols or any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with a substitution at the 5-position of the phenolic ring whether or not substituted in the cyclohexyl ring to any extent. This shall include the following:

- (A) CP 47,497 and its homologues and analogs;
- (B) Cannabicyclohexanol;

(C) CP 55,940.

~~(61)~~ (64) Benzoylindoles or any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

(A) AM 694;

(B) Pravadoline WIN 48,098;

(C) RCS 4;

(D) AM 679.

~~(62)~~ (65) [2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-benzoxazin-6-YL]-1-naphthalenemethanone. This shall include WIN 55,212-2.

~~(63)~~ (66) Dibenzopyrans or any compound containing a 11-hydroxydelta 8-tetrahydrocannabinol structure with substitution on the 3-pentyl group. This shall include HU-210, HU-211, JWH 051 and JWH 133.

~~(64)~~ (67) Adamantoylindoles or any compound containing a 3-(-1- Adamantoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the adamantoyl ring system to any extent. This shall include AM 1248.

~~(65)~~ (68) Tetramethylcyclopropylindoles or any compound containing A 3-tetramethylcyclopropylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent. This shall include UR-144 and XLR-11.

~~(66)~~ (69) N-(1-Adamantyl)-1-pentyl-1h-indazole-3-carboxamide. This shall include AKB48.

~~(67)~~ (70) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding

studies and functional assays that is not listed in Schedules II, III, IV and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research. Since nomenclature of these substances is not internationally standardized, any immediate precursor or immediate derivative of these substances shall be covered.

~~(68)~~ (71) Tryptamines:

(A) 5- methoxy- N- methyl-N-isopropyltryptamine (5-MeO-MiPT)

(B) 4-hydroxy-N, N-diisopropyltryptamine (4-HO-DiPT)

(C) 4-hydroxy-N-methyl-N-isopropyltryptamine (4-HO-MiPT)

(D) 4-hydroxy-N-methyl-N-ethyltryptamine (4-HO-MET)

(E) 4-acetoxy-N, N-diisopropyltryptamine (4-AcO-DiPT)

(F) 5-methoxy- α -methyltryptamine (5-MeO-AMT)

(G) 4-methoxy-N, N-Dimethyltryptamine (4-MeO-DMT)

(H) 4-hydroxy Diethyltryptamine (4-HO-DET)

(I) 5- methoxy- N, N- diallyltryptamine (5-MeO-DALT)

(J) 4-acetoxy-N, N-Dimethyltryptamine (4-AcO DMT)

(K) 4-hydroxy Diethyltryptamine (4-HO-DET)

(72) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (AB-CHMINACA);

(73) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB-PINACA);

(74) [1-(5-fluoropentyl)-1H-indazol-3-yl (naphthalen-1-yl)methanone (THJ-2201);

(75) quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate (PB-22; QUPIC);

(76) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22);

(77) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (AB-FUBINACA);

(78) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA); and

(79) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (common names, MAB-CHMINACA and ADB-CHMINACA);

(e) *Depressants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone;

(2) Methaqualone.

(f) *Stimulants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Aminorex; some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(2) Cathinone; some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(3) Fenethylamine;

(4) Methcathinone, its immediate precursors and immediate derivatives, its salts, optical isomers and salts of optical isomers; some other names: (2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha—methylaminopropiophenone; monomethylpropion; 3,4-methylenedioxypropylvalerone and/or mephedrone; 3,4-methylenedioxypropylvalerone (MPVD); ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432;

(5) (+-) cis-4-methylaminorex; ((+-) cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(6) N-ethylamphetamine;

(7) N,N-dimethylamphetamine; also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(8) Alpha-pyrrolidinopentiophenone, also known as alpha-PVP, optical isomers, salts and salts of isomers.

(9) Substituted amphetamines:

(A) 2-Fluoroamphetamine

(B) 3-Fluoroamphetamine

(C) 4-Fluoroamphetamine

(D) 2-chloroamphetamine

(E) 3-chloroamphetamine

(F) 4-chloroamphetamine

(G) 2-Fluoromethamphetamine

(H) 3-Fluoromethamphetamine

(I) 4-Fluoromethamphetamine

(J) 4-chloromethamphetamine

(10) 4-methyl-N-ethylcathinone (4-MEC);

(11) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);

(12) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone);

(13) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);

(14) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone);

(15) 4-fluoro-N-methylcathinone (4-FMC);

(16) 3-fluoro-N-methylcathinone (3-FMC);

(17) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); and

(18) Alpha-pyrrolidinobutiophenone (α -PBP).

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers.

(2) N-[1-(2-thienyl) methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

(3) N-benzylpiperazine, also known as BZP.

(h) The following controlled substances are included in Schedule I:

(1) Synthetic Cathinones or any compound, except bupropion or compounds listed under a different schedule, or compounds used within legitimate and approved medical research, structurally derived from 2- Aminopropan-1-one by substitution at the 1-position with Monocyclic or fused polycyclic ring systems,

whether or not the compound is further modified in any of the following ways:

(A) By substitution in the ring system to any extent with Alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl or halide substituents whether or not further substituted in the ring system by one or more other univalent substituents.

(B) By substitution at the 3-Position with an acyclic alkyl substituent.

(C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups.

(D) By inclusion of the 2-amino nitrogen atom in a cyclic structure.

(2) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research.

§60A-2-206. Schedule II.

(a) Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section.

(b) *Substances, vegetable origin or chemical synthesis.* — Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative or preparation of opium or opiate excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts, but including the following:

- (A) Raw opium;
- (B) Opium extracts;
- (C) Opium fluid;
- (D) Powdered opium;
- (E) Granulated opium;
- (F) Tincture of opium;
- (G) Codeine;
- (H) Dihydroetorphine;
- (I) Ethylmorphine;
- (J) Etorphine hydrochloride;
- (K) Hydrocodone;
- (L) Hydromorphone;
- (M) Metopon;
- (N) Morphine;
- (O) Oripavine;
- (P) Oxycodone;
- (Q) Oxymorphone; and
- (R) Thebaine;

(2) Any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (1) of this subsection, except that these substances shall not include the isoquinoline alkaloids of opium;

- (3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions of coca leaves, which extractions do not contain cocaine or ecgonine;

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy).

(c) *Opiates*. — Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanil;

(2) Alphaprodine;

(3) Anileridine;

(4) Bezitramide;

(5) Bulk dextropropoxyphene (nondosage forms);

(6) Carfentanil;

(7) Dihydrocodeine;

(8) Diphenoxylate;

(9) Fentanyl;

(10) Isomethadone;

(11) Levo-alpha-acetylmethadol; some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM;

- (12) Levomethorphan;
- (13) Levorphanol;
- (14) Metazocine;
- (15) Methadone;
- (16) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (17) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (18) Pethidine; (meperidine);
- (19) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (20) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;
- (24) Racemethorphan;
- (25) Racemorphan;
- (26) Remifentanil;
- (27) Sufentanil; ~~and~~
- (28) Tapentadol ~~and~~
- (29) Thiafentanil (4-(methoxycarbonyl)-4-(N-phenmethoxyacetamido)-1-2-(thienyl)ethylpiperidine), including its isomers, esters, ethers, salts and salts of isomers, esters and ethers.

(d) *Stimulants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers and salts of its optical isomers;

(2) Methamphetamine, its salts, isomers and salts of its isomers;

(3) Methylphenidate;

(4) Phenmetrazine and its salts; and

(5) Lisdexamfetamine.

(e) *Depressants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Glutethimide;

(3) Pentobarbital;

(4) Phencyclidine;

(5) Secobarbital.

(f) *Hallucinogenic substances*:

Nabilone; [Another name for nabilone: (+-)-trans-3-(1, 1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo [b,d] pyran-9-one].

(g) *Immediate precursors.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone;

(B) Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine; and

(B) 1-piperidinocyclohexanecarbonitrile (PCC).

(3) Immediate precursor to fentanyl: 4-anilino-N-phenethyl-4-piperidine (ANPP).

§60A-2-210. Schedule IV.

(a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) *Narcotic drugs.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(c) *Depressants.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or

preparation which contains any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Alprazolam;
- (2) Barbitol;
- (3) Bromazepam;
- (4) Camazepam;
- (5) Carisoprodol;
- (6) Chloral betaine;
- (7) Chloral hydrate;
- (8) Chlordiazepoxide;
- (9) Clobazam;
- (10) Clonazepam;
- (11) Clorazepate;
- (12) Clotiazepam;
- (13) Cloxazolam;
- (14) Delorazepam;
- (15) Diazepam;
- (16) Dichloralphenazone;
- (17) Estazolam;
- (18) Ethchlorvynol;
- (19) Ethinamate;
- (20) Ethyl loflazepate;

- (21) Fludiazepam;
- (22) Flunitrazepam;
- (23) Flurazepam;
- (24) Fospropofol;
- (25) Halazepam;
- (26) Haloxazolam;
- (27) Ketazolam;
- (28) Loprazolam;
- (29) Lorazepam;
- (30) Lormetazepam;
- (31) Mebutamate;
- (32) Medazepam;
- (33) Meprobamate;
- (34) Methohexital;
- (35) Methylphenobarbital (mephobarbital);
- (36) Midazolam;
- (37) Nimetazepam;
- (38) Nitrazepam;
- (39) Nordiazepam;
- (40) Oxazepam;
- (41) Oxazolam;
- (42) Paraldehyde;

(43) Petrichloral;

(44) Phenobarbital;

(45) Pinazepam;

(46) Prazepam;

(47) Quazepam;

(48) Temazepam;

(49) Tetrazepam;

(50) Triazolam;

(51) Zaleplon;

(52) Zolpidem;

(53) Zopiclone;

(54) Suvorexant ([(7R)-4-(5-chloro-1,3-benzoxazol-2-yl)-7-methyl-1,4-diazepan-1-yl] [5-methyl-2-(2H-1,2,3-triazol-2-yl)phenyl]methanone).

(d) Any material, compound, mixture or preparation which contains any quantity of the following substance, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible: Fenfluramine and Dexfenfluramine.

(e) *Stimulants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Cathine ((+)-norpseudoephedrine);

(2) Diethylpropion;

(3) Fencamfamin;

- (4) Fenproporex;
- (5) Mazindol;z
- (6) Mefenorex;
- (7) Modafinil;
- (8) Pemoline (including organometallic complexes and chelates thereof);
- (9) Phentermine;
- (10) Pipradrol;
- (11) Sibutramine;
- (12) SPA ((-)-1-dimethylamino-1,2-diphenylethane);
- (13) Eluxadoline (5-[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl [(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino)methyl]-2-methoxybenzoic acid);

(f) *Other substances.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

- (1) Pentazocine;
- (2) Butorphanol;
- (3) ~~tramadol~~—hydrochloride. Tramadol (2-[(dimethylamino)methyl]-1-(3-methoxyphenyl) cyclohexanol).

Amyl nitrite, butyl nitrite, isobutyl nitrite and the other organic nitrites are controlled substances and no product containing these compounds as a significant component shall be possessed, bought or sold other than pursuant to a bona fide prescription or for industrial or manufacturing purposes.

§60A-2-212. Schedule V.

(a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) *Stimulants*. — Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Pyrovalerone.

(d) Any compound, mixture or preparation containing as its single active ingredient ephedrine, pseudoephedrine or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers except products which are for pediatric use primarily intended for administration to children under the age of twelve: *Provided*, That neither the offenses set forth in section four hundred one, article four of this chapter, nor the penalties therein, shall be applicable to ephedrine, pseudoephedrine or phenylpropanolamine which shall be subject to the provisions of article ten of this chapter.

(e) *Depressants*. — Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Ezogabine [N-[2-amino-4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester];

(2) Lacosamide [(R)-2-acetoamido- N -benzyl-3-methoxypropionamide];

(3) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]; and

(4) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide) (also referred to as BRV; UCB-34714; Briviact), including its salts.”

Delegate Cowles moved to amend the amendment of the Senate, on page four, by removing the following language:

“(29) Fentanyl analog or derivative, as that term is defined in article one of this chapter: *Provided*, That fentanyl remains a Schedule II substance, as set forth in section two hundred six of this article” and the semicolon.

And renumbering the subdivisions accordingly.

The motion to concur in the amendment of the bill by the Senate, with further amendment by the House, was adopted.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 548**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Eldridge, Fluharty, McGeehan, Pushkin and Rowe.

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. 2526) passed.

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

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. 2589, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Gaunch, Mann and Romano.

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 Blair, Upson and Rodighiero.

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. 2631, Relating to time standards for disposition of complaint proceedings.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Takubo, Maroney and Palumbo.

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, Capito and R. Miller.

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

Conference Committee Report Availability

At 5:24 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on Com. Sub. for H. B.

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

At 5:25 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on Com. Sub. for H. B. 2721, Removing the cost limitation on projects completed by the Division of Highways.

At 5:26 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:45 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.

Conference Committee Report Availability

At 6:19 p.m., the Clerk announced availability in his office of the reports of the Committees of Conference on 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 S. B. 554, Relating to false swearing in legislative proceeding.

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. 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 motion of Delegate Cowles, the House concurred in the following amendment of the bill by the Senate:

On page one, section seven-a, line fourteen, after the word “surgery”, by inserting the words “as an osteopathic physician and surgeon”.

On page one, section seven-a, line fifteen, after the word “licensed”, by inserting the words “or certified as an osteopathic”.

And,

On page one, section seven-a, line fifteen, after the word “as”, by striking out the word “a”.

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. 549**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Howell and Statler.

Absent and Not Voting: Diserio, Eldridge, Hamilton and Maynard.

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. 2804) 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 amendment, a bill of the House of Delegates, as follows:

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

On motion of Delegate Cowles, the House of Delegates refused to concur in the following amendment of the bill by the Senate and requested the Senate to recede therefrom.

On page one, by striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §15-5-15a of the Code of West Virginia, 1931, as amended, be repealed; and that that the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §15-5-15b, all to read as follows” and a colon.

And,

By amending the title of the bill to read as follows:

H. B. 2869 - “A Bill to repeal §15-5-15a of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §15-5-15b, relating to certain state employees may be granted a leave of absence with pay while providing assistance as an essential member of an emergency aid provider during a declared state of emergency.”

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

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. 2935, Relating to state flood protection planning.

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 section and inserting in lieu thereof the following:

“CHAPTER 4. THE LEGISLATURE.

ARTICLE 15. JOINT LEGISLATIVE COMMITTEE ON FLOODING.

§4-15-1. Establishing a Joint Legislative Committee on Flooding.

(a) The President of the Senate and the Speaker of the House of Delegates shall each appoint five members of their respective houses, at least two of whom shall be members of the minority party, and at least one shall be a member of the Committee on Government Organization, to serve on an interim committee charged with studying flood damage reduction and flood plain management. The President and the Speaker shall each designate a Chair from among the five committee members of their respective houses. This committee shall be known as the ‘Joint Legislative Committee on Flooding’ and shall study all activities relating to flood protection and shall make recommendations to the Joint Committee on Government and Finance, which offer solutions to reduce the reality and threat of future loss of life and property damages associated with flooding.

(b) The expenses of the committee are to be approved by the Joint Committee on Government and Finance and paid from legislative appropriations.

(c) The Chair of the State Resiliency Office, created pursuant to article thirty, chapter twenty-nine of this code, shall report quarterly to the committee, and shall prepare an annual report to the committee no later than December 31 of each year.

(d) The Chairs of the committee shall report annually, each January, to the Joint Committee on Government and Finance, with any proposals or legislation as may be deemed necessary to prevent or reduce the risk of flooding in this state.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**ARTICLE 30. STATE RESILIENCY AND FLOOD PROTECTION PLAN ACT.****§29-30-1. Short title; legislative findings; purpose.**

(a) This article may be known and cited as the ‘Resiliency and Flood Protection Planning Act’.

(b) The West Virginia Legislature finds that:

(1) Flooding has affected each of the fifty-five counties and thirty-two major watersheds within the state;

(2) Over the past fifty-two years, more than two hundred and eighty-two West Virginians have died in floods;

(3) Between January 1996 and January 2017, there have been twenty-seven federal disaster declarations in West Virginia involving flooding; and

(4) In June 2016 much of West Virginia suffered devastating flooding.

(5) Despite the many state and federal flood protection programs and projects, flooding continues to be West Virginia’s most common and widespread natural disaster.

(c) It is the purpose of this article to provide a comprehensive and coordinated statewide resiliency and flood protection planning program to save lives, and develop community and economic resiliency plans including, but not limited to, reducing or mitigating flood damage while supporting economic growth and protecting the environment.

§29-30-2. State Resiliency Office.

(a) The State Resiliency Office is hereby created. The office shall be organized within the Development Office in the Department of Commerce as the recipient of disaster recovery and resiliency funds, excluding federal Stafford Act funds, and the coordinating agency of

recovery and resiliency efforts, including matching funds for other disaster recovery programs, excluding those funds and efforts under the direct control of the State Coordinating Officer designated by the Governor for a particular event. The State Resiliency Office Board is also established and shall consist of the following eight members: the Secretary of the Department of Commerce or his or her designee; The Director of the Division of Natural Resources or his or her designee; the Secretary of the Department of Environmental Protection or his or her designee; the Executive Director of the State Conservation Agency or his or her designee; the Secretary of the Department of Military Affairs and Public Safety or his or her designee; the Secretary of Transportation or his or her designee; the Adjutant General of the West Virginia National Guard or his or her designee; and the Director of the Division of Homeland Security and Emergency Management within the Department of Military Affairs and Public Safety or his or her designee.

(b) The Secretary of the Department of Commerce shall be the chair of the State Resiliency Office Board. In the absence of the chair, any member designated by the members present may act as chair.

(c) The board shall meet no less than once each calendar quarter at the time and place designated by the chair. All decisions of the board shall be decided by a majority vote of the members.

(d) The chair shall provide adequate staff from their respective office, to ensure the meetings of the board are properly noticed, meetings of the board are facilitated, board meeting minutes are taken, records and correspondence kept and that reports of the board are produced timely.

§29-30-3. Authority of State Resiliency Office; authority of board.

The State Resiliency Office, through its board may:

(1) Serve as coordinator of all economic and community resiliency planning and implementation efforts, including but not limited to flood protection programs and activities in the state;

(2) Annually review the state flood protection plan and update the plan no less than biannually;

(3) Recommend legislation to reduce or mitigate flood damage;

(4) Report to the Joint Legislative Committee on Flooding at least quarterly;

(5) Catalog, maintain and monitor a listing of current and proposed capital expenditures to reduce or mitigate flood damage or other resiliency efforts;

(6) Coordinate planning of flood projects with federal agencies;

(7) Improve professional management of flood plains;

(8) Provide education and outreach on flooding issues to the citizens of this state;

(9) Establish a single website integrating all agency flood information;

(10) Monitor federal funds and initiatives that become available for disaster recovery and economic and community resiliency;

(11) Pursue additional funds and resources to assist not only with long-term recovery efforts but also long-term community and state-wide resiliency efforts;

(12) Coordinate, integrate and expand planning efforts in the state for hazard mitigation, long-term disaster recovery and economic diversification;

(13) Coordinate long-term disaster recovery efforts in response to disasters as they occur;

(14) Establish and facilitate regular communication between federal, state, local and private sector agencies and organizations to further economic and disaster resilience; and

(15) Take all other actions necessary and proper to effectuate the purposes of this article.

§29-30-4. Reporting to the Joint Legislative Committee on Flooding.

(a) The chair of the board of the State Resiliency Office shall report, at a minimum of quarterly, to the Joint Legislative Committee on Flooding, created pursuant to article fifteen, chapter four of this code, in sufficient detail for the committee to be aware of the activities of the board to assure progress toward reducing and mitigating flood damage within this state while respecting and complying with the Takings Clause of the United States Constitution, the West Virginia Constitution, and related precedential court opinions, and to develop legislative recommendations.

(b) The chair of the council shall submit an annual report to the committee by December 31 of each year, along with any recommended legislation, budget requests and a summary of the activities of the board for the previous year.”

And,

By amending the title of the bill to read 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 generally; establishing a Joint Legislative Committee on Flooding and providing for duties; establishing the Resiliency and Flood Protection Planning Act; providing legislative findings and purpose; creating the State Resiliency Office within the Development Office in the Department of Commerce; establishing a State Resiliency Office Board; providing certain duties and authorities of the State Resiliency Office; and requiring reporting to the Legislature.”

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. 550**), 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 H. B. 2935) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3080, Requiring instruction in the Declaration of Independence and the United States Constitution.

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

On page three, section nine, line fifty-nine, by striking out the words “at least three hours of”.

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. 551**), 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: Criss.

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. 3080) 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 amendment of the House of Delegates, with amendment, and the passage, as amended, of

Com. Sub. for S. B. 333, Requiring all DHHR-licensed facilities access WV Controlled Substances Monitoring Program Database.

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

On page two, section four, subsection (b), subdivision (8), by striking out the words “the first name, last name and middle initial, address and birth date of the person picking up the prescription” and inserting in lieu thereof the words “information about the person picking up the prescription”.

On page eleven, section nine, subsection (a), subdivision (8), by striking out the words “the first name, last name and middle initial, address and birth date of the person picking up the prescription” and inserting in lieu thereof the words “information about the person picking up the prescription”.

And,

By amending the title of the bill to read as follows:

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 members, prescribers and residents enrolled in a degree program at the school where the dean serves; allowing access to designated physician reviewers for medical provider employers; providing access to a physician reviewer designated by an employer of medical

providers for monitoring prescribing practices of physicians, advance practice registered nurses or physician assistants in their employ; providing access to chief medical officers of a hospital or a physician designated by the chief executive officer of a hospital who does not have a chief medical officer for monitoring prescribing practices of prescribers who have admitting privileges to the hospital; providing that information obtained from accessing the West Virginia Controlled Substances Monitoring Program database shall be documented in a patient's medical record maintained by a private prescriber or any inpatient facility licensed pursuant to public health; allowing the Board of Pharmacy to require that drugs of concern be reported to the database; clarifying identity information required to be retained by dispensers of controlled substances regarding persons picking up prescriptions other than the patient; exempting reporting requirements for drugs of concern from criminal penalties; allowing duly authorized agents of the Office of Health Facility Licensure and Certification to access the database for use in certification, licensure and regulation of health facilities; providing that a failure to report drugs of concern may be considered a violation of the practice act of the prescriber and may result in discipline by the appropriate licensing board; 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.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 552**), 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. 333) 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 amendment of the House of Delegates, with a title amendment, and the passage, as amended, of

Com. Sub. for S. B. 606, Relating to minimum wage and maximum hours for employees.

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

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 by a recreational establishment which does not operate for more than seven months in any calendar year during the preceding calendar year or 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; and requiring any such employee 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 question being on the passage of the bill, the yeas and nays were taken (**Roll No. 553**), and there were—yeas 54, nays 41, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hicks, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Phillips, Pushkin, Pyles, Queen, Rohrbach, Rowe, Sponaugle, Storch, Thompson, Wagner, Ward and Williams.

Absent and Not Voting: Blair, Folk, Robinson, Rodighiero 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. 606) 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 amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2219, Authorizing miscellaneous boards and agencies to promulgate legislative rules.

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 section and inserting in lieu thereof the following:

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Commissioner of Agriculture.

(a) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section two, article nine, chapter nineteen of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2016, relating to the Commissioner of Agriculture (animal disease control, 61 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section three, article thirty-four, chapter nineteen of this code relating to the Commissioner of Agriculture (dangerous wild animals, 61 CSR 30), is authorized.

(c) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section four, article one-c, chapter nineteen of this code, relating to the Commissioner of Agriculture (livestock care standards, 61 CSR 31), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article two-h, chapter nineteen of this code, modified by the Commissioner of

Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2016, relating to the Commissioner of Agriculture (captive cervid, 61 CSR 34), is authorized with the following amendments:

On page two, subsection 2.10, by striking out “Class II” and inserting in lieu thereof “Class I”;

On page two, by striking out subsection 2.17 and inserting in lieu thereof a new subsection 2.17 to read as follows:

“2.17. Slaughter facility” means a slaughter facility with a valid captive cervid license operating under state or federal inspection that may hold cervids for up to seventy-two (72) hours prior to slaughtering, or a slaughter facility with no captive cervid facility license operating under state or federal inspection that must slaughter all cervids within the operating day of receipt of the animal(s).”;

On page four, by striking out subsection 5.1 and inserting in lieu thereof a new subsection 5.1 to read as follows:

“5.1. An updated inventory record containing birth and death records, and testing results shall be provided biannually: at license renewal on June 30 and by December 31.”;

On page five, paragraph 8.1.a.2, by striking out “white-tailed deer” and inserting in lieu thereof “cervids”;

On page five, paragraph 8.1.a.5, by striking out “white-tailed deer” and inserting in lieu thereof “cervids”;

On page five, subparagraph 8.1.b.3.d., by striking out “Flooring” and inserting in lieu thereof “Flooding”;

On page eight, by striking out all of subsection 10.2 and inserting in lieu thereof a new subsection 10.2 to read as follows:

“10.2. A licensee shall forward a copy of the records of all acquisitions, mortalities by unknown cause, sales or possession transfers to the state veterinarian’s office within fifteen (15) days.

Applications to receive or transfer captive cervids shall be made on forms provided by the Department.”;

On page eight, subsection 11.6, after the word “months”, by inserting a comma and the following words: or from an out-of-state captive cervid facility which is located within a fifteen (15) mile radius of a confirmed CWD or TB positive cervid in the last sixty (60) months.”;

On page ten, by striking out subsection 12.2 and inserting in lieu thereof a new subsection 12.2 to read as follows:

“12.2 Any captive cervid that escapes from a captive cervid facility shall be dispatched by the Department or DNR personnel, unless after review by the Commissioner of Agriculture and the West Virginia State Veterinarian it is determined that the escaped captive cervid, after being secured and returned to the premise from which it escaped, does not present a health risk to the public, other captive cervids or wildlife: *Provided*, That all escaped cervids that are sourced from a known, confirmed TB and CWD containment area will be dispatched.”;

On page eleven, subsection 13.6, by striking out the words “if from a captive cervid facility” and inserting in lieu thereof the word “number”;

On page eleven, by un-striking subsection 3.7;

And,

By renumbering the remaining subsection.

“§64-9-2. Board of Architects.

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article twelve, chapter thirty of this code, modified by the Board of Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2016, relating to the Board of Architects (registration of architects, 2 CSR 01), is authorized with the following amendments:

On page one, subsection 1.5, by striking out the phrase “fifteen (15)” and inserting in lieu thereof the phrase “ten (10)”.

§64-9-3. Athletic Commission.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section twenty-four, article five-a, chapter twenty-nine of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2016, relating to the Athletic Commission (administrative rules of the West Virginia State Athletic Commission, 177 CSR 01), is authorized with the following amendments:

On page four, after subdivision “4.5.g.”, by striking out the words “No fee for amateurs. —” and inserting in lieu thereof “4.6”;

On page four, in the paragraph beginning with the words “No fee for amateurs” after the words “amateur contestant or a” by striking out the word “managers” and inserting in lieu thereof the word “manager”;

On page eight, in the section heading “11a. Testing for Older Fighters”, by striking out 11.a and inserting in lieu thereof “12”;

On page eight, by striking out 11a.1 and inserting in lieu thereof “12.1”;

On page nine, by striking out 11a.2 and inserting in lieu thereof “12.2”;

On page nine, by striking out 11a.3 and inserting in lieu thereof “12.3”;

On page nine, by striking out 11a.3.a and inserting in lieu thereof “12.3.a”;

On page nine, by striking out 11a.3.b and inserting in lieu thereof “12.3.b”;

On page nine, by striking out 11a.3.c and inserting in lieu thereof “12.3.c”;

On page nine, by striking out 11a.4 and inserting in lieu thereof “12.4”;

On page nine, after subsection 11a.4 by adding a new subsection to read as follows:

“12.5 The applicant, or by contract, the promoter, shall pay for any medical testing required in this section: *Provided*, That the applicant is responsible to be tested timely pursuant to the applicable rules of the Commission.” and by renumbering the remaining sections;

On page eleven, subsection 25.1, by striking out the words “shall neither” and inserting in lieu thereof the words “may not”;

On page thirteen, subsection 30.2, by striking out the word “provision” and inserting in lieu thereof the word “section”;

On page twenty-one, in the section heading, by striking out “45a” and inserting in lieu thereof “47”;

On page twenty-one, by striking out “45a.1” and inserting in lieu thereof “47.1”;

On page twenty-one, by striking out “45a.2” and inserting in lieu thereof “47.2”;

On page twenty-one, by striking out “45a.2.a” and inserting in lieu thereof “47.2.a”;

On page twenty-one, by striking out “45a.2.a.1” and inserting in lieu thereof “47.2.a.1”;

On page twenty-one, by striking out “45a.2.a.2” and inserting in lieu thereof “47.2.a.2”;

On page twenty-one, by striking out “45a.2.a.3” and inserting in lieu thereof “47.2.a.3”;

On page twenty-one, by striking out “45a.2.a.4” and inserting in lieu thereof “47.2.a.4”;

On page twenty-one, by striking out “45a.2.a.5” and inserting in lieu thereof “47.2.a.5”;

On page twenty-one, by striking out “45a.2.b” and inserting in lieu thereof “47.2.b”;

On page twenty-one, by striking out “45a.2.b.1” and inserting in lieu thereof “47.2.b.1”;

On page twenty-one, by striking out “45a.2.b.2” and inserting in lieu thereof “47.2.b.2”;

On page twenty-one, in paragraph 45a.2.a.2, after the words “wear foot pads”, by adding the words “or shin guard instep pads”;

On page twenty-one, in paragraph 45a.2.a.2, after the word “Footpads”, by adding the words “or shin guard instep pads”;

On page twenty-one, by striking out “45a.2.b.3” and inserting in lieu thereof “47.2.b.3”;

On page twenty-one, by striking out “45a.2.b.4” and inserting in lieu thereof “47.2.b.4”;

On page twenty-two, by striking out “45a.2.c” and inserting in lieu thereof “47.2.c”;

On page twenty-two, by striking out “45a.2.c.1” and inserting in lieu thereof “47.2.c.1”;

On page twenty-two, by striking out “45a.2.c.2” and inserting in lieu thereof “47.2.c.2”;

On page twenty-two, by striking out “45a.2.c.3” and inserting in lieu thereof “47.2.c.3”;

On page twenty-two, by striking out “45a.2.c.4” and inserting in lieu thereof “47.2.c.4”;

On page twenty-two, by striking out “45a.2.c.5” and inserting in lieu thereof “47.2.c.5”;

On page twenty-two, paragraph 45a.2.c.5., after the sentence ending with the words “two (2) minutes’ duration.” by striking out the remainder of the paragraph;

On page twenty-two, after 45a.2.c.5., by adding a new paragraph to read as follows:

“47.2.c.6. An amateur contestant’s fourth and each subsequent amateur bout shall consist of three (3) rounds and three (3) minutes duration.”;

On page twenty-two, by striking out “45a.3” and inserting in lieu thereof “47.3”;

On page twenty-two, by striking out “45a.3.a” and inserting in lieu thereof “47.3.a”;

On page twenty-two, by striking out “45a.3.a.1” and inserting in lieu thereof “47.3.a.1”;

On page twenty-two, by striking out “45a.3.a.2” and inserting in lieu thereof “47.3.a.2”;

On page twenty-two, by striking out “45a.3.a.3” and inserting in lieu thereof “47.3.a.3”;

On page twenty-two, by striking out “45a.3.b” and inserting in lieu thereof “47.3.b”;

On page twenty-two, by striking out “45a.3.b.1” and inserting in lieu thereof “47.3.b.1”;

On page twenty-two, by striking out “45a.3.b.2” and inserting in lieu thereof “47.3.b.2”;

On page twenty-two, by striking out “45a.3.b.3” and inserting in lieu thereof “47.3.b.3”;

On page twenty-two, by striking out “45a.3.b.4” and inserting in lieu thereof “47.3.b.4”;

On page twenty-two, by striking out “45a.3.b.5” and inserting in lieu thereof “47.3.b.5”;

On page twenty-two, by striking out “45a.3.b.6” and inserting in lieu thereof “47.3.b.6”;

On page twenty-two, by striking out “45a.3.b.7” and inserting in lieu thereof “47.3.b.7”;

On page twenty-three, by striking out “45a.3.c” and inserting in lieu thereof “47.3.c”;

On page twenty-three, by striking out “45a.3.c.1” and inserting in lieu thereof “47.3.c.1”;

On page twenty-three, by striking out “45a.3.c.2” and inserting in lieu thereof “47.3.c.2”;

On page twenty-three, by striking out “45a.3.c.3” and inserting in lieu thereof “47.3.c.3” and by renumbering the remaining sections;

On page twenty three, paragraph 45a.3.c.3., after the sentence ending with the words “two (2) minutes duration.” by striking out the remainder of the paragraph;

And,

On page twenty-three, after 45a.3.c.3., by adding a new paragraph to read as follows:

“47.3.c.4. An amateur contestant’s fourth and each subsequent amateur bout shall consist of three (3) rounds and three (3) minutes’ duration.”

(b) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section twenty-four, article five-a, chapter twenty-nine of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2016, relating to the Athletic Commission (regulation of mixed martial arts, 177 CSR 02), is authorized.

§64-9-4. Auditor's Office.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section ten, article three, chapter twelve of this code, modified by the Auditor's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2016, relating to the Auditor's Office (standards for requisitions for payment issued by state officers on the Auditor, 155 CSR 01), is authorized with the following amendment:

On page eleven, by striking subdivision 10.1.e in its entirety.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section nine, article eight, chapter eleven of this code, modified by the Auditor's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2016, relating to the Auditor's Office (procedure for local levying bodies to apply for permission to extend time to meet as levying body, 155 CSR 08), is authorized.

§64-9-5. Board of Barbers and Cosmetologists.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Barbers and Cosmetologists (qualifications, training, examination and certification of instructors in barbering and cosmetology, 3 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on August 19, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, relating to the Board of Barbers and Cosmetologists (licensing schools of barbering, cosmetology, nail technology and aesthetics, 3 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 26, 2017, relating to the Board of Barbers and Cosmetologists (operational standards for schools of barbering, cosmetology, hair styling, nail technology and aesthetics, 3 CSR 04), is authorized with the following amendment:

On page three, by striking out all of subdivision 3.1.r. in its entirety;

On page three, subdivision 3.2.d. by striking out the sentence “Theory classes shall be taught at least 12 hours per week.”;

And,

On page three, by striking out all of subdivision 3.2.s. in its entirety.

(d) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (operation of barber, beauty, nail and aesthetic shops/salons and schools of barbering and beauty culture, 3 CSR 05), is authorized.

(e) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (schedule of fees, 3 CSR 06), is authorized.

(f) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-

seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (continuing education, 3 CSR 11), is authorized with the following amendments:

On page one, subsection 1.1 to read as follows:

Scope. – The legislative rule establishes requirements for continuing education to practice hair styling, barbering, cosmetology, manicuring/nail technology, and aesthetics. All persons licensed by the Board to practice beauty culture must earn a minimum of four (4) hours of continuing education credits annually. Licensees who have been licensed for twenty (20) years or more are exempt from the continuing education requirements but must take a three (3) hour sanitation class every other year.

And;

On page three, subsection 4.4 to read as follows:

4.4 Licensees who have been licensed for twenty (20) years or more are exempt from the continuing education requirements but must take a three (3) hour sanitation class every other year.

(g) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section eight-a, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (barber apprenticeship, 3 CSR 13), is authorized.

(h) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, relating to the Board of Barbers and Cosmetologists (waxing specialist, 3 CSR 14), is authorized.

§64-9-6. Board of Examiners in Counseling.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (licensed professional counselor fees, 27 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (licensed professional counselor license renewal and continuing professional education requirements, 27 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (marriage and family therapist fees, 27 CSR 09), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (marriage and family therapist license renewal and continuing professional education requirements, 27 CSR 10), is authorized with the following amendment:

On page four, subdivision 4.1.b. after the words “continuing education” by unstriking the stricken words “on a biennium basis beginning”;

And,

On page four, subdivision 4.1.b. after the words “~~license renewal~~” by unstriking the words “on or after”.

§64-9-7. Dangerous Wild Animal Board.

The legislative rule filed in the State Register on February 11, 2016, authorized under the authority of section three, article thirty-four, chapter nineteen of this code, modified by the Dangerous Wild Animal Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 31, 2016, relating to the Dangerous Wild Animal Board (dangerous wild animals, 74 CSR 01), is authorized.

§64-9-8. Board of Dentistry.

The legislative rule filed in the State Register on July 26, 2016, authorized under the authority of section six, article four, chapter thirty of this code, modified by the Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 2, 2016, relating to the Board of Dentistry (rule for the West Virginia Board of Dentistry, 5 CSR 01), is authorized with the following amendments:

On page one, by striking out subsection 1.5 and inserting in lieu thereof a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.”

And,

On page four, after subsection 4.2, by inserting a new subsection 4.3, to read as follows:

“4.3 Teaching Permits with U.S. Specialty Training. The Board of Dentistry may issue a teaching permit to an applicant trained in foreign dental schools, who possess a certificate of completed dental specialty training from a U.S. or Canadian dental school and who has received U.S. Board certification. The permit shall be issued only upon certification of the dean of a dental school located in this state, that the applicant is a member of the staff at that school. The permits are valid for one year and may be reissued by the Board with a written recommendation of the dental school dean. The holder of the permit may perform all operations which a person licensed to practice dentistry in this state may perform, but only within the confines of the primary location of the dental school, or teaching hospital adjacent to a dental school located within the state and as an adjunct to his or her teaching functions in the dental school.”

§64-9-9. Board of Medicine.

(a) The legislative rule filed in the State Register on July 12, 2016, authorized under the authority of section seven, article three, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Medicine (licensing and disciplinary procedures: physicians; podiatrists, 11 CSR 1A), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”

(b) The legislative rule filed in the State Register on July 12, 2016, authorized under the authority of section three, article three-e, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Medicine (licensure, disciplinary and

complaint procedures, continuing education, physician assistants, 11 CSR 1B), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”

(c) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section seven, article three, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 26, 2016, relating to the Board of Medicine (dispensing of legend drugs by practitioners, 11 CSR 5), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”

§64-9-10. Board of Optometry.

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article eight, chapter thirty of this code, modified by the Board of Optometry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2016, relating to the Board of Optometry (continuing education, 14 CSR 10), is authorized.

§64-9-11. Board of Osteopathic Medicine.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article three-e, chapter thirty of this code, modified by the Board of Osteopathic

Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2016, relating to the Board of Osteopathic Medicine (licensing procedures for osteopathic physicians, 24 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 29, 2016, authorized under the authority of section three, article three-e, chapter thirty of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2016, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 02), is authorized.

§64-9-12. Board of Pharmacy.

(a) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section seven, article five, chapter thirty of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section seven, article five, chapter thirty of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the Board of Pharmacy (mail-order and non-resident pharmacies, 15 CSR 06), is authorized.

(c) The legislative rule effective on May 17, 2015, authorized under the authority of section seven, article five, chapter thirty of this code, relating to the West Virginia Board of Pharmacy (registration of pharmacy technicians, 15 CSR 7), is authorized, with the following amendment:

On page one, by inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.”

On page three, subsection 4.1, by striking the phrase “The training program shall, at a minimum contain the following:” and inserting in lieu thereof the phrase “A competency based pharmacy technician education and training program shall, at a minimum contain the following:”

And,

On page five, subsection 4.3, by striking out subdivision (a), and inserting in lieu thereof a new subdivision (a), to read as follows:

“(a) has graduated from a high school or obtained a Certificate of General Educational Development (GED) or its equivalent, or is currently enrolled in a high school competency based pharmacy technician education and training program;”.

(d) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section six, article nine, chapter sixty-a of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the Board of Pharmacy (controlled substances monitoring program, 15 CSR 08), is authorized.

§64-9-13. Board of Physical Therapy.

The legislative rule filed in the State Register on April 22, 2016, authorized under the authority of section six, article twenty, chapter thirty of this code, relating to the Board of Physical Therapy (fees for physical therapist and physical therapist assistant, 16 CSR 04), is authorized.

§64-9-14. Public Service Commission.

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article two-e,

chapter twenty-four of this code, modified by the Public Service Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2016, relating to the Public Service Commission (telephone conduit occupancy, 150 CSR 37), is authorized.

§64-9-15. Board of Examiners for Registered Professional Nurses.

(a) The legislative rule filed in the State Register on July 29, 2016, authorized under the authority of section four, article seven, chapter thirty of this code, modified by the Board of Examiners for Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Examiners for Registered Professional Nurses (requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized with the following amendments:

On page one, by striking out subsection 1.5 and inserting in lieu thereof a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.”

And,

On page sixteen, subsection 14.4, after the words “or other action.” by adding

“A licensee whose license has been summarily suspended is entitled to a hearing not less than twenty (20) days after the license was summarily suspended. The licensee may waive his or her right to a hearing on the summary suspension within the twenty (20) day period.”

(b) The legislative rule filed in the State Register on August 2, 2016, authorized under the authority of section four, article seven, chapter thirty of this code, modified by the Board of Examiners for

Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Examiners for Registered Professional Nurses (limited prescriptive authority for nurses in advanced practice, 19 CSR 08), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”

§64-9-16. State Board of Sanitarians.

The legislative rule filed in the State Register on August 11, 2016, authorized under the authority of section six, article seventeen, chapter thirty of this code, modified by the State Board of Sanitarians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2016, relating to the State Board of Sanitarians (practice of public health sanitation, 20 CSR 04), is authorized.

§64-9-17. Secretary of State.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section eleven, article two, chapter three of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 17, 2017, relating to the Secretary of State (voter registration at the Division of Motor Vehicles, 153 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section twenty-three-a, article two, chapter three of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 17, 2017, relating to the Secretary of State (voter registration list maintenance by the Secretary of State, 153 CSR 05), is authorized.

§64-9-18. Board of Social Work Examiners.

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty, chapter thirty of this code, modified by the Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 27, 2016, relating to the Board of Social Work Examiners (continuing education for social workers and providers, 25 CSR 05), is authorized.

§64-9-19. Board of Speech-Language Pathology and Audiology.

The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section seven, article thirty-two, chapter thirty of this code, modified by the Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 23, 2017, relating to the Board of Speech-Language Pathology and Audiology (licensure of speech-pathology and audiology, 29 CSR 01), is authorized.

§64-9-20. Treasurer's Office.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section two, article two, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (procedures for deposit of moneys with the State Treasurer's Office by state agencies, 112 CSR 04), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section two, article one, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (selection of state depositories for

disbursement accounts through competitive bidding, 112 CSR 06), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section two, article one, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (selection of state depositories for receipt accounts, 112 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article three, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (procedures for processing payments from the state treasury, 112 CSR 08), is authorized.

(e) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article three-a, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (procedure for fees in collections by charge, credit or debit card or by electronic payment, 112 CSR 12), is authorized.

(f) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article three-a, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (procedures for providing services to political subdivisions, 112 CSR 13), is authorized.

§64-9-21. Board of Veterinary Medicine.

The legislative rule filed in the State Register on June 15, 2016, authorized under the authority of section five, article ten, chapter

thirty of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2016, relating to the Board of Veterinary Medicine (standards of practice, 26 CSR 04), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5 to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or affect upon the expiration of 10 years from its effective date.”

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. 554**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Blair, Criss, Kelly, Robinson, Rodighiero and Upson.

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. 2219) passed.

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

On this question, the yeas and nays were taken (**Roll No. 555**), 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: Blair, Kelly, Robinson, Rodighiero 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.

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. 2359, Relating to offenses and penalties for practicing osteopathic medicine without a license.

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 the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §30-3-18; that §30-14-12 be amended and reenacted; and that said code be amended by adding thereto a new section, designated §30-14-16, all to read as follows:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-18. Combining staff functions with West Virginia Board of Osteopathic Medicine.

The West Virginia Board of Medicine may employ investigators, attorneys, clerks and administrative staff in collaboration with the West Virginia Board of Osteopathic Medicine to share duties and functions between the two boards when it may be efficient and practical for the functioning of the boards. Any sharing of staff or staff resources shall be documented and performed pursuant to the provisions of section nineteen, article one of this chapter.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-12. Offenses; penalties.

(a) Each of the following acts ~~shall constitute~~ constitutes a misdemeanor, punishable upon conviction by a fine of not less than \$1,000 nor more than \$10,000:

~~(a) The practice or attempting to practice as an osteopathic physician and surgeon without a license or permit;~~

~~(b) (1) The obtaining of or an attempt to obtain a license or permit to practice in the profession for money or any other thing of value, by fraudulent misrepresentation;~~

~~(c) (2) The making of any willfully false oath or affirmation whenever an oath or affirmation is required by this article; and~~

~~(d) (3) Advertising, practicing or attempting to practice under a name other than one's own.~~

(b) Any person who practices or attempts to practice osteopathic medicine without a license or permit is guilty of a felony and, upon conviction, shall be fined not more than \$10,000, or imprisoned in a correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

§30-14-16. Combining staff functions with West Virginia Board of Medicine.

The West Virginia Board of Osteopathic Medicine may employ investigators, attorneys, clerks and administrative staff in collaboration with the West Virginia Board of Medicine to share duties and functions between the two boards when it may be efficient and practical for the functioning of the boards. Any sharing of staff or staff resources shall be documented and performed pursuant to the provisions of section nineteen, article one of this chapter.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2359 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §30-3-18; to amend and reenact §30-14-12 of said code; and to amend said code by adding thereto a new section, designated §30-14-16, all relating generally to the West Virginia Medical Practice Act; authorizing the West Virginia Board of Medicine and the West

Virginia Board of Osteopathic Medicine to share staff for functions common to both boards; providing offenses and penalties for practicing osteopathic medicine without a license; and creating a felony crime of practicing or attempting to practice osteopathic medicine without a license or permit and providing criminal penalties.”

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. 556**), and there were—yeas 92, nays 2, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Blair, Criss, Kelly, Robinson, Rodighiero and Upson.

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. 2359) passed.

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

Conference Committee Report Availability

At 7:04 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on Com. Sub. for H. B. 2631, Relating to time standards for disposition of complaint proceedings.

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. 2520, Prohibiting the use of a tanning device by a person under the age of eighteen.

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. 2552, Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund.

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

On page two, section five, line thirty-seven, by striking out “\$100”, and inserting in lieu thereof “\$50”.

And,

On page three, section five, line forty-five, by striking out “\$70”, and inserting in lieu thereof “\$35”.

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. 557**), and there were—yeas 84, nays 11, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Arvon, Folk, Gearheart, Hill, Householder, Howell, Kessinger, Marcum, McGeehan, Sobonya and Wilson.

Absent and Not Voting: Blair, Kelly, Robinson, Rodighiero and Upton.

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. 2552) 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 amendment, to take effect from passage, a bill of the House
of Delegates, as follows:

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.

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

On page one, by striking out everything after the title and inserting in lieu thereof the following:

“Whereas, The Governor submitted to the Legislature the Executive Budget Document, dated February 8, 2017, which included a Statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2016, and further included the estimate of revenues for the fiscal year 2017, less net appropriation balances forwarded and regular appropriations for the fiscal year 2017; and

Whereas, The Secretary of the Department of Revenue has submitted a monthly General Revenue Fund Collections Report for the first nine months of fiscal year 2017 as prepared by the State Budget Office; and

Whereas, This report demonstrates that the State of West Virginia has experienced a revenue shortfall of approximately \$79 million for the first nine months of fiscal year 2017, as compared to the monthly revenue estimates for the first nine months of the fiscal year 2017; and

Whereas, Current economic and fiscal trends are anticipated to result in projected year-end revenue deficits, including potential significant shortfalls in Personal Income Tax, Consumers Sales and Use Tax, and Corporation Net Income Tax; and

Whereas, Projected year-end revenue surpluses in various other General Revenue sources will only offset a small portion of these deficits; and

Whereas, The total projected year-end revenue deficit for the General Revenue Fund is estimated at \$192 million; and

Whereas, On November 4, 2016, the Governor issued Executive Order 8-16 which redirected certain revenues pursuant to the terms of SB 419 for fiscal year 2017 of approximately \$25.5 million; and

Whereas, On November 15, 2016, the Governor issued Executive Order 9-16 which directed a spending reduction for General Revenue appropriations for fiscal year 2017 of approximately \$59.8 million; and

Whereas, On December 30, 2016, the remaining balance of \$5,000,000 in the Personal Income Tax Reserve Fund was utilized to ensure timely payment of tax refunds; and

Whereas, The Governor finds that the account balances in the listed accounts exceed that which is necessary for the purposes for which the accounts were established; and

Whereas, The Revenue Shortfall Reserve Fund may be drawn on in the event of a revenue shortfall in lieu of imposing additional reductions in appropriations; therefore

Be it enacted by the Legislature of West Virginia:

That the balance of the funds available for expenditure in the fiscal year ending June 30, 2017, in the Legislative, Senate, fund 0165, fiscal year 2012, organization 2100, appropriation 02100, be decreased by expiring the amount of \$2,000,000, in the Legislative, Senate, fund 0165, fiscal year 2012, organization 2100, appropriation 06400, be decreased by expiring the amount of \$1,000,000, in the Legislative, House of Delegates, fund 0170, fiscal year 2015, organization 2200, appropriation 00500, be decreased by expiring the amount of \$500,000, in the Legislative, House of Delegates, fund 0170, fiscal year 2015, organization 2200, appropriation 02100, be decreased by expiring the amount of \$1,500,000, in the Legislative, Joint Expenses, fund 0175, fiscal year 2015, organization 2300, appropriation 10400, be decreased by expiring the amount of \$500,000, in the Executive, Governor's Office, fund 0101, fiscal year 2005, organization 0100, appropriation 66500, be decreased by expiring the amount of

\$2,000,000, in the Executive, Governor's Office – Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 08400, be decreased by expiring the amount of \$800,000, in the Executive, Governor's Office – Civil Contingent Fund, fund 0105, fiscal year 2008, organization 0100, appropriation 11400, be decreased by expiring the amount of \$200,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2009, organization 0307, appropriation 13100, be decreased by expiring the amount of \$400,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2011, organization 0307, appropriation 13100, be decreased by expiring the amount of \$400,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2012, organization 0307, appropriation 13100, be decreased by expiring the amount of \$200,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2007, organization 0307, appropriation 81900, be decreased by expiring the amount of \$500,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2008, organization 0307, appropriation 81900, be decreased by expiring the amount of \$500,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2009, organization 0307, appropriation 81900, be decreased by expiring the amount of \$500,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2010, organization 0307, appropriation 81900, be decreased by expiring the amount of \$1,600,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2011, organization 0307, appropriation 81900, be decreased by expiring the amount of \$1,500,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2012, organization 0307, appropriation 81900, be decreased by expiring the amount of \$640,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2014, organization 0307, appropriation 81900, be decreased by expiring the amount of \$628,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2015, organization 0307, appropriation 81900, be decreased by expiring the amount of

\$932,000, in the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2012, organization 0307, appropriation 94100, be decreased by expiring the amount of \$650,000, in the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2011, organization 0402, appropriation 16100, be decreased by expiring the amount of \$150,000, in the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2012, organization 0402, appropriation 16100, be decreased by expiring the amount of \$400,000, in the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2013, organization 0402, appropriation 16100, be decreased by expiring the amount of \$400,000, in the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2014, organization 0402, appropriation 16100, be decreased by expiring the amount of \$150,000, in the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2014, organization 0402, appropriation 88600, be decreased by expiring the amount of \$500,000, in the Department of Health and Human Resources – Office of the Secretary, fund 0400, fiscal year 2015, organization 0501, appropriation 19100, be decreased by expiring the amount of \$40,000, in the Department of Health and Human Resources – Office of the Secretary, fund 0400, fiscal year 2016, organization 0501, appropriation 19100, be decreased by expiring the amount of \$60,000, in the Department of Health and Human Resources, Consolidated Medical Services Fund, fund 0525, fiscal year 2014, organization 0506, appropriation 21900, be decreased by expiring the amount of \$1,000,000, in the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2011, organization 0608, appropriation 09700, be decreased by expiring the amount of \$200,000, in the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 09700, be decreased by expiring the amount of \$200,000, in the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 66100, be decreased by

expiring the amount of \$480,000, in the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 67700, be decreased by expiring the amount of \$1,000,000, in the Department of Military Affairs and Public Safety, Division of Justice and Community Services, fund 0546, fiscal year 2014, organization 0620, appropriation 56100, be decreased by expiring the amount of \$500,000, in the Department of Military Affairs and Public Safety, Division of Juvenile Services, fund 0570, fiscal year 2011, organization 0621, appropriation 75500, be decreased by expiring the amount of \$100,000, in the Department of Revenue, State Budget Office, fund 0595, fiscal year 2009, organization 0703, appropriation 09900, be decreased by expiring the amount of \$80,000, in the Department of Transportation, Aeronautics Commission, fund 0582, fiscal year 2013, organization 0807, appropriation 13000, be decreased by expiring the amount of \$300,000, in the Department of Veterans’ Assistance, fund 0456, fiscal year 2013, organization 0613, appropriation 28600, be decreased by expiring the amount of \$200,000, in the Department of Veterans’ Assistance, fund 0456, fiscal year 2014, organization 0613, appropriation 28600, be decreased by expiring the amount of \$100,000, in the West Virginia Council for Community and Technical College Education – Control Account, fund 0596, fiscal year 2012, organization 0420, appropriation 66100, be decreased by expiring the amount of \$500,000, in the Higher Education Policy Commission – Administration – Control Account, fund 0589, fiscal year 2012, organization 0441, appropriation 09700, be decreased by expiring the amount of \$200,000, in the Higher Education Policy Commission – Administration – Control Account, fund 0589, fiscal year 2012, organization 0441, appropriation 66100, be decreased by expiring the amount of \$1,000,000, in the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701, be decreased by expiring the amount of \$40,404,684.31, in the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2017, organization 0704, be decreased by expiring the amount of \$20,000,000, in the State Board of Education, fund 3951, fiscal year 2007, organization 0402,

appropriation 09900, be decreased by expiring the amount of \$100,000, in the State Board of Education, fund 3951, fiscal year 2008, organization 0402, appropriation 09900, be decreased by expiring the amount of \$300,000, in the State Board of Education, fund 3951, fiscal year 2012, organization 0402, appropriation 09900, be decreased by expiring the amount of \$500,000, in the State Board of Education, fund 3951, fiscal year 2013, organization 0402, appropriation 39600, be decreased by expiring the amount of \$500,000, in the State Board of Education, fund 3951, fiscal year 2014, organization 0402, appropriation 39600, be decreased by expiring the amount of \$500,000, in the State Board of Education, fund 3951, fiscal year 2014, organization 0402, appropriation 93300, be decreased by expiring the amount of \$1,000,000, in the Division of Culture and History – Lottery Education Fund, fund 3534, fiscal year 2003, organization 0432, appropriation 86500, be decreased by expiring the amount of \$150,000, in the Division of Culture and History – Lottery Education Fund, fund 3534, fiscal year 2012, organization 0432, appropriation 62400, be decreased by expiring the amount of \$40,000, in the Library Commission – Lottery Education Fund, fund 3559, fiscal year 2011, organization 0433, appropriation 62500, be decreased by expiring the amount of \$150,000, in the Library Commission – Lottery Education Fund, fund 3559, fiscal year 2012, organization 0433, appropriation 62500, be decreased by expiring the amount of \$250,000, in the Bureau of Senior Services – Lottery Senior Citizens Fund, fund 5405, fiscal year 2011, organization 0508, appropriation 46200, be decreased by expiring the amount of \$150,000, in the Bureau of Senior Services – Lottery Senior Citizens Fund, fund 5405, fiscal year 2012, organization 0508, appropriation 46200, be decreased by expiring the amount of \$350,000, in the Bureau of Senior Services – Lottery Senior Citizens Fund, fund 5405, fiscal year 2013, organization 0508, appropriation 46200, be decreased by expiring the amount of \$550,000, in the West Virginia Development Office, fund 3170, fiscal year 2007, organization 0307, appropriation 92300, be decreased by expiring the amount of \$50,000, in the West Virginia Development Office, fund 3170, fiscal year 2008, organization 0307, appropriation 25300, be decreased by expiring the amount of \$2,500,000, in the West Virginia Development Office, fund 3170, fiscal year 2013,

organization 0307, appropriation 09600, be decreased by expiring the amount of \$400,000, in the Division of Corrections – Correctional Units, fund 6283, fiscal year 2010, organization 0608, appropriation 75500, be decreased by expiring the amount of \$1,000,000, in the Office of the Treasurer – Financial Electronic Communication Fund, fund 1345, fiscal year 2017, organization 1300 be decreased by expiring the amount of \$500,000, in the Attorney General, Consumer Protection Recovery Fund, fund 1509, fiscal year 2017, organization 1500, be decreased by expiring the amount of \$1,000,000, in the Department of Administration, Board of Risk and Insurance Management, Premium Tax Savings Fund, fund 2367, fiscal year 2017, organization 0218, be decreased by expiring the amount of \$2,000,000, in the Department of Administration, Capitol Complex Garage Fund, fund 2461, fiscal year 2017, organization 0211, be decreased by expiring the amount of \$110,467.62, in the Department of Environmental Protection, Dam Safety Rehabilitation Fund, fund 3025, fiscal year 2017, organization 0313, be decreased by expiring the amount of \$184,848.07, in the Department of Health and Human Resources, Healthcare Authority Fund, fund 5375, fiscal year 2017, organization 0507, be decreased by expiring the amount of \$500,000 and in the Public Service Commission, Public Service Commission Fund, fund 8623, fiscal year 2017, organization 0926, be decreased by expiring the amount of \$4,000,000, all to the unappropriated balance of the State Fund, General Revenue, to be available during the fiscal year ending June 30, 2017, all to the unappropriated balance of the State Fund, General Revenue, to be available during the fiscal year ending June 30, 2017.”

And,

By amending the title of the bill to read 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 \$1,600,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2010, organization 0307, appropriation 81900, in the amount of \$1,500,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2011, organization 0307, appropriation 81900, in the amount of \$640,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2012, organization 0307, appropriation 81900, in the amount of \$628,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal

year 2014, organization 0307, appropriation 81900, in the amount of \$932,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2015, 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 \$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 \$40,404,684.31 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701, 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 \$500,000 from the Office of the Treasurer, Financial Electronic Communication Fund, fund 1345, fiscal year 2017, organization 1300, 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 \$110,467.62 from the Department of Administration, Capitol Complex Parking Garage Fund, fund 2461, fiscal year 2017, organization 0211, in the amount of \$184,848.07 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 \$4,000,000 from the Public Service Commission, Public Service Commission Fund, fund 8623, fiscal year 2017, organization 0926.”

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. 558**), and there were—yeas 91, nays 3, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Gearheart, Hicks and Marcum.

Absent and Not Voting: Blair, Hollen, Kelly, Robinson, Rodighiero and Upson.

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. 2801) passed.

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

On this question, the yeas and nays were taken (**Roll No. 559**), and there were—yeas 90, nays 3, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Folk, Hicks and McGeehan.

Absent and Not Voting: Blair, Hollen, Kelly, R. Miller, Robinson, Rodighiero 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.

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. 3030, Relating to appeals as a matter of right in the West Virginia Supreme Court of Appeals.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following amendments of the bill by the Senate and requested the Senate to recede therefrom.

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §17C-5A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §58-5-1 of said code be amended and reenacted, all to read as follows:

**CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF
THE ROAD.**

**ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR
SUSPENSION AND REVOCATION OF LICENSES FOR
DRIVING UNDER THE INFLUENCE OF ALCOHOL,
CONTROLLED SUBSTANCES OR DRUGS.**

§17C-5A-2. Hearing; revocation; review.

(a) Written objections to an order of revocation or suspension under the provisions of section one of this article or section seven, article five of this chapter shall be filed with the Office of Administrative Hearings. Upon the receipt of an objection, the Office of Administrative Hearings shall notify the Commissioner of the Division of Motor Vehicles, who shall stay the imposition of

the period of revocation or suspension and afford the person an opportunity to be heard by the Office of Administrative Hearings. The written objection must be filed with Office of Administrative Hearings in person, by registered or certified mail, return receipt requested, or by facsimile transmission or electronic mail within thirty calendar days after receipt of a copy of the order of revocation or suspension or no hearing will be granted: *Provided*, That a successful transmittal sheet shall be necessary for proof of written objection in the case of filing by fax. The hearing shall be before a hearing examiner employed by the Office of Administrative Hearings who shall rule on evidentiary issues. The West Virginia Rules of Evidence shall apply to all proceedings before the hearing examiner. Upon consideration of the designated record, the hearing examiner shall, based on the determination of the facts of the case and applicable law, render a decision affirming, reversing or modifying the action protested. The decision shall contain findings of fact and conclusions of law and shall be provided to all parties by registered or certified mail, return receipt requested, or with a party's written consent, by facsimile or electronic mail.

(b) The hearing shall be held at an office of the Division of Motor Vehicles suitable for hearing purposes located in or near the county in which the arrest was made in this state or at some other suitable place in the county in which the arrest was made if an office of the division is not available. At the discretion of the Office of Administrative Hearings, the hearing may also be held at an office of the Office of Administrative Hearings located in or near the county in which the arrest was made in this state. The Office of Administrative Hearings shall send a notice of hearing to the person whose driving privileges are at issue and the person's legal counsel if the person is represented by legal counsel, by regular mail, or with the written consent of the person whose driving privileges are at issue or their legal counsel, by facsimile or electronic mail. The Office of Administrative Hearings shall also send a notice of hearing by regular mail, facsimile or electronic mail to the Division of Motor Vehicles, and the Attorney General's Office, if the Attorney General has filed a notice of appearance of counsel on behalf of the Division of Motor Vehicles.

(c) (1) Any hearing shall be held within one hundred eighty days after the date upon which the Office of Administrative Hearings received the timely written objection unless there is a postponement or continuance.

(2) The Office of Administrative Hearings may postpone or continue any hearing on its own motion or upon application by the party whose license is at issue in that hearing or by the commissioner for good cause shown.

(3) The Office of Administrative Hearings may issue subpoenas commanding the appearance of witnesses and subpoenas duces tecum commanding the submission of documents, items or other things. Subpoenas duces tecum shall be returnable on the date of the next scheduled hearing unless otherwise specified. The Office of Administrative hearings shall issue subpoenas and subpoenas duces tecum at the request of a party or the party's legal representative. The party requesting the subpoena shall be responsible for service of the subpoena upon the appropriate individual. Every subpoena or subpoena duces tecum shall be served at least five days before the return date thereof, either by personal service made by a person over eighteen years of age or by registered or certified mail, return receipt requested, and received by the party responsible for serving the subpoena or subpoena duces tecum: *Provided*, That the Division of Motor Vehicles may serve subpoenas to law-enforcement officers through electronic mail to the department of his or her employer. If a person does not obey the subpoena or fails to appear, the party who issued the subpoena to the person may petition the circuit court wherein the action lies for enforcement of the subpoena.

(d) Law-enforcement officers shall be compensated for the time expended in their travel and appearance before the Office of Administrative Hearings by the law-enforcement agency by whom they are employed at their regular rate if they are scheduled to be on duty during said time or at their regular overtime rate if they are scheduled to be off duty during said time.

(e) The principal question at the hearing shall be whether the person did drive a motor vehicle while under the influence of

alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or did refuse to submit to the designated secondary chemical test, or did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight.

(f) In the case of a hearing in which a person is accused of driving a motor vehicle while under the influence of alcohol, controlled substances or drugs, or accused of driving a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or accused of driving a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings shall make specific findings as to: (1) Whether the investigating law-enforcement officer had reasonable grounds to believe the person to have been driving while under the influence of alcohol, controlled substances or drugs, or while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or to have been driving a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: *Provided*, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) whether the person committed an offense involving driving under the influence of alcohol, controlled substances or drugs; and (4) whether the tests, if any, were administered in accordance with the provisions of this article and article five of this chapter.

(g) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, or did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person and was committed in reckless disregard of the safety of others and if the Office of Administrative Hearings further finds that the influence of alcohol, controlled substances or drugs or the alcohol concentration in the blood was a contributing cause to the death, the commissioner shall revoke the person's license for a period of ten years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(h) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person, the commissioner shall revoke the person's license for a period of five years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(i) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused bodily injury to a person other than himself or herself, the commissioner shall revoke the person's license for a period of two years: *Provided*, That if the license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(j) If the Office of Administrative Hearings finds by a preponderance of the evidence that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, but less than fifteen hundredths of one percent or more, by weight, or finds that the person knowingly permitted the person's vehicle to be driven by another person who was under the influence of alcohol, controlled substances or drugs, or knowingly permitted the person's vehicle to be driven by another person who had an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight, the commissioner shall revoke the person's license for a period of six months or a period of fifteen days with an additional one hundred and twenty days of participation in the Motor Vehicle Alcohol Test and Lock Program in accordance with the provisions of section three-a of this article: *Provided*, That any period of participation in the Motor Vehicle Alcohol Test and Lock Program that has been imposed by a court pursuant to section two-b, article five of this

chapter shall be credited against any period of participation imposed by the commissioner: *Provided, however,* That a person whose license is revoked for driving while under the influence of drugs is not eligible to participate in the Motor Vehicle Alcohol Test and Lock Program: *Provided, further,* That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *And provided further,* That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(k)(1) If in addition to finding by a preponderance of the evidence that the person did drive a motor vehicle while under the influence of alcohol, controlled substance or drugs, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person did drive a motor vehicle while having an alcohol concentration in the person's blood of fifteen hundredths of one percent or more, by weight, the commissioner shall revoke the person's license for a period of forty-five days with an additional two hundred and seventy days of participation in the Motor Vehicle Alcohol Test and Lock Program in accordance with the provisions of section three-a, article five-a, chapter seventeen-c of this code: *Provided,* That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however,* That if the person's license has previously been suspended or revoked the person's license more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(2) If a person whose license is revoked pursuant to subdivision (1) of this subsection proves by clear and convincing evidence that they do not own a motor vehicle upon which the alcohol test and lock device may be installed or is otherwise incapable of

participating in the Motor Vehicle Alcohol Test and Lock Program, the period of revocation shall be one hundred eighty days: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided, however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(l) If, in addition to a finding that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person, and if the Office of Administrative Hearings further finds that the alcohol concentration in the blood was a contributing cause to the death, the commissioner shall revoke the person's license for a period of five years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(m) If, in addition to a finding that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused bodily injury to a person other than himself or herself, and if the Office of Administrative Hearings further finds that the alcohol concentration in the blood

was a contributing cause to the bodily injury, the commissioner shall revoke the person's license for a period of two years: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided*, *however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(n) If the Office of Administrative Hearings finds by a preponderance of the evidence that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the commissioner shall suspend the person's license for a period of sixty days: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article, the period of revocation shall be for one year, or until the person's twenty-first birthday, whichever period is longer.

(o) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person's blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did have on or within the motor vehicle another person who has not reached his or her sixteenth birthday, the commissioner shall revoke the person's license for a period of one year: *Provided*, That if the person's license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: *Provided*, *however*, That if the person's license has previously been suspended or revoked more than once under the provisions of this

section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(p) For purposes of this section, where reference is made to previous suspensions or revocations under this section, the following types of criminal convictions or administrative suspensions or revocations shall also be regarded as suspensions or revocations under this section or section one of this article:

(1) Any administrative revocation under the provisions of the prior enactment of this section for conduct which occurred within the ten years immediately preceding the date of arrest;

(2) Any suspension or revocation on the basis of a conviction under a municipal ordinance of another state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in section two, article five of this chapter for conduct which occurred within the ten years immediately preceding the date of arrest; or

(3) Any revocation under the provisions of section seven, article five of this chapter for conduct which occurred within the ten years immediately preceding the date of arrest.

(q) In the case of a hearing in which a person is accused of refusing to submit to a designated secondary test, the Office of Administrative Hearings shall make specific findings as to: (1) Whether the arresting law-enforcement officer had reasonable grounds to believe the person had been driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: *Provided*, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) whether the person committed an offense relating to driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (4) whether the person refused to submit to the secondary

test finally designated in the manner provided in section four, article five of this chapter; and (5) whether the person had been given a written statement advising the person that the person's license to operate a motor vehicle in this state would be revoked for at least forty-five days and up to life if the person refused to submit to the test finally designated in the manner provided in said section.

(r) If the Office of Administrative Hearings finds by a preponderance of the evidence that: (1) The investigating officer had reasonable grounds to believe the person had been driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: *Provided*, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) the person committed an offense relating to driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (4) the person refused to submit to the secondary test finally designated in the manner provided in section four, article five of this chapter; and (5) the person had been given a written statement advising the person that the person's license to operate a motor vehicle in this state would be revoked for at least forty-five days and up to life if the person refused to submit to the test finally designated, the commissioner shall revoke the person's license to operate a motor vehicle in this state for the periods specified in section seven, article five of this chapter. The revocation period prescribed in this subsection shall run concurrently with any other revocation period ordered under this section or section one of this article arising out of the same occurrence. The revocation period prescribed in this subsection shall run concurrently with any other revocation period ordered under this section or section one of this article arising out of the same occurrence.

(s) If the Office of Administrative Hearings finds to the contrary with respect to the above issues, it shall rescind or modify

the commissioner's order and, in the case of modification, the commissioner shall reduce the order of revocation to the appropriate period of revocation under this section or section seven, article five of this chapter. A copy of the Office of Administrative Hearings' final order containing its findings of fact and conclusions of law made and entered following the hearing shall be served upon the person whose license is at issue or upon the person's legal counsel if the person is represented by legal counsel by registered or certified mail, return receipt requested, or by facsimile or by electronic mail if available. The final order shall be served upon the commissioner by electronic mail. During the pendency of any hearing, the revocation of the person's license to operate a motor vehicle in this state shall be stayed.

~~A person whose license is at issue and the commissioner shall be entitled to judicial review as set forth in chapter twenty nine a of this code. Neither the commissioner nor the Office of Administrative Hearings may stay enforcement of the order. The court may grant a stay or supersede as of the order only upon motion and hearing, and a finding by the court upon the evidence presented, that there is a substantial probability that the appellant shall prevail upon the merits and the appellant will suffer irreparable harm if the order is not stayed: *Provided*, That in no event shall the stay or supersede as of the order exceed one hundred fifty days. The Office of Administrative Hearings may not be made a party to an appeal. The party filing the appeal shall pay the Office of Administrative Hearings for the production and transmission of the certified file copy and the hearing transcript to the court. Notwithstanding the provisions of section four, article five of said chapter, the Office of Administrative Hearings may not be compelled to transmit a certified copy of the file or the transcript of the hearing to the circuit court in less than sixty days. Circuit clerk shall provide a copy of the circuit court's final order on the appeal to the Office of Administrative Hearings by regular mail, by facsimile, or by electronic mail if available.~~

(t) Any person whose license is at issue and the commissioner shall be entitled to appeal such decision as a matter of right by requesting such appeal within thirty days after the date upon which

he or she received notice of the final order or written decision of the agency. Such appeal shall be made to the circuit court in the county which the arrest was made. Such hearing on appeal before the circuit court shall be a trial de novo. The Office of Administrative Hearings may not be made a party to an appeal. During any appeal filed pursuant to this subsection, the order revoking or suspending the person's driver's license shall be stayed.

~~(t)~~ (u) In any revocation or suspension pursuant to this section, if the driver whose license is revoked or suspended had not reached the driver's eighteenth birthday at the time of the conduct for which the license is revoked or suspended, the driver's license shall be revoked or suspended until the driver's eighteenth birthday or the applicable statutory period of revocation or suspension prescribed by this section, whichever is longer.

~~(u)~~ (v) Funds for this section's hearing and appeal process may be provided from the Drunk Driving Prevention Fund, as created by section forty-one, article two, chapter fifteen of this code, upon application for the funds to the Commission on Drunk Driving Prevention.

CHAPTER 58. APPEAL AND ERROR.

ARTICLE 5. APPELLATE RELIEF IN SUPREME COURT OF APPEALS.

§58-5-1. Appeal as a matter of right; when appeal lies.

(a) All appeals shall be afforded a full and meaningful review by the Supreme Court of Appeals, and a written decision on the merits shall be issued, as a matter of right.

(b) A party to a civil action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court or from an order of any circuit court constituting a final judgment as to one or more but fewer than all claims or parties upon an express determination by the circuit court that there is no just reason for delay and upon an express direction for the entry of judgment as to such claims or parties.

(c) The defendant in a criminal action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court in which there has been a conviction or which affirms a conviction obtained in an inferior court.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 3030 – “A Bill to amend and reenact §17C-5A-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §58-5-1 of said code, all relating to appeals as a matter of right; providing that parties to decisions of the Office of Administrative Hearings shall be entitled to appeal such decisions as a matter of right; setting time frame for requesting such appeal; specifying court to which appeal is to be made; requiring appeal before circuit court to be trial de novo; specifying that Office of Administrative Hearings is not to be made party to appeal; providing for stay of driver’s license revocation or suspension pending appeal; and providing that all appeals in the West Virginia Supreme Court of Appeals shall be afforded a full and meaningful review and a written decision on the merits.”

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3103, Making a supplementary appropriation to the Department of Health and Human Resources.

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

On page two, section one, line fourteen, by striking out “2” and inserting in lieu thereof “3”.

On page two, section one, line fifteen, by striking out “8” and inserting in lieu thereof “10”.

And,

On page three, section one, line thirteen, by striking out “17a” and inserting in lieu thereof “23a”.

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. 560**), 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: Blair, Hollen, Kelly, Robinson, Rodighiero and Upson.

So, a majority of the members elected to the House of Delegates 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. 561**), 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: Blair, Hollen, Kelly, Robinson, Rodighiero 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.

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates, with further amendment, and the passage, of

Com. Sub. for S. B. 134, Authorizing Bureau of Commerce to promulgate legislative rules.

Delegate Cowles moved that the House of Delegates concur in the following amendment by the Senate:

On page one, by striking out the article heading and inserting in lieu thereof a new article heading, to read as follows:

“ARTICLE 10. AUTHORIZATION FOR DEPARTMENT OF COMMERCE TO PROMULGATE LEGISLATIVE RULES.”

And,

On page two, section three, by striking out the words “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 inserting in lieu thereof the following: The Legislature directs the Board of Coal Mine Health and Safety, pursuant to the authority given to the board in section four, article six, chapter twenty-two-a of this code, to promulgate the legislative rule filed in the State Register by the Board of Coal Mine Health and Safety on July 1, 2014, relating to rules governing proximity detection systems and haulage safety generally, (36 CSR 57), with the amendment set forth below” followed by a colon.

And,

By amending the title of the bill to read as follows:

Com. Sub. for S. B. 134 – “A Bill to amend and reenact §64-10-1, §64-10-2 and §64-10-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain Department of Commerce legislative rules; authorizing certain agencies to promulgate certain legislative rules as presented to the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with various modifications

presented to and recommended by the Legislative Rule-Making Review Committee; repealing certain legislative rules promulgated by certain agencies and boards under the Department of Commerce which are no longer authorized or are obsolete; directing the promulgation rules by certain agencies and boards under the Department of Commerce; authorizing the Division of Natural Resources to promulgate a legislative rule relating to the point system for the revocation of hunting – repeal; authorizing the Division of Natural Resources to promulgate a legislative rule relating to revocation of hunting and fishing licenses; authorizing the Division of Natural Resources to promulgate a legislative rule relating to special waterfowl hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to the commercial sale of wildlife; authorizing the Division of Natural Resources to promulgate a legislative rule relating to miscellaneous permits and licenses; repealing the Division of Natural Resources legislative rule relating to litter control grant program; authorizing the Office of Miners’ Health, Safety and Training to promulgate a legislative rule relating to certification, recertification and training of EMT-Miners and the certification of EMT-M instructors; and directing the Board of Coal Mine Health and Safety to promulgate a legislative rule relating to rules governing proximity detection systems and haulage safety generally.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 562**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Blair, Hollen, Kelly, Robinson, Rodighiero 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. 134) passed.

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

On this question, the yeas and nays were taken (**Roll No. 563**), 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: Blair, Hollen, Kelly, Robinson, Rodighiero 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 S. B. 134) 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 House of Delegates amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for S. B. 441, Establishing Municipal Home Rule Pilot Program.

On motion of Delegate Cowles, the House concurred in the following amendment to the title of the bill by the Senate:

Com. Sub. for S. B. 441 – “A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to municipal home rule; establishing the Municipal Home Rule Pilot Program as a permanent program identified as the Municipal Home Rule Program; providing that any ordinance, act, resolution, rule or regulation enacted pursuant to the Municipal Home Rule Pilot Program shall continue until repealed; clarifying the authority of the Municipal Home Rule Board; allowing all municipalities to participate in the Municipal Home Rule Program; requiring certain notice prior to passing of an ordinance; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule or regulation that is contrary to certain laws governing the professional licensing or certification of public employees; providing for petition procedures to protest enacted or amended ordinances; requiring ratification of certain ordinances by the voters in a municipal election; and eliminating

the automatic termination of the Municipal Home Rule Pilot Program on July 1, 2019.”

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. 564**), and there were—yeas 88, nays 2, absent and not voting 10, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Blair, G. Foster, Hanshaw, Hollen, Kelly, R. Miller, Robinson, Rodighiero, Sobonya 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. 441) passed.

On motion of Delegate Cowles, the House then reconsidered the vote on the passage of the bill.

Delegate Howell requested to be excused from voting on the passage of Com. Sub. for S. B. 441 under the provisions of House Rule 49.

The Speaker replied that Delegate Howell may exhibit 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. 565**), and there were—yeas 90, nays 3, excused 1, absent and not voting 6, with the nays, excused and absent and voting being as follows:

Nays: Folk, McGeehan and Sobonya.

Excused: Howell.

Absent and Not Voting: Blair, G. Foster, Hanshaw, Robinson, Rodighiero 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. 441) 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 by the Senate in the amendment of the House of Delegates, with further amendment, and the adoption, as amended, of

Com. Sub. for S. J. R. 6, Roads to Prosperity Amendment of 2017.

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

On page one, following the Resolved section, by striking out the remainder of the resolution and inserting in lieu thereof the following:

“Roads to Prosperity Amendment of 2017.

(a) The Legislature shall have power to authorize the issuing and selling of state bonds not exceeding in the aggregate \$1.6 billion. The proceeds of said bonds are hereby authorized to be issued and sold over a four-year period in the following amounts:

- (1) July 1, 2017, an amount not to exceed \$800 million;
- (2) July 1, 2018, an amount not to exceed \$400 million;
- (3) July 1, 2019, an amount not to exceed \$200 million; and
- (4) July 1, 2020, an amount not to exceed \$200 million.

Any bonds not issued under the provisions of subdivisions (1) through (3), inclusive, of this subsection may be carried forward and issued in any subsequent year before July 1, 2021.

(b) The proceeds of the bonds shall be used and appropriated for the following purposes:

(1) Matching available federal funds for highway and bridge construction in this state; and

(2) General highway and secondary road and bridge construction or improvements in each of the fifty-five counties.

(c) When a bond issue as aforesaid is authorized, the Legislature shall at the same time provide for the collection of an annual state tax which shall be in a sufficient amount to pay the interest on such bonds and the principal thereof as such may accrue within and not exceeding twenty-five years. Such taxes shall be levied in any year only to the extent that the moneys in the state road fund irrevocably set aside and appropriated for and applied to the payment of the interest on and the principal of said bonds becoming due and payable in such year are insufficient therefor. Any interest that accrues on the issued bonds prior to payment shall only be used for the purposes of the bonds.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such proposed amendment is hereby numbered “Amendment No. 1” and designated as the “Roads to Prosperity Amendment of 2017” and the purpose of the proposed amendment is summarized as follows: “To provide for the improvement and construction of safe roads in the state by the issuance of bonds not to exceed \$1.6 billion in the aggregate to be paid for from the State Road Fund and the collection of annual state taxes as provided by the Legislature by general law.”

On the motion to concur, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 566**), and there were—yeas 76, nays 20, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Butler, Deem, Ellington, Fast, Folk, N. Foster, Frich, Gearheart, Hamrick, Hill, Howell, Martin, McGeehan, Moore, Overington, Paynter, Sobonya, Storch, Summers and Wilson.

Absent and Not Voting: Atkinson, G. Foster, Hanshaw and Williams.

So, a majority of the members present and voting having voted in the affirmative, the motion to concur was adopted.

The resolution, as amended by the House, and further amended by the Senate, was then put upon its adoption.

On the adoption of the resolution, the yeas and nays were taken (**Roll No. 567**), and there were—yeas 84, nays 11, absent and not voting 5, with the nays and absent and not voting being as follows:

Yeas: Ambler, Anderson, Arvon, Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Capito, Caputo, Cooper, Cowles, Dean, Diserio, Eldridge, Ellington, Espinosa, A. Evans, E. Evans, Fast, Ferro, Fleischauer, Fluharty, N. Foster, Frich, Hamilton, Hamrick, Harshbarger, Hartman, Hicks, Higginbotham, Hollen, Hornbuckle, Householder, Howell, Iaquinta, Isner, Kelly, Lane, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, Miley, C. Miller, R. Miller, Moore, Moye, Nelson, O'Neal, Overington, Pethtel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, C. Romine, R. Romine, Rowan, Rowe, Shott, Sobonya, Sponaugle, Statler, Summers, Sypolt, Thompson, Upson, Wagner, Ward, Westfall, White, Zatezalo and Mr. Speaker (Mr. Armstead).

Nays: Deem, Folk, Gearheart, Hill, Kessinger, Martin, McGeehan, Paynter, Storch, Walters and Wilson.

Absent and Not Voting: Atkinson, Criss, G. Foster, Hanshaw and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the resolution (Com. Sub. for S. J. R. 6) adopted, as follows:

Com. Sub. for S. J. R. 6 – “Proposing an amendment to the Constitution of the State of West Virginia, 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 and bridges; 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.”

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at a special election to be held at a date set by the Governor in 2017 and proclaimed in accordance with section three, article eleven, chapter three of the Code of West Virginia, which proposed amendment is to read as follows:

Roads to Prosperity Amendment of 2017.

(a) The Legislature shall have power to authorize the issuing and selling of state bonds not exceeding in the aggregate \$1.6 billion dollars. The proceeds of said bonds are hereby authorized to be issued and sold over a four-year period in the following amounts:

- (1) July 1, 2018, an amount not to exceed \$800 million;
- (2) July 1, 2019, an amount not to exceed \$400 million;
- (3) July 1, 2020, an amount not to exceed \$200 million; and
- (4) July 1, 2021, an amount not to exceed \$200 million.

Any bonds not issued under the provisions of subdivisions (1) through (3), inclusive, of this subsection may be carried forward and issued in any subsequent year before July 1, 2022.

(b) The proceeds of the bonds shall be used and appropriated for the following purposes:

(1) Matching available federal funds for highway and bridge construction in this state; and

(2) General highway and secondary road and bridge construction or improvements in each of the fifty-five counties.

(c) Any interest that accrues on the issued bonds prior to payment shall only be used for the purposes of the bonds.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such proposed amendment is hereby numbered “Amendment No. 1” and designated as the “Roads to Prosperity Amendment of 2017” and the purpose of the proposed amendment is summarized as follows: “To provide for the improvement and construction of safe roads in the state.”

Delegate Cowles moved that the joint resolution take effect from its passage.

Delegate Cowles then asked and obtained unanimous consent that the motion be withdrawn.

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

Conference Committee Report Availability

At 7:35 p.m., the Clerk announced availability in his office of the reports of the Committee of Conference on Com. Sub. for H. B. 2329, Prohibiting the production, manufacture or possession of fentanyl, Com. Sub. for H. B. 2579, Increasing the penalties for transporting controlled substances, and Com. Sub. for H. B. 2585, Creating felony crime of conducting financial transactions involving proceeds of criminal activity.

Conference Committee Report

Delegate Walters, from the Committee of Conference on matters of disagreement between the two houses, as to

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

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the Senate amendment to Com. Sub. for H. B. 2721 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate recede from its amendment on page four, section five, lines seventy-six and seventy-seven.

That the Senate recede from its amendment on page seven, section nine, lines sixty and sixty-one.

And the House of Delegates agrees to the amendment of the Senate on page eight, beginning on line sixty-five, by striking out subsection (i).

And,

That both houses recede from their positions as to the title of the bill and agree to the same 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; and extending the time limitation by which agreements must be made."

Respectfully submitted,

Ron Walters, *Chair*,

Greg Boso, *Chair*,

Marty Gearheart,

Chandler Swoope,

Mick Bates,

Glenn Jeffries,

*Conferees on the part
of the House of Delegates.*

*Conferees on the part
of the Senate.*

On motion of Delegate Walters, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 568**), 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: Atkinson, Criss, Fleischauer, G. Foster, Hanshaw 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. 2721) passed.

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

Delegate Walters, from the Committee of Conference on matters of disagreement between the two houses, as to

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

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the Senate amendment to Com. Sub. for H. B. 2722 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate on page one, section two, lines five through twelve, and agree to the same as follows:

“(b) The Division of Highways may expend no more than \$50 million in each year in the program: *Provided*, That if any of the \$50

million is unused in one year, the remaining amount may be applied to the following year's amount: *Provided, however,* That the total aggregate amount to be expended may not exceed \$150 million in any one year: *Provided further,* That for fiscal years beginning after June 30, 2017, the Division of Highways may expend no more than \$200 million on any one project: *And provided further,* That for fiscal years beginning after June 30, 2017, the Division of Highways may expend no more than \$400 million in each year in the program: *And provided further,* That for fiscal years beginning after June 30, 2017, if any of the \$400 million is unused in any year, the remaining amount may be applied to the following year's amount: *And provided further,* That for fiscal years beginning after June 30, 2017, the total aggregate amount to be expended may not exceed \$500 million in any one year: *And provided further,* That expenditures made for projects that are necessitated by a declared state of emergency within a county that the Governor has included in a declaration of emergency are not to be included against the expenditure limits provided in this subsection.”

That the Senate recede from its position as to the amendment of the Senate on page one, section two, line seventeen.

And,

That both houses recede from their positions as to the title of the bill and agree to the same 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 highway construction using the design-build program; changing maximum amounts that may be expended for projects using the design-build program for highway construction and making certain exceptions to expenditure limits.”

Respectfully submitted,

Ronald N. Walters, *Chair*

Greg Boso, *Chair*

Marty Gearheart,

Chandler Swope,

Mick Bates,

Glenn Jeffries,

*Conferees on the part
of the House of Delegates*

*Conferees on the part
of the Senate.*

On motion of Delegate Walters, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 569**), 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: Atkinson, Criss, Fleischauer, G. Foster, Hanshaw 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. 2722) passed.

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

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. 2805, Finding and declaring certain claims against the state and its agencies to be moral obligations of 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 Sypolt, Boso and Facemire.

On motion of Delegate Cowles the House reconsidered its earlier actions and concurred in the following amendment of the bill by the Senate:

On page seven, section one, by striking out paragraph (116).

On page twenty, section one, by striking out paragraph (466).

On page twenty-one, section one, by striking out paragraph (480).

And,

By renumbering the remaining paragraphs.

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. 570**), and there were—yeas 90, nays 2, absent and not voting 8, with the nays and absent and not voting being as follows:

Nays: Anderson and Kelly.

Absent and Not Voting: Atkinson, Blair, Criss, Fleischauer, G. Foster, Hanshaw, Upson and Williams.

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. 2805) passed.

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

On this question, the yeas and nays were taken (**Roll No. 571**), and there were—yeas 91, nays 1, absent and not voting 8, with the nays and absent and not voting being as follows:

Nays: Kelly.

Absent and Not Voting: Atkinson, Blair, Criss, Fleischauer, G. Foster, Hanshaw, Upson and Williams.

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.

Conference Committee Report Availability

At 7:55 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on 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.

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. 2109, Relating to the West Virginia Land Reuse Agency Authorization Act.

Conference Committee Report Availability

At 7:58 p.m., the Clerk announced availability in his office of the reports of the Committee of Conference on S. B. 172, Eliminating salary for Water Development Authority board members.

Messages from the Senate

The House then resumed consideration of Com. Sub. for H. B. 2109.

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 §31-18E-3 and §31-18E-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 18E. WEST VIRGINIA LAND REUSE AGENCY
AUTHORIZATION ACT.**

§31-18E-3. Definitions.

As used in this article:

(1) ‘Board’ means the board of directors of a land reuse agency;

(2) ‘Deconstruct’ means to attempt to remove salvageable pieces of a housing unit prior to or as part of demolition or renovation;

(3) ‘Financial institution’ means a bank, savings association, operating subsidiary of a bank or savings association, credit union, association licensed to originate mortgage loans or an assignee of a mortgage or note originated by such an institution;

(4) ‘Land reuse agency’ means a public body established under this article;

(5) ‘Land reuse jurisdiction’ means: (A) A county or municipality in this state; or (B) two or more municipalities or counties that enter into an intergovernmental cooperation agreement to establish and maintain a land reuse agency;

(6) ‘Municipal land bank’ means a department or agency of a municipality, or an entity lawfully created by a municipality, engaged in activities designed to address issues related to vacant, abandoned and tax-delinquent real property, including but not limited to, the purchase, rehabilitation, improvement or sale of such properties for the purpose of eliminating blight and returning those properties to productive use.

~~(6)~~ (7) ‘Municipality’ means a municipality as defined in section two, article one, chapter eight of this code; and

~~(7)~~ (8) ‘Real property’ means all lands, including improvements and fixtures on them and property of any nature appurtenant to them or used in connection with them and every estate, interest and right, legal or equitable, in them, including

terms of years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by the liens.

§31-18E-9. Acquisition of property.

(a) *Title to be held in its name.* – A land reuse agency or municipal land bank shall hold in its own name all real property it acquires.

(b) *Tax exemption.* – (1) Except as set forth in subdivision (2) of this subsection, the real property of a land reuse agency or municipal land bank and its income and operations are exempt from property tax.

(2) Subdivision (1) of this subsection does not apply to real property of a land reuse agency or municipal land bank after the fifth consecutive year in which the real property is continuously leased to a private third party. However, real property continues to be exempt from property taxes if it is leased to a nonprofit or governmental agency at substantially less than fair market value.

(c) *Methods of acquisition.* – A land reuse agency or municipal land bank may acquire real property or interests in real property by any means on terms and conditions and in a manner the land reuse agency considers proper: *Provided*, That a land reuse agency or municipal land bank may not acquire any interest in oil, gas or minerals which have been severed from the realty.

(d) *Acquisitions from municipalities or counties.* – (1) A land reuse agency or municipal land bank may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts and land contracts and may accept transfers from municipalities or counties upon terms and conditions as agreed to by the land reuse agency or municipal land bank and the municipality or county.

(2) A municipality or county may transfer to a land reuse agency or municipal land bank real property and interests in real property of the municipality or county on terms and conditions and according to procedures determined by the municipality or county

as long as the real property is located within the jurisdiction of the land reuse agency or municipal land bank.

(3) An urban renewal authority, as defined in section four, article eighteen, chapter sixteen of this code, located within a land reuse jurisdiction established under this article may, with the consent of the local governing body and without a redevelopment contract, convey property to the land reuse agency. A conveyance under this subdivision shall be with fee simple title, free of all liens and encumbrances.

(e) *Maintenance.* – A land reuse agency or municipal land bank shall maintain all of its real property in accordance with the statutes and ordinances of the jurisdiction in which the real property is located.

(f) *Prohibition.* – (1) Subject to the provisions of subdivision (2) of this subsection, a land reuse agency or municipal land bank may not own or hold real property located outside the jurisdictional boundaries of the entities which created the land reuse agency under subsection (c), section four of this article.

(2) A land reuse agency or municipal land bank may be granted authority pursuant to an intergovernmental cooperation agreement with a municipality or county to manage and maintain real property located within the jurisdiction of the municipality or county.

(g) *Acquisition of tax delinquent properties.* – (1) Notwithstanding any other provision of this code to the contrary, if authorized by the land reuse jurisdiction which created a land reuse agency or municipal land bank or otherwise by intergovernmental cooperation agreement, a land reuse agency or municipal land bank may acquire an interest in tax delinquent property through the provisions of chapter eleven-a of this code. Notwithstanding the provisions of section eight, article three, chapter eleven-a of this code, if no person present at the tax sale bids the amount of the taxes, interest and charges due on any unredeemed tract or lot or undivided interest in real estate offered for sale, the sheriff shall, prior to certifying the real estate to the Auditor for disposition pursuant to section forty-four, article three, chapter eleven-a of this

code, provide a list of all of said real estate within a land reuse or municipal land bank jurisdiction to the land reuse agency or municipal land bank and the land reuse agency or municipal land bank shall be given an opportunity to purchase the tax lien and pay the taxes, interest and charges due for any unredeemed tract or lot or undivided interest therein as if the land reuse agency or municipal land bank were an individual who purchased the tax lien at the tax sale.

(2) Notwithstanding any other provision of this code to the contrary, if authorized by the land reuse jurisdiction which created a land reuse agency or municipal land bank or otherwise by intergovernmental cooperation agreement, the land reuse agency or municipal land bank shall have the right of first refusal to purchase any tax-delinquent property which is within municipal limits, and has an assessed value of \$25,000 or less or has been condemned: Provided, That the land reuse agency or municipal land bank satisfies the requirements of subdivision (3) of this subsection. A list of properties which meet the criteria of this subdivision shall regularly be compiled by the sheriff of the county, and a land reuse agency or municipal land bank may purchase any qualifying tax-delinquent property for an amount equal to the taxes owed and any related fees before such property is placed for public auction.

(3) When a land reuse agency or municipal land bank exercises a right of first refusal in accordance with subdivision (2) of this section, the land reuse agency or municipal land bank shall, within fifteen days, provide written notice to all owners of real property that is adjacent to the tax-delinquent property. Any such property owner shall have a period of 120 days from the receipt of notice, actual or constructive, to exercise a right to purchase the tax-delinquent property from the land reuse agency or municipal land bank for an amount equal to the amount paid for the property by the land reuse agency or municipal land bank: Provided, That in the event more than one adjacent land owner desires to purchase the tax-delinquent property, it shall be sold to the adjacent property owner offering the highest bid. It is the duty of the adjacent property owner to establish that he or she is the actual owner of property that is adjacent to the tax-delinquent property and all state

and local taxes and all fees on his or her adjacent property are current and non-delinquent.

(4) Effective July 1, 2020, the provisions of subdivisions (2) and (3) of this subsection shall sunset and have no further force and effect.

(5) Prior to January 1, 2020, any land reuse agency or municipal land bank which exercises the authority granted by this subsection may submit to the Joint Committee on Government and Finance a report on the entity's activities related to the purchase of tax-delinquent properties and any benefits realized from the authority granted by this subsection."

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2109 - "A Bill to amend and reenact §31-18E-3 and §31-18E-9 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Land Reuse Agency Authorization Act; defining the term 'municipal land bank'; including a municipal land bank as an agency that may acquire property; providing that a land reuse agency or a municipal land bank may have the right of first refusal to buy certain tax delinquent property for taxes owed and any related fees before the tax delinquent property is placed for public auction at tax sales; providing procedures for when a land reuse agency or municipal land bank exercises a first right of refusal to purchase tax-delinquent property; requiring county sheriffs to compile a list of properties meeting certain criteria; granting owners of adjacent real property a right to purchase a tax delinquent property from a land reuse agency or municipal land bank, within 120 days of receiving notice, for an amount equal to the amount paid for the property by the land reuse agency or municipal land bank; providing a three year sunset provision; and authorizing reporting to the Legislature."

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. 572**), and there were—yeas 73, nays 23, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Arvon, Blair, Butler, Cowles, Folk, N. Foster, Frich, Gearheart, Hill, Howell, Jaquinta, Kessinger, Martin, McGeehan, Paynter, Sobonya, Statler, Summers, Sypolt, Thompson, Upson, Wagner and Wilson.

Absent and Not Voting: A. Evans, Fleischauer, G. Foster and Hanshaw.

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. 2109) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2637, Relating to employment of retired teachers and prospective employable professional personnel in areas of critical need and shortage.

Conference Committee Report Availability

At 8:00 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on Com. Sub. for S. B. 224, Repealing requirement for employee's bond for wages and benefits.

Messages from the Senate

The House then resumed consideration of **Com. Sub. for H. B. 2637**.

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

On page six, section three, lines one hundred nineteen through one hundred twenty-six, by striking out all of subdivision (5) and inserting in lieu thereof a new subdivision, designated subdivision (5), to read as follows:

“(5) Regular employment status for prospective employable professional personnel may be obtained only upon recommendation by the superintendent and approval by the county board following consideration of the qualifications of the candidate in accordance with the applicable provisions of section seven-a, article four of this chapter. Upon board approval, prospective employable professional personnel may be placed into a critical needs position if the job has been posted at least once in accordance with paragraph (B), subdivision (1) of this subsection resulting in no qualified applicants. Employment of the prospective employable professional personnel pursuant to this subsection may occur without the need for additional postings and without the need for additional faculty senate involvement other than the initial faculty senate involvement required in the case of a classroom teaching position pursuant to section seven-a, article four of this chapter.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2637 – “A Bill to amend and reenact §18A-2-3 of the Code of West Virginia, 1931, as amended, relating to employment of retired teachers and prospective employable professional personnel in areas of critical need and shortage; including speech pathologists and school nurses in definition of teacher or substitute teacher for purposes of employment of retired teachers beyond the post-retirement limit; establishing uniform date retirement must become effective to determine status of retirement benefits during employment as critical needs substitute teacher; restating reporting requirement to legislative committees; extending date for expiration of provisions related to employment of retired teacher as substitute teach beyond the post-retirement limit; eliminating requirement that county policy for employment of prospective employable professional personnel be based on

areas of critical need and shortage identified by state board; requiring posting of notice of critical need and shortage area positions prior to making offers of employment and options for posting; limiting employment of prospective employable professional personnel to certain candidates at job fair who will commence employment at the next employment term; changing limit on number of prospective employable professional personnel that may be employed to number required to fill positions posted; clarifying action required for prospective employable professional personnel to obtain regular employment status; clarifying that provisions relating to prospective employable professional personnel do not prevent filling posted vacancy at any time in accordance with other provisions; eliminating any requirement for successive postings where there were no qualified applicants in response to the initial posting; clarifying that no additional faculty senate involvement is required after initial faculty senate involvement; and allowing financial incentives for purposes of recruiting professional personnel in critical needs areas and to attract professional personnel in a critical need or shortage area.”

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. 573**), 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: Fleischauer, G. Foster and Hanshaw.

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. 2637) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2708, Relating to a lawful method for a developmentally disabled person to purchase a base hunting license.

Delegate Cowles moved that the House of Delegates concur 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 §20-2-27, §20-2-30a, §20-2-42a, §20-2-42q, §20-2-42s and §20-2-42v of the Code of West Virginia, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §20-3-3a, to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

PART II.

LICENSES AND PERMITS.

§20-2-27. Necessity for license; contact information exempted.

~~Except as otherwise provided by law, no resident who has reached his or her fifteenth birthday and who has not reached his or her sixty fifth birthday before January 1, 2012, and no nonresident shall at any time take, hunt, pursue, trap for, kill or chase any wild animals, wild birds, or fish for, take, kill or catch any fish, amphibians or aquatic life of any kind whatsoever in this state without first having secured a license or permit and then only during the respective open seasons, except that a nonresident who has not reached his or her fifteenth birthday may fish for, take, kill or catch any fish, amphibians or aquatic life of any kind whatsoever in this state without first having secured a license or permit. A person under the age of fifteen years shall not hunt or chase any wild animals or wild birds upon lands of another unless accompanied by a licensed adult.~~

(a) Except as otherwise provided by law, a resident between the ages of fifteen and sixty-five, and all nonresidents, may not hunt or take wildlife of any kind in this state without the requisite

license, stamp or permit, and then only during the respective open seasons. A resident who is fourteen or younger may hunt and take wildlife without a license if accompanied by a licensed adult. A resident and nonresident who is fourteen or younger may fish for and take fish, amphibians or aquatic life without a license.

(b) Except as otherwise provided by law, A a resident or nonresident member of any club, organization or association, or persons owning or leasing a game preserve, or fish preserve, ~~plant or pond in this state shall~~ may not hunt or fish therein without first securing a the requisite license, stamp or permit as required by law: *Provided*, That resident landowners or their resident children, or bona fide resident tenants of land, may, without a ~~permit or license, stamp or permit~~, hunt and fish on their own land during the respective open seasons in accordance with laws and rules applying to such hunting and fishing unless the lands have been designated as a wildlife refuge or preserve.

(c) Licenses, stamps and permits shall be of the kinds and classes are set forth in this article and shall be conditioned upon the require payment of the requisite fees established for the licenses and permits.

(d) The list of names, addresses and other contact information of all licensees compiled and maintained by the division as a result of the sale and issuance of any resident or nonresident license, stamp or permit, as well as any electronic game information or other personal information obtained pursuant to this chapter, is exempt from disclosure by the division under the Freedom of Information Act, chapter twenty-nine-b of this code, and for any other purpose: *Provided*, That the records specified in this section shall be available to all law-enforcement agencies, courts or other governmental entities authorized to request or receive the records.

§20-2-30a. Certificate of training; falsifying, altering, forging, counterfeiting or uttering training certificate; modified certificate of training; penalties.

(a) Notwithstanding any other provisions of this article, ~~no~~ a base hunting license may not be issued to any person who was born

on or after January 1, 1975, unless the person submits to ~~the person authorized to issue hunting licenses~~ a certificate of training as provided in this section or proof of completion of any course ~~which that~~ promotes as a major objective safety in the handling of firearms and of bow and arrows and which course is approved by the hunter education association or the director., ~~or provides a State of West Virginia~~ A resident or nonresident may show a hunting license from the previous hunting season that displays a certification of training, or ~~attests they may attest~~ that a hunter training course has been completed when purchasing a license or stamp online.: ~~Provided, That after January 1, 2013, However,~~ a person may be issued a Class AH, Class AHJ, Class AAH and Class AAHJ apprentice hunting and trapping license pursuant to the provisions of section forty-two-y of this article ~~and is exempt from~~ without completing the hunter training requirements set forth herein.

(b)(1) The director shall establish a course in the safe handling of firearms and of bows and arrows, such as the course approved by the Hunter Education Association. This course shall be given at least once per year in each county in this state and shall be taught by instructors certified by the director. In establishing and conducting this course, the director may cooperate with any reputable association or organization which promotes as a major objective safety in the handling of firearms and of bows and arrows.: ~~Provided, That any~~

(2) A person holding a Class A-L or AB-L lifetime resident license obtained prior to his or her fifteenth birthday shall be required to obtain a certificate of training as provided in this section before hunting or trapping pursuant to said license. This course of instruction shall be offered without charge, except for materials or ammunition consumed. Upon satisfactory completion of the course, each person instructed in the course shall be issued a certificate of training for the purposes of complying with the requirements of subsection (a) of this section. The certificate shall be in the form prescribed by the director and shall be valid for hunting license application purposes.

(c) (1) Upon satisfactory completion of this course, any person whose hunting license has been revoked for a violation of the provisions of this chapter may petition the director for a reduction of his or her revocation time. However, under no circumstances may the time be reduced to less than one year.

(2) Successful completion of this course shall be required to consider the reinstatement of a hunting license of any person whose license has been revoked due to a conviction for negligent shooting of a human being or of livestock under the provisions of section fifty-seven of this article, and who petitions the director for an early reinstatement of his or her hunting privileges. Such a petitioner shall also comply with the other requirements for consideration of reinstatement contained in section thirty-eight of this article.

(d) It is unlawful for any person to falsify, alter, forge, counterfeit or utter a certificate of training. Any person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, or confined in jail for a period not to exceed one year, or both fined and imprisoned.

(e) ~~Nothing herein contained shall~~ This section does not mandate that any a county school district ~~in the state be is~~ responsible for implementing hunter safety education programs.

(f) (1) Notwithstanding the provisions of this section, a base hunting license may be issued to any person who has a developmental disability whose disability affects his or her ability to undertake a written test. The developmentally disabled person must attend an on-site hunter training course and must successfully complete all non-written aspects of the course to receive a modified certificate of training to purchase a base hunting license. For purposes of this section, 'developmentally disabled' has the same meaning as prescribed in subsection (j), section twenty-eight of this article.

(2) As part of the application process for a license purchased under a modified certificate of training, a person with a developmental disability shall present to the division a written

application form furnished by the director and signed by a licensed physician indicating that the person is:

(A) Unable to successfully complete a standard written test administered as part of the hunter training course;

(B) At all times capable of understanding and following directions given by another person; and

(C) Not a danger to himself or herself or others while engaged in hunting with a firearm.

(3) A person with a license purchased under a modified certificate of training may not hunt or trap unless he or she is in possession of all other required documentation and stamps and is accompanied and directly supervised by an adult eighteen years of age or older who either possesses a valid West Virginia hunting license or has the lawful privilege to hunt pursuant to the provisions of this chapter. For purposes of this subsection, ‘accompanied and directly supervised’ means that a person maintains a close visual and verbal contact with, provides adequate direction to and can assume control of the firearm from the developmentally disabled person.

(4) Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, is subject to the punishment and penalties prescribed in section nine, article seven of this chapter.

§20-2-42a. Class A resident hunting and trapping license.

A Class A license is a resident hunting and trapping license and entitles the licensee to hunt and trap all legal species of wild animals and wild birds in all counties of the state, except that the licensee may not hunt deer during the deer archery, crossbow and muzzleloader seasons, or black bear, wild turkey or wild boar during the respective seasons, and except as prohibited by rules of the director or Natural Resources Commission and when additional licenses, stamps or permits are required. It shall be issued only to residents or aliens lawfully residing in the United States who have been domiciled residents of West Virginia for a period of thirty

consecutive days or more immediately prior to the date of their application for a license. The fee for the license is \$18. 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.

§20-2-42q. Class RB resident and Class RRB nonresident archery deer hunting stamp for an additional deer.

The director has the authority to issue a Class RB resident and a Class RRB nonresident archery deer hunting stamp when deemed essential for the proper management of the wildlife resources. This stamp allows the licensee to hunt and take an additional deer during the deer archery or crossbow seasons as designated by the director. The fee for a Class RB stamp is \$20 and the fee for a Class RRB stamp is \$35. The director may promulgate rules in accordance with article three, chapter twenty-nine-a of this code governing the issuance and use of these stamps. These stamps require that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

§20-2-42s. Class UU nonresident archery deer hunting stamp.

A Class UU stamp is a nonresident archery deer hunting stamp and entitles the licensee to hunt and take deer with a bow during the archery deer season or with a crossbow in the crossbow deer season in all counties of the state, except as prohibited by the rules of the director or Natural Resources Commission. The fee for a Class UU stamp is \$30. The stamp, issued in a form prescribed by the director, shall be in addition to a Class E license. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

§20-2-42v. Class BG resident big game stamp.

A Class BG stamp is a resident big game stamp and entitles the Class A licensee to hunt deer during the deer archery, crossbow and muzzleloader seasons, and bear, wild turkey and wild boar during the respective seasons, except as prohibited by rules of the

director or Natural Resources Commission: *Provided*, That the licensee possesses all other required permits and/or stamps. The fee for the stamp is \$10. The stamp, issued in a form prescribed by the director, shall be in addition to a Class A license. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

ARTICLE 3. FORESTS AND WILDLIFE AREAS.

§20-3-3a. Cabwaylingo Pilot Project and Special Permit.

(a) The director shall establish a two-year pilot project permitting all-terrain vehicles (ATVs) and off-highway recreational vehicles (ORVs) to drive on roads and trails in Cabwaylingo State Forest, as designated and approved by the director. The director may establish special seasons and designate certain campgrounds and tent sites for ATV and ORV users in the forest.

(b) The director may establish a special permit for purchase by the ATV and ORV users for road and trail access, and may close any areas, or parts thereof, to public use. It is unlawful at any time to operate an ATV or ORV on any roads and trails in Cabwaylingo State Forest without the special permit.

(c) The provisions of article fifteen of this chapter shall apply to the division, participants, outfitters and licensees of the Cabwaylingo pilot project, though ORVs may be permitted.

(d) At the conclusion of the two-year pilot project, the Legislative Auditor shall review the pilot project and file a report with the Joint Committee on Government and Finance.”

And,

By amending the title of the bill to read as follows:

Com. Sub for H. B. 2708 – “A Bill to amend §20-2-27, §20-2-30a, §20-2-42a, §20-2-42q, §20-2-42s and §20-2-42v of the Code of West Virginia, 1931, as amended; and to amend said code

by adding thereto a new section, designated §20-3-3a, all relating to licenses and permits generally; exempting certain contact information for hunting and fishing license holders from public disclosure with certain exceptions; clarifying use of crossbows with certain licenses and stamps clarifying license requirements for disabled person; modifying certificate of training requirements for disabled person; providing criminal penalties for violations; creating a special permit for certain vehicles on certain roads and trails in Cabwaylingo State Forest; permitting the director discretion to establish special season and other aspects of two-year pilot project; applying the ATV, UTV and Motorcycle Responsibility Act to the project; requiring Legislative Auditor to review project and file report; and making technical corrections.”

Delegate Cowles then asked and obtained unanimous consent that the motion to concur in the Senate amendments be withdrawn.

At 8:14 p.m., on motion of Delegate Cowles, the House of Delegates recessed for fifteen minutes.

* * * * *

Evening Session

* * * * *

-Continued-

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

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. 2303, Increasing criminal penalties for littering.

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 section and inserting in lieu thereof the following:

**“ARTICLE 15A. THE A. JAMES MANCHIN
REHABILITATION ENVIRONMENTAL ACTION
PLAN.**

**§22-15A-4. Unlawful disposal of litter; civil and criminal
penalty; litter control fund; evidence; notice violations;
litter receptacle placement; penalty; duty to enforce
violations.**

(a) (1) No person ~~shall~~ may place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter as defined in section two of this article, in or upon any public or private highway, road, street or alley; any private property; any public property; or the waters of the state or within one hundred feet of the waters of this state, except in a proper litter or other solid waste receptacle.

(2) It is unlawful for any person to place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter from a motor vehicle or other conveyance or to perform any act which constitutes a violation of the motor vehicle laws contained in section fourteen, article fourteen, chapter seventeen-c of this code.

(3) If any litter is placed, deposited, dumped, discharged, thrown or caused to be placed, deposited, dumped or thrown from a motor vehicle, boat, airplane or other conveyance, it is prima facie evidence that the owner or the operator of the motor vehicle, boat, airplane or other conveyance intended to violate the provisions of this section.

(4) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter on his or her private property in an amount not exceeding fifty pounds in weight is not subject to the criminal provisions of this section.

~~(4)~~(5) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be

placed, deposited, dumped or thrown any litter, not collected for commercial purposes, in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, is guilty of a misdemeanor. Upon conviction, he or she is subject to a fine of not less than \$100 nor more than ~~\$1,000~~ \$2,500, or in the discretion of the court, sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property, or waters of the state, as designated by the court, for not less than eight nor more than ~~sixteen hours~~ one hundred hours, or both. If any person is convicted of the misdemeanor by placing, depositing, dumping or throwing litter in the waters of the state, that person shall be fined \$500 to no more than \$3,000, or in the discretion of the court sentenced to perform community service by cleaning up litter from any waters of the state, as designated by the court, for not less than twenty to no more than one hundred twenty hours, or both.

~~(5)~~(6) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter, not collected for commercial purposes, in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size is guilty of a misdemeanor. Upon conviction he or she is subject to a fine of not less than ~~\$1,000~~ \$2,500 nor more than ~~\$2,000~~ \$5,000, or in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property, or waters of the state, as designated by the court, for not less than sixteen nor more than ~~thirty-two hours~~ two hundred hours, or both. If any person is convicted of the misdemeanor by placing, depositing, dumping or throwing litter in the waters of the state, that person shall be fined \$3,000 to no more than \$5,500, or in the discretion of the court sentenced to perform community service by cleaning up litter from any waters of the state, as designated by the court, for not less than twenty to no more than two hundred twenty hours, or both.

~~(6)~~(7) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be

placed, deposited, dumped or thrown any litter in an amount greater than five hundred pounds in weight or two hundred sixteen cubic feet in size or any amount which had been collected for commercial purposes is guilty of a misdemeanor. Upon conviction, the person ~~is subject to a fine~~ shall be fined not less than \$2,500 or not more than \$25,000 or confinement in jail for not more than one year or both. If any person is convicted of the misdemeanor by placing, depositing, dumping or throwing litter in the waters of the state, that person shall be fined \$3,000 to no more than \$30,000, or confinement in jail for not more than one year or both. In addition, the violator may be guilty of creating or contributing to an open dump as defined in section two, article fifteen, chapter twenty-two of this code and subject to the enforcement provisions of section fifteen of ~~said~~ that article.

~~(7)~~(8) Any person convicted of a second or subsequent violation of this section is subject to double the authorized range of fines and community service for the subsection violated.

~~(8)~~(9) The sentence of litter clean up shall be verified by environmental inspectors from the Department of Environmental Protection. Any defendant receiving the sentence of litter clean up shall provide, within a time to be set by the court, written acknowledgment from an environmental inspector that the sentence has been completed and the litter has been disposed of lawfully.

~~(9)~~(10) Any person who has been found by the court to have willfully failed to comply with the terms of a litter clean-up sentence imposed by the court pursuant to this section is subject to, at the discretion of the court, double the amount of the original fines and community service penalties originally ordered by the court.

~~(10)~~(11) All law-enforcement agencies, officers and environmental inspectors shall enforce compliance with this section within the limits of each agency's statutory authority.

(12) No magistrate or municipal court judge may dismiss an action brought under the provisions of this section without

notification to the prosecuting attorney of that county of his or her intention to do so and affording the prosecuting attorney an opportunity to be heard.

~~(11)~~(13) No portion of this section restricts an owner, renter or lessee in the lawful use of his or her own private property or rented or leased property or to prohibit the disposal of any industrial and other wastes into waters of this state in a manner consistent with the provisions of article eleven, chapter twenty-two of this code. But if any owner, renter or lessee, private or otherwise, knowingly permits any such of these materials or substances to be placed, deposited, dumped or thrown in such a location that high water or normal drainage conditions will cause ~~any such~~ these materials or substances to wash into any waters of the state, it is prima facie evidence that the owner, renter or lessee intended to violate the provisions of this section: *Provided*, That if a landowner, renter or lessee, private or otherwise, reports any placing, depositing, dumping or throwing of these substances or materials upon his or her property to the prosecuting attorney, county commission, the Division of Natural Resources or the Department of Environmental Protection, the landowner, renter or lessee will be presumed to not have knowingly permitted the placing, depositing, dumping or throwing of the materials or substances.

(b) Any indication of ownership found in litter ~~shall be~~ is prima facie evidence that the person identified violated the provisions of this section: *Provided*, That no inference may be drawn solely from the presence of any logo, trademark, trade name or other similar mass reproduced things of identifying character appearing on the found litter.

(c) Every person who is convicted of or pleads guilty to disposing of litter in violation of subsection (a) of this section shall pay a civil penalty ~~in the sum of not less than \$200 nor more than \$1,000~~ of \$2,000 as costs for cleanup, investigation and prosecution of the case, in addition to any other court costs that the court is otherwise required by law to impose upon a convicted person.

The clerk of the circuit court, magistrate court or municipal court in which these additional costs are imposed shall, on or before the last day of each month, transmit fifty percent of a civil penalty received pursuant to this section to the State Treasurer for deposit in the State Treasury to the credit of a special revenue fund ~~to be~~ known as the Litter Control Fund which is ~~hereby continued and~~ was transferred to the Department of Environmental Protection. Expenditures for purposes set forth in this section are not authorized from collections but are to be made only in accordance with appropriation and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions set forth in article two, chapter five-a of this code. Amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this article may be transferred to other accounts or funds and designated for other purposes by appropriation of the Legislature.

(d) The remaining fifty percent of each civil penalty collected pursuant to this section shall be transmitted to the county or regional solid waste authority in the county where the litter violation occurred. Moneys shall be expended by the county or regional solid waste authority for the purpose of litter prevention, clean up and enforcement. The county commission shall cooperate with the county or regional solid waste authority serving the respective county to develop a coordinated litter control program pursuant to section eight, article four, chapter twenty-two-c of this code.

(e) The Commissioner of the Division of Motor Vehicles, upon registering a motor vehicle or issuing an operator's or chauffeur's license, shall issue to the owner or licensee, as the case may be, a summary of this section and section fourteen, article fourteen, chapter seventeen-c of the code.

(f) The Commissioner of the Division of Highways shall cause appropriate signs to be placed at the state boundary on each primary and secondary road, and at other locations throughout the state, informing those entering the state of the maximum penalty provided for disposing of litter in violation of subsection (a) of this section.

(g) Any state agency or political subdivision that owns, operates or otherwise controls any public area ~~as may be~~ designated by the secretary by rule promulgated pursuant to subdivision (8), subsection (a), section three of this article shall procure and place litter receptacles at its own expense upon its premises and shall remove and dispose of litter collected in the litter receptacles. After receiving two written warnings from any law-enforcement officer or officers to comply with this subsection or the rules of the secretary, any state agency or political subdivision that fails to place and maintain the litter receptacles upon its premises in violation of this subsection or the rules of the secretary shall be fined \$30 per day of the violation.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2303 – “A Bill to amend and reenact §22-15A-4 of the Code of West Virginia, 1931, as amended, relating to the criminal offense of littering, clarifying that no person may place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter on the private property of another, increasing criminal penalties for littering in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, increasing criminal penalties for littering in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size, modifying the penalties for littering greater than five hundred pounds in weight or two hundred sixteen cubic feet in size or any amount which had been collected for commercial purposes, increasing penalties for second or subsequent violations for littering in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, increasing penalties for second or subsequent violations for littering in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size and increasing civil penalties for littering, requiring magistrates or municipal court judges to consult with prosecuting attorneys before dismissing charges.”

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. 574**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Folk, McGeehan and Wilson.

Absent and Not Voting: Hornbuckle and Walters.

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. 2303) 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:

Com. Sub. for H. B. 2674, Relating to access to and receipt of certain information regarding a protected person.

On motion of Delegate Cowles, the House concurred in the following amendment of the title of the bill by the Senate:

Com. Sub. for H. B. 2674 – “A Bill to amend and reenact §27-3-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §44A-3-17 and §44A-3-18, all relating to the disclosure of certain confidential information relating to protected persons in guardianship; access to and receipt of certain information regarding a protected person by certain relatives of the protected person; authorizing relatives of a protected person to petition the circuit court for access and information about a protected person; defining ‘relative’; providing a relative may petition the court for an order granting access to a protected person; setting forth time standards in which to conduct a hearing after a petition is filed; providing for an emergency hearing under particular circumstances; providing

for service of a petition upon a guardian and setting time standards for service thereof; providing for the entry of an order by the court following notice and hearing conducted thereon; providing standards for a court to observe and implement in issuing a ruling on a petition; providing the court may award attorney's fees and costs be paid to a prevailing party; setting forth particular duties for a guardian to provide relatives notice about a protected person's condition and circumstances; authorizing court to retain jurisdiction; regarding dissemination of information about a protected person to relatives; and providing a guardian method whereby one may be relieved of responsibility for providing information regarding a protected person to a relative."

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. 575**), 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 Walters.

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. 2674) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2851, Updating fee structure provisions for broker-dealers.

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

On page seven, section three hundred five, after line seventy-seven, by inserting the following:

“§32-4-406. Administration of chapter; operating fund for securities department.

(a) This chapter shall be administered by the Auditor of this state and he or she is hereby designated, and shall be, the commissioner of securities of this state. He or she has the power and authority to appoint or employ such assistants as are necessary for the administration of this chapter.

(b) The Auditor shall set up a special operating fund for the securities division in his or her office. The Auditor shall pay into the fund twenty percent of all fees collected as provided for in this chapter. If, at the end of any fiscal year, the balance in the special operating fund exceeds half of the prior fiscal year’s appropriation, the excess shall be transferred to the General Revenue Fund: *Provided, That at the end of the 2018 fiscal year, if the balance in the special operating fund exceeds twenty percent of the gross revenues from the special operating fund operations, the auditor may first use the fund to repay any transfers made during the 2017 fiscal year from the Revenue Shortfall Reserve Fund to the West Virginia Enterprise Resource Planning Board created in section one, article six-D, chapter twelve of this code: *Provided, however, That at the end of the 2018 fiscal year, after any repayments made out of the special operating fund to the Revenue Shortfall Reserve Fund, any balance in the special operating fund that exceeds half of prior year’s appropriation shall be transferred to the General Revenue Fund.**

The special operating fund shall be used by the Auditor to fund the operation of the securities division and the general operations of the Auditor’s office. The special operating fund shall be appropriated by line item by the Legislature.

(c) Moneys payable for assessments established by section four hundred seven-a of this article shall be collected by the commissioner and deposited into the General Revenue Fund.

(d) It is unlawful for the commissioner or any of his or her officers or employees to use for personal benefit any information which is filed with or obtained by the commissioner and which is not made public. No provision of this chapter authorizes the commissioner or any of his or her officers or employees to disclose any information except among themselves or when necessary or appropriate in a proceeding or investigation under this chapter. No provision of the chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any of his or her officers or employees.”

On page one, by striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §32-2-202 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §32-3-305 of said code be amended and reenacted; that §32-4-406 of said code be amended and reenacted; and that §32-4-413 of said code be amended and reenacted, all to read as follows” and a colon.

And,

By amending the title of the bill to read 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; to amend and reenact §32-4-406 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; and changing the threshold at which money in the Auditor’s Security Division’s special revenue fund becomes excess and transfers to the General Revenue Fund for the 2018 fiscal year.”

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. 576**), and there were—yeas 82, nays 17, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Arvon, Barrett, Fast, Folk, N. Foster, Gearheart, Hill, Householder, Howell, Kessinger, Martin, McGeehan, Paynter, Rowe, Statler, Upson and Wilson.

Absent and Not Voting: Marcum.

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. 2851) 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 amendment, a bill of the House of Delegates, as follows:

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 motion of Delegate Cowles, the House concurred in the following amendment of the bill by the Senate:

On page seven, section nine, lines seventy-five through eighty-seven, by striking out all of paragraph (G) and inserting in lieu thereof a new paragraph, designated paragraph (G), to read as follows:

“(G) The public service district, or a customer aggrieved by the changed rates or charges who presents to the circuit court a petition signed by at least 750 customers or twenty-five percent of the customers served by the public service district, whichever is fewer, when dissatisfied by the approval, modification, or rejection by the county commission of the proposed rates, fees and charges under the provisions of this subdivision (2) may file a complaint regarding the rates, fees and charges resulting from the action of, or failure to act by, the county commission in the circuit court of the county in which the county commission sits: *Provided*, That any complaint or petition filed hereunder shall be filed within thirty days of the county commission’s final action approving, modifying

or rejecting such rates, fees and charges, or the expiration of the forty-five day period from the receipt by the county commission, in writing, of the rates, fees and charges approved by resolution of the board, without final action by the county commission to approve, modify or reject such rates, fees and charges, and the circuit court shall resolve said complaint: *Provided, however, That the rates, fees and charges so fixed by the county commission, or those adopted by the district upon which the county commission failed to act, shall remain in full force and effect, until set aside, altered or amended by the circuit court in an order to be followed in the future.*”

On page eighteen, section one, after line one hundred forty-eight, by adding two new subsections, designated subsections (e) and (d), to read as follows:

“(e) The commission shall not have jurisdiction of internet protocol-enabled service or voice-over internet protocol-enabled service. As used in this subsection:

(1) ‘Internet protocol-enabled service’ means any service, capability, functionality or application provided using internet protocol, or any successor protocol, that enables an end user to send or receive a communication in internet protocol format, or any successor format, regardless of whether the communication is voice, data or video.

(2) ‘Voice-over internet protocol service’ means any service that:

(i) Enables real-time two-way voice communications that originate or terminate from the user’s location using internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user’s location.

(3) The term ‘voice-over internet protocol service’ includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission shall not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to sections twelve and twelve-a, article two, chapter twenty-four of this code if all entities involved in the transaction are under common ownership.”

On page thirty, section eleven, after line one hundred twenty-seven, by adding a new subdivision, designated subdivision (8), to read as follows:

“(8) A public service district, or a customer aggrieved by the changed rates or charges who presents to the circuit court a petition signed by at least 750 or twenty-five percent of the customers served by the public service district, whichever is fewer, when dissatisfied by the approval, modification, or rejection by the county commission of the proposed rates, fees and charges under the provisions of this subsection (1) may file a complaint regarding the rates, fees and charges resulting from the action of, or failure to act by, the county commission in the circuit court of the county in which the county commission sits: *Provided*, That any complaint or petition filed hereunder shall be filed within thirty days of the county commission’s final action approving, modifying or rejecting such rates, fees and charges, or the expiration of the 45 day period from the receipt by the county commission, in writing, of the rates, fees and charges approved by resolution of the board, without final action by the county commission to approve, modify or reject such rates, fees and charges, and the circuit court shall resolve said complaint: *Provided, however*, That the rates, fees and charges so fixed by the county commission, or those adopted by the district upon which the county commission failed to act, shall remain in full force and effect, until set aside, altered or amended by the circuit court in an order to be followed in the future.”

And,

By amending the title of the bill to read 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 and §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 the operation and regulation of utilities and services generally; modifying procedures and requirements for the operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state; eliminating 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; prohibiting Public Service Commission jurisdiction of internet protocol-enabled service and voice-over internet protocol-enabled service; defining the terms ‘internet protocol-enabled service’ and ‘voice-over internet protocol service’; limiting Public Service Commission jurisdiction of certain telephone company transactions; 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, modified or rejected by the county commission; eliminating Public Service Commission authority regarding storm water utilities; providing time limits for the filing of requests for investigations pertaining to political subdivisions 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; 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; 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; and providing procedures for a public service district or a customer satisfying certain requirements to file a complaint in circuit court to contest the action or inaction of a county commission regarding rate

proposals and construction projects that are not in the ordinary course of business.”

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. 577**), and there were—yeas 95, nays 5, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Folk, Love, Sponaugle and Upson.

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. 3096) 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 adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates, as follows:

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

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

On page one, in the third Whereas clause, line eight, by striking out the word “its” and inserting in lieu thereof the word “their”.

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, with amendment, of a concurrent resolution of the House of Delegates, as follows:

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

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

On page one, in the Resolved clause, line fourteen, by striking out the word “William” and inserting in lieu thereof the words “U.S. Army PFC William”.

On page one, in the first Further Resolved clause, line seventeen, by striking out the word “William” and inserting in lieu thereof the words “U.S. Army PFC William”.

And,

By amending the title of the resolution to read as follows:

H. C. R. 63 – “Requesting the Division of Highways to name a portion of Route 80, known as Wills Creek Road, in Logan County, beginning at latitude 37.730131, longitude -81.873774 and ending at latitude 37.692547, longitude -81.865702, the ‘U.S. Army PFC William B. Burgess Memorial Road’.”

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, with amendment, of a concurrent resolution of the House of Delegates, as follows:

Com. Sub. for H. C. R. 65, Hobert G. ‘Hobie’ Underwood Memorial Bridge.

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

On page one, in the second Whereas clause, line eight, after the word “War”, by inserting the word “II”.

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, with amendments, of a concurrent resolution of the House of Delegates, as follows:

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

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

On page one, in the Resolved clause, line fifteen, by striking out the word “James” and inserting in lieu thereof the words “U.S. Navy PO3 James”.

On page one, in the first Further Resolved clause, line eighteen, by striking out the word “James” and inserting in lieu thereof the words “U.S. Navy PO3 James”.

And,

By amending the title of the bill to read as follows:

H. C. R. 68 – “Requesting the Division of Highways to name a portion of West Virginia Route 80, near Bruno, beginning at a point, latitude 37.692547, longitude -81.865702, and ending at a point, latitude 37.664654, longitude -81.848732, the ‘U.S. Navy PO3 James Earl Gibson Memorial Road’.”

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, with amendments, of a concurrent resolution of the House of Delegates, as follows:

H. C. R. 118, Craddock Brothers Bridge.

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

On page two, in the tenth Whereas clause, line thirty-four, after the word “Brothers”, by inserting the word “Veterans”.

On page two, in the Resolved clause, line thirty-nine, after the word “Brothers”, by inserting the word “Veterans”.

On page two, in the first Further Resolved clause, line forty-one, after the word “Brothers”, by inserting the word “Veterans”.

And,

By amending the title of the resolution to read as follows:

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 Veterans 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 concurrence by the Senate in the amendment of the House of Delegates, with a title amendment, and the passage, to take effect from passage, as amended, of

Com. Sub. for S. B. 116, Authorizing MAPS promulgate legislative rules.

On motion of Delegate Cowles, the House of Delegates concurred in the following title amendment to the bill by the Senate:

Com. Sub. for S. B. 116 - “A Bill to amend and reenact §64-6-1, §64-6-2 and §64-6-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain Department of Military Affairs and Public Safety legislative rules; 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 legislative rules with various amendments recommended by the Legislature; authorizing the Governor’s Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law-enforcement training and certification standards; authorizing the State Fire Marshal to promulgate a legislative rule relating to the regulation of fireworks and related explosive material; and directing the Division of Justice and Community Services to promulgate a legislative rule relating to the William R. Laird, IV- Second Chance Driver’s License Program.”

The bill, as amended by the House, and further 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. 578**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: 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. 116) passed.

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

On this question, the yeas and nays were taken (**Roll No. 579**), 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. 116) 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 refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

S. B. 444, Establishing Court Advanced Technology Subscription Fund.

On motion of Delegate Cowles, the House of Delegates receded from its amendments.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 580**), and there were—yeas 93, nays 7, absent and not voting none, with the nays being as follows:

Nays: Folk, Gearheart, Howell, Martin, McGeehan, Paynter and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 444) 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 by the Senate in the amendment of the House of Delegates, with further amendment, and the passage, to take effect from passage, as amended, of

Com. Sub. for S. B. 630, Establishing Accessibility and Equity in Public Education Enhancement Act.

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

On page one, after the enacting section, by striking out the article heading.

On pages one through three, by striking out all of section twenty-five.

On page seven, section five, line twenty-seven, after the word “school” and the period, by striking out the remainder of subsection (e).

On page one, 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 article, designated §18-5F-1, §18-5F-2, §18-5F-3, §18-5F-4, §18-5F-5 and §18-5F-6, all to read as follows” and a colon.

And,

By amending the title of the bill to read as follows:

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.”

The bill, as amended by the House, and further 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. 581**), and there were—yeas 66, nays 34, absent and not voting none, with the nays being as follows:

Nays: Anderson, Baldwin, Barrett, Bates, Boggs, Brewer, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Hicks, Hornbuckle, Iaquina, Isner, Kelly, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, R. Miller, Moye, Pethtel, Phillips, Pyles, Rodighiero, Rohrbach, Sponaule, Thompson 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. 630) passed.

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

On this question, the yeas and nays were taken (**Roll No. 582**), and there were—yeas 70, nays 30, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fluharty, Hicks, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethel, Pyles, Rodighiero, Rohrbach, Sponaugle, Thompson and Williams.

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. 630) 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. 2708, Relating to a lawful method for a developmentally disabled person to purchase a base hunting license, was taken up for further consideration.

On motion of Delegate Cowles, the House of Delegates refused to concur in the Senate amendments and requested the Senate to recede therefrom.

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

Conference Committee Report

Delegate Hanshaw, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 2631, Relating to time standards for disposition of complaint proceedings.

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed Committee Substitute for House Bill No. 2631 having met, after

full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment on page two, section five, line sixteen, after the word “ruling.”, and that the Senate and the House agree to an amendment as follows:

On page two, section five, line sixteen, after the word “ruling.” by inserting the following:

“The time period for final ruling shall be tolled for any delay requested or caused by the respondent or by counsel for the respondent and in no event shall a complaint proceeding be dismissed for exceeding the time standards in this section when such overage is the result of procedural delay or obstructive action by the accused or his or her counsel or agents.”

That both houses agree to all other amendments of the Senate.

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title to read as follows:

Com. Sub. for H. B. 2631 - “A Bill to amend and reenact §30-1-5 of the Code of West Virginia, 1931, as amended, relating to time standards for disposition of complaint proceedings; tolling the time periods for delays attributable to the respondent; and prohibiting complaint proceeding from being dismissed for exceeding time standards when overage is result of procedural delay or obstructive action by respondent.”

Respectfully submitted,

Roger Hanshaw, *Chair*

Tom Takubo, *Chair*

Moore Capito,

Mike Maroney,

Rodney Miller,

Corey Palumbo,

*Conferees on the part of
the House of Delegates.*

*Conferees on the part of
the Senate.*

On motion of Delegate Hanshaw, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 583**), 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. 2631) passed.

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

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. 2001, Relating to ethics and transparency in government.

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 §6B-2-1, §6B-2-2, §6B-2-2a, §6B-2-3a, §6B-2-4, §6B-2-5, §6B-2-6 and §6B-2-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new chapter, designated §6D-1-1, §6D-1-2, §6D-1-3 and §6D-1-4, all to read as follows:

**CHAPTER 6B. PUBLIC OFFICERS AND EMPLOYEES;
ETHICS; CONFLICTS OF INTEREST; FINANCIAL
DISCLOSURE.**

**ARTICLE 2. WEST VIRGINIA ETHICS COMMISSION;
POWERS AND DUTIES; DISCLOSURE OF FINANCIAL
INTEREST BY PUBLIC OFFICIALS AND EMPLOYEES;
APPEARANCES BEFORE PUBLIC AGENCIES; CODE
OF CONDUCT FOR ADMINISTRATIVE LAW JUDGES.**

**§6B-2-1. West Virginia Ethics Commission created; members;
appointment, term of office and oath; compensation and
reimbursement for expenses; meetings and quorum.**

(a) The West Virginia Ethics Commission is continued. The members of the commission shall be appointed by the Governor with the advice and consent of the Senate.

(b) No person may be appointed to the commission or continue to serve as a member of the commission who:

(1) Holds elected or appointed office under the government of the United States, the State of West Virginia or any of its political subdivisions;

(2) Is a candidate for any political office;

(3) Is otherwise subject to the provisions of this chapter other than by reason of his or her appointment to or service on the commission; or

(4) Holds any political party office or participates in a campaign relating to a referendum or other ballot issue: *Provided*, That a member may contribute to a political campaign.

(c) Commencing July 1, 2014, the Ethics Commission shall consist of the following nine members, appointed with staggered terms:

(1) One member who served as a member of the West Virginia Legislature;

(2) One member who served as an elected or appointed county official;

(3) One member who served as an elected or appointed municipal official;

(4) One member who served as an elected county school board member;

(5) One member from a rural area; and

(6) Four citizen members.

(d) Any Commission member in office on June 30, 2014, who meets one of the categories for membership set out in subsection (c) of this section, may be reappointed. No more than five members of the Commission shall be of the same political party and no more than ~~four~~ two members shall be from the same ~~congressional~~ state senatorial district.

(e) After the initial staggered terms, the term of office for a Commission member is five years. No member shall serve more than two consecutive full or partial terms. No person may be reappointed to the commission until at least two years have elapsed after the completion of the second consecutive term. A member may continue to serve until a successor has been appointed and qualified.

(f) All appointments shall be made by the Governor in a timely manner so as not to create a vacancy for longer than sixty days.

(g) Each member must be a resident of this state during the appointment term.

(h) Five members of the commission constitutes a quorum.

(i) Each member of the commission shall take and subscribe to the oath or affirmation required pursuant to section five, article IV of the Constitution of West Virginia.

(j) A member may be removed by the Governor for substantial neglect of duty, gross misconduct in office or a violation of this chapter, after written notice and opportunity for reply.

(k) The commission, as appointed on July 1, 2014, shall meet before August 1, 2014, at a time and place to be determined by the Governor, who shall designate a member to preside at that meeting until a chairperson is elected. At the first meeting, the commission shall elect a chairperson and any other officers as are necessary. The commission shall within ninety days after the first meeting adopt rules for its procedures. The commission may use the rules in place on July 1, 2014, until those rules are amended or revoked.

(l) Members of the commission shall receive the same compensation and expense reimbursement as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion thereof engaged in the discharge of official duties: *Provided*, That to be eligible for compensation and expense reimbursement, the member must participate in a meeting or adjudicatory session: *Provided, however*, That the member is not eligible for expense reimbursement if he or she does not attend a meeting or adjudicatory session in person.

(m) The commission shall appoint an executive director to assist the commission in carrying out its functions in accordance with commission rules and with applicable law. The executive director shall be paid a salary fixed by the commission or as otherwise provided by law. The commission shall appoint and discharge counsel and employees and shall fix the compensation of employees and prescribe their duties. Counsel to the commission shall advise the commission on all legal matters and on the instruction of the commission may commence appropriate civil actions: *Provided*, That no counsel shall both advise the commission and act in a representative capacity in any proceeding.

(n) The commission may delegate authority to the chairperson or the executive director to act in the name of the commission between meetings of the commission, except that the commission shall not delegate the power to hold hearings and determine violations to the chairperson or the executive director.

(o) The principal office of the commission shall be in the seat of government, but it or its designated subcommittees may meet

and exercise its power at any other place in the state. Meetings of the commission shall be public unless:

(1) They are required to be private by the provisions of this chapter relating to confidentiality; or

(2) They involve discussions of commission personnel, planned or ongoing litigation, and planned or ongoing investigations.

(p) Meetings of the commission shall be upon the call of the chairperson and may be conducted by telephonic or other electronic conferencing means: *Provided*, That ~~telephone or other electronic conferencing, and voting are not permitted~~ when the commission is acting as a hearing board under this article, or when the Probable Cause Review Board meets to receive an oral response as authorized by this article, members may not participate or vote by telephonic means: *Provided, however*, That participation and voting may be permitted if the member attends and participates via video conferencing that allows the witness and the member to observe and communicate with one another. Members shall be given notice of meetings held by telephone or other electronic conferencing in the same manner as meetings at which the members are required to attend in person. Telephone or other electronic conferences shall be electronically recorded and the recordings shall be retained by the commission in accordance with its record retention policy.

§6B-2-2. Same – General powers and duties.

(a) The commission shall propose rules for promulgation in accordance with the provisions of chapter twenty-nine-a of this code, to carry out the purposes of this article.

(b) The commission may initiate or receive complaints and make investigations, as provided in section four of this article, and upon complaint by an individual of an alleged violation of this ~~article~~ chapter by a public official or public employee, refer the complaint to the Review Board as provided in section two-a of this article. Any person charged with a violation of this chapter is

entitled to the administrative hearing process contained in section four of this article.

(c) The commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the commission's duties or exercise of its powers, including its duties and powers of investigation.

(d) The commission shall, in addition to its other duties:

(1) Prescribe forms for reports, statements, notices and other documents required by law;

(2) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this act; and

(3) Provide assistance to agencies, officials and employees in administering the provisions of this act.

(e) The commission may:

(1) Prepare reports and studies to advance the purpose of the law;

(2) Contract for any services which cannot satisfactorily be performed by its employees;

(3) Require the Attorney General to provide legal advice without charge to the commission;

(4) Employ additional legal counsel;

(5) Request appropriate agencies of state to provide any professional assistance the commission may require in the discharge of its duties: *Provided*, That the commission shall reimburse any agency other than the Attorney General the cost of providing assistance; and

(6) Share otherwise confidential documents, materials or information with appropriate agencies of state government, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or information.

§6B-2-2a. Probable Cause Review Board.

(a) There is hereby established a Probable Cause Review Board that shall conduct ~~hearings~~ investigations to determine whether there is probable cause to believe that a violation of the West Virginia Governmental Ethics Act has occurred. ~~and, if so, to refer that investigation to the Ethics Commission~~ The Review Board is an autonomous board, not under the direction or control of the Ethics Commission. The Review Board will review complaints received or initiated by the Ethics Commission to make a threshold determination of whether probable cause exists to believe that a violation of the West Virginia Governmental Ethics Act has occurred.

(b) The Governor, by and with the advice and consent of the Senate, shall appoint three persons as members of the Review Board, each of whom shall be a resident and citizen of the state. Each member of the Review Board shall hold office until his or her successor has been appointed and qualified. At least one member of the board must be an attorney licensed by the State of West Virginia and no more than two members can belong to the same political party. The members of the Review Board shall be appointed for overlapping terms of two years, except that the original appointments shall be for terms of one, two and three years, respectively. Any member whose term expires may be reappointed by the Governor. In the event a Review Board member is unable to complete his or her term, the Governor shall appoint a person with similar qualification to complete that term. Each Review Board member shall receive the same compensation and expense reimbursement as provided to Ethics Commission members pursuant to section one of this article. These and all other costs incurred by the Review Board shall be paid from the budget of the Ethics Commission.

(c) No person may be appointed to the Review Board or continue to serve as a member of the Review Board who holds elected or appointed office under the government of the United States, the State of West Virginia or any of its political subdivisions, or who is a candidate for any of such offices, or who is a registered lobbyist, or who is otherwise subject to the provisions of this chapter other than by reason of his or her appointment to or service on the Review Board. A Review Board member may contribute to a political campaign, but no member shall hold any political party office or participate in a campaign relating to a referendum or other ballot issue.

(d) Members of the Review Board may recuse themselves from a particular case upon their own motion, with the approval of the Review Board, and shall recuse themselves, for good cause shown, upon motion of a party. The remaining members of the Review Board may, by majority vote, select a temporary member to replace a recused member: *Provided*, That the temporary member selected to replace a recused member shall be a person who meets all requirements for appointment provided by subsection (c), section two-a of this article, and whose political affiliation is the same as the recused member.

(e) The Ethics Commission shall propose, for approval by the Review Board, any procedural and interpretative rules governing the operation of the Review Board. The commission shall propose these rules pursuant to article three, chapter twenty-nine-a of the code.

(f) The Ethics Commission shall provide staffing and a location for the Review Board to conduct hearings. The Ethics Commission is authorized to employ and assign the necessary professional and clerical staff to assist the Review Board in the performance of its duties and commission staff shall, as the commission deems appropriate, also serve as staff to the Review Board. All investigations and proceedings of the Review Board are deemed confidential as provided in section four of this article and members of the Review Board are bound to the same confidentiality requirements applicable to the Ethics Commission pursuant to this article.

(g) The Review Board may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Review Board's duties.

(h) Upon decision by the Review Board that probable cause exists to believe that a violation of this chapter has occurred, commission staff shall send notice to the commission members of the Review Board's finding. After an ethics complaint has been submitted to the Review Board in accordance with section four of this article, the commission may take no further action until it receives the Review Board's probable cause finding.

§6B-2-3a. Complaints.

(a) The commission may commence an investigation, pursuant to section four of this article, on the filing of a complaint duly verified by oath or affirmation, by any person.

(b) The commission may order the executive director to prepare a complaint, upon a majority affirmative vote of its members, if it receives or discovers credible information which, if true, would merit an inquiry into whether a violation of this ~~article~~ chapter has occurred.

(c) (1) No complaint may be accepted or initiated by the commission against a public official or public employee during the sixty days before a primary or general election at which the public official or public employees is a candidate for elective office.

(2) If a complaint is pending against a public official or public employee who is also a candidate for public office, then the commission shall stay the processing of the complaint for the sixty-day time period preceding the primary election or general election, or both, unless the candidate waives the stay in writing. If the commission receives a written waiver of the stay at least sixty days prior to the election, and if the Review Board has not yet ruled whether probable cause exists to believe there has been a violation of the Ethics Act, then the Review Board will process the complaint

and make a probable cause determination at least thirty days prior to the election: *Provided*, That, the stay provisions of this subdivision do not apply to complaints which have already been adjudicated by the commission and are pending on appeal.

(3) For purposes of this subsection, any provisions of this chapter setting time periods for initiating a complaint or for performing any other action are considered tolled until after the election at which the public official or public employee candidate stands for elective office.

§6B-2-4. Processing complaints; dismissals; hearings; disposition; judicial review.

(a) Upon the filing of a complaint, the executive director of the commission or his or her designee shall, within three working days, acknowledge the receipt of the complaint by first-class mail unless the complaint was initiated by the commission or the complainant or his or her representative personally filed the complaint with the commission and was given a receipt or other acknowledgment evidencing the filing of the complaint. No political party or officer, employee or agent of a political party acting in his or her official capacity may file a complaint for a violation of this chapter with the commission. Nothing in this section prohibits a private citizen, acting in that capacity, from filing a verified complaint with the commission under this section. Within fourteen days after the receipt of a complaint, the executive director shall refer the complaint to the Review Board created pursuant to section two-a of this article.

(b) Upon the referral of a complaint by the executive director pursuant to subsection (a) of this section, the Review Board shall determine whether the allegations of the complaint, if taken as true, would constitute a violation of law upon which the commission could properly act under the provisions of this chapter. If the complaint is determined by a majority vote of the Review Board to be insufficient in this regard, the Review Board shall dismiss the complaint.

(c) Upon a finding by the Review Board that the complaint is sufficient, the executive director shall give notice of a pending investigation to the complainant, if any, and to the respondent. The notice of investigation shall be mailed to the parties and, in the case of the respondent, shall be mailed as certified mail, return receipt requested, marked 'Addressee only, personal and confidential'. The notice shall describe the conduct of the respondent which is alleged to violate the law and a copy of the complaint shall be appended to the notice mailed to the respondent. Each notice of investigation shall inform the respondent that the purpose of the investigation is to determine whether probable cause exists to believe that a violation of law has occurred which may subject the respondent to administrative sanctions by the commission, criminal prosecution by the state, or civil liability. The notice shall further inform the respondent that he or she has a right to appear before the Review Board and that he or she may respond in writing to the commission within thirty days after the receipt of the notice, but that no fact or allegation shall be taken as admitted by a failure or refusal to timely respond.

(d) Within the forty-five day period following the mailing of a notice of investigation, the Review Board shall proceed to consider: (1) The allegations raised in the complaint; (2) any timely received written response of the respondent; and (3) any other competent evidence gathered by or submitted to the ~~commission~~ Review Board which has a proper bearing on the issue of probable cause. A respondent may appear before the Review Board and make an oral response to the complaint. The commission shall promulgate rules prescribing the manner in which a respondent may present his or her oral response. The ~~commission~~ and Review Board may ask a respondent to disclose specific amounts received from a source and request other detailed information not otherwise required to be set forth in a statement or report filed under the provisions of this chapter if the information sought is considered to be probative as to the issues raised by a complaint or an investigation initiated by the commission. Any information thus received shall be confidential except as provided by subsection (f) of this section. If a person asked to provide information fails or refuses to furnish the information to the commission or Review

Board, the commission or Review Board may exercise ~~its~~ their subpoena power as provided in this chapter and any subpoena issued by the commission or Review Board shall have the same force and effect as a subpoena issued by a circuit court of this state. Enforcement of any subpoena may be had upon application to a circuit court of the county in which the Review Board is conducting an investigation through the issuance of a rule or an attachment against the respondent as in cases of contempt.

(e) Unless consented to by both the respondent and complainant, or unless the commission makes a good cause determination in writing the investigation and a determination as to probable cause shall not exceed eighteen months.

(f) (1) All investigations, complaints, reports, records, proceedings and other information received by the commission or Review Board and related to complaints made to the commission or investigations conducted by the commission or Review Board pursuant to this section, including the identity of the complainant or respondent, are confidential and may not be knowingly and improperly disclosed by any current or former member or employee of the commission or the Review Board except as follows:

(A) Once there has been a finding that probable cause exists to believe that a respondent has violated the provisions of this chapter and the respondent has been served by the commission with a copy of the Review Board's order and the statement of charges prepared pursuant to the provisions of subsection (h) of this section, the complaint and all reports, records, nonprivileged and nondeliberative material introduced at any probable cause hearing held pursuant to the complaint cease to be confidential.

(B) After a finding of probable cause, any subsequent hearing held in the matter for the purpose of receiving evidence or the arguments of the parties or their representatives shall be open to the public and all reports, records and nondeliberative materials introduced into evidence at the hearing, as well as the commission's orders, are not confidential.

(C) The commission may release any information relating to an investigation at any time if the release has been agreed to in writing by the respondent.

(D) The complaint and the identity of the complainant shall be disclosed to a person named as respondent immediately upon the respondent's request.

(E) Where the commission is otherwise required by the provisions of this chapter to disclose information or to proceed in such a manner that disclosure is necessary and required to fulfill those requirements.

(~~F~~) (2) If, in a specific case, the commission finds that there is a reasonable likelihood that the dissemination of information or opinion in connection with a pending or imminent proceeding will interfere with a fair hearing or otherwise prejudice the due administration of justice, the commission shall order that all or a portion of the information communicated to the commission to cause an investigation and all allegations of ethical misconduct or criminal acts contained in a complaint shall be confidential and the person providing the information or filing a complaint shall be bound to confidentiality until further order of the commission.

(g) If the members of the Review Board fail to find probable cause, the proceedings shall be dismissed by the commission in an order signed by the members of the Review Board. Copies of the order of dismissal shall be sent to the complainant and served upon the respondent forthwith. If the Review Board decides by a unanimous vote that there is probable cause to believe that a violation under this chapter has occurred, the members of the Review Board shall sign an order directing the commission staff to prepare a statement of charges and assign the matter for hearing to the commission or a hearing examiner as the commission may subsequently direct. The commission shall then schedule a hearing, to be held within ninety days after the date of the order, to determine the truth or falsity of the charges. The commission's review of the evidence presented shall be de novo. For the purpose of this section, service of process upon the respondent is obtained at the time the respondent or the respondent's agent physically

receives the process, regardless of whether the service of process is in person or by certified mail.

(h) At least eighty days prior to the date of the hearing, the commission shall serve the respondent by certified mail, return receipt requested, with the statement of charges and a notice of hearing setting forth the date, time and place for the hearing. The scheduled hearing may be continued only upon a showing of good cause by the respondent or under other circumstances as the commission, by legislative rule, directs.

(i) The commission may sit as a hearing board to adjudicate the case or may permit an assigned hearing examiner employed by the commission to preside at the taking of evidence. The commission shall, by legislative rule, establish the general qualifications for hearing examiners. The legislative rule shall also contain provisions which ensure that the functions of a hearing examiner will be conducted in an impartial manner and describe the circumstances and procedures for disqualification of hearing examiners.

(j) A member of the commission or a hearing examiner presiding at a hearing may:

(1) Administer oaths and affirmations, compel the attendance of witnesses and the production of documents, examine witnesses and parties and otherwise take testimony and establish a record;

(2) Rule on offers of proof and receive relevant evidence;

(3) Take depositions or have depositions taken when the ends of justice will be served;

(4) Regulate the course of the hearing;

(5) Hold conferences for the settlement or simplification of issues by consent of the parties;

(6) Dispose of procedural requests or similar matters;

(7) Accept stipulated agreements;

(8) Take other action authorized by the Ethics Commission consistent with the provisions of this chapter.

(k) With respect to allegations of a violation under this chapter, the complainant has the burden of proof. The West Virginia Rules of Evidence governing proceedings in the courts of this state shall be given like effect in hearings held before the commission or a hearing examiner. The commission shall, by rule, regulate the conduct of hearings so as to provide full procedural due process to a respondent. Hearings before a hearing examiner shall be recorded electronically. When requested by either of the parties, the presiding officer shall order a transcript, verified by oath or affirmation, of each hearing held and so recorded. In the discretion of the commission, a record of the proceedings may be made by a certified court reporter. Unless otherwise ordered by the commission, the cost of preparing a transcript shall be paid by the party requesting the transcript. Upon a showing of indigency, the commission may provide a transcript without charge. Within fifteen days following the hearing, either party may submit to the hearing examiner that party's proposed findings of fact. The hearing examiner shall thereafter prepare his or her own proposed findings of fact and make copies of the findings available to the parties. The hearing examiner shall then submit the entire record to the commission for final decision.

(l) The recording of the hearing or the transcript of testimony, as the case may be, and the exhibits, together with all papers and requests filed in the proceeding, and the proposed findings of fact of the hearing examiner and the parties, constitute the exclusive record for decision by the commission, unless by leave of the commission a party is permitted to submit additional documentary evidence or take and file depositions or otherwise exercise discovery.

(m) The commission shall set a time and place for the hearing of arguments by the complainant and respondent, or their respective representatives, and shall notify the parties thereof. Briefs may be filed by the parties in accordance with procedural rules promulgated by the commission. The commission shall issue a final decision in writing within forty-five days of the receipt of

the entire record of a hearing held before a hearing examiner or, in the case of an evidentiary hearing held by the commission acting as a hearing board in lieu of a hearing examiner, within twenty-one days following the close of the evidence.

(n) A decision on the truth or falsity of the charges against the respondent and a decision to impose sanctions must be approved by at least ~~seven~~ six members of the commission.

(o) Members of the commission shall recuse themselves from a particular case upon their own motion with the approval of the commission or for good cause shown upon motion of a party. The remaining members of the commission may, by majority vote, select a temporary member to replace a recused member: *Provided*, That the temporary member selected to replace a recused member shall be a person of the same status or category, provided by subsection ~~(b)~~ (c), section one of this article, as the recused member.

(p) Except for statements made in the course of official duties to explain commission procedures, no member or employee or former member or employee of the commission may make any public or nonpublic comment about any proceeding previously or currently before the commission. Any member or employee or former member or employee of the commission who violates this subsection is subject to the penalties contained in subsection ~~(e)~~ (d), section ten of this article. In addition, violation of this subsection by a current member or employee of the commission is grounds for immediate removal from office or termination of employment.

(q) A complainant may be assisted by a member of the commission staff assigned by the commission after a determination of probable cause.

(r) No employee of the commission assigned to prosecute a complaint may participate in the commission deliberations or communicate with commission members or the public concerning the merits of a complaint.

(s) (1) If the commission finds by clear and convincing evidence that the facts alleged in the complaint are true and constitute a material violation of this ~~article~~ chapter, it may impose one or more of the following sanctions:

(A) Public reprimand;

(B) Cease and desist orders;

(C) Orders of restitution for money, things of value, or services taken or received in violation of this chapter;

(D) Fines not to exceed \$5,000 per violation; or

(E) Reimbursement to the commission for the actual costs of investigating and prosecuting a violation. Any reimbursement ordered by the commission for its costs under this paragraph shall be collected by the commission and deposited into the special revenue account created pursuant to section six, article one of this chapter.

(2) In addition to imposing the above-specified sanctions, the commission may recommend to the appropriate governmental body that a respondent be terminated from employment or removed from office.

(3) The commission may institute civil proceedings in the circuit court of the county in which a violation occurred for the enforcement of sanctions.

(t) At any stage of the proceedings under this section, the commission may enter into a conciliation agreement with a respondent if the agreement is deemed by a majority of the members of the commission to be in the best interest of the state and the respondent. Any conciliation agreement must be disclosed to the public: *Provided*, That negotiations leading to a conciliation agreement, as well as information obtained by the commission during the negotiations, shall remain confidential except as may be otherwise set forth in the agreement.

(u) Decisions of the commission involving the issuance of sanctions may be appealed to the Circuit Court of Kanawha County, only by the respondent and only upon the grounds set forth in section four, article five, chapter twenty-nine-a of this code.

(v) (1) Any person who in good faith files a verified complaint or any person, official or agency who gives credible information resulting in a formal complaint filed by commission staff is immune from any civil liability that otherwise might result by reason of such actions.

(2) If the commission determines, by clear and convincing evidence, that a person filed a complaint or provided information which resulted in an investigation knowing that the material statements in the complaint or the investigation request or the information provided were not true; filed an unsubstantiated complaint or request for an investigation in reckless disregard of the truth or falsity of the statements contained therein; or filed one or more unsubstantiated complaints which constituted abuse of process, the commission shall:

(A) Order the complainant or informant to reimburse the respondent for his or her reasonable costs;

(B) Order the complainant or informant to reimburse the respondent for his or her reasonable attorney fees; and

(C) Order the complainant or informant to reimburse the commission for the actual costs of its investigation. In addition, the commission may decline to process any further complaints brought by the complainant, the initiator of the investigation or the informant.

(3) The sanctions authorized in this subsection are not exclusive and do not preclude any other remedies or rights of action the respondent may have against the complainant or informant under the law.

(w) (1) If at any stage in the proceedings under this section it appears to a Review Board, a hearing examiner or the commission that there is credible information or evidence that the respondent

may have committed a criminal violation, the matter shall be referred to the full commission for its consideration. If, by a vote of two-thirds of the members of the full commission, it is determined that probable cause exists to believe a criminal violation has occurred, the commission shall refer the matter to the appropriate county prosecuting attorney having jurisdiction for a criminal investigation and possible prosecution. Deliberations of the commission with regard to referring a matter for criminal investigation by a prosecuting attorney shall be private and confidential. Notwithstanding any other provision of this article, once a referral for criminal investigation is made under the provisions of this subsection, the ethics proceedings shall be held in abeyance until action on the referred matter is concluded. If the referral of the matter to the prosecuting attorney results in a criminal conviction of the respondent, the commission may resume its investigation or prosecution of the ethics violation, but may not impose a fine as a sanction if a violation is found to have occurred.

(2) If fewer than two-thirds of the full commission determine that a criminal violation has occurred, the commission shall remand the matter to the Review Board, the hearing examiner or the commission itself as a hearing board, as the case may be, for further proceedings under this article.

(x) The provisions of this section shall apply to violations of this chapter occurring after September 30, 1989, and within one year before the filing of a complaint: *Provided*, That the applicable statute of limitations for violations which occur on or after July 1, 2005, is two years after the date on which the alleged violation occurred: *Provided, however*, That the applicable statute of limitations for violations which occur on or after July 1, 2016, is five years after the date on which the alleged violation occurred.

§6B-2-5. Ethical standards for elected and appointed officials and public employees.

(a) *Persons subject to section.* — The provisions of this section apply to all elected and appointed public officials and public employees, whether full or part time, in state, county, municipal governments and their respective boards, agencies, departments

and commissions and in any other regional or local governmental agency, including county school boards.

(b) *Use of public office for private gain.* — (1) A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

(2) Notwithstanding the general prohibition against use of office for private gain, public officials and public employees may use bonus points acquired through participation in frequent traveler programs while traveling on official government business: *Provided*, That the official's or employee's participation in such program, or acquisition of such points, does not result in additional costs to the government.

(3) The Legislature, in enacting this subsection, recognizes that there may be certain public officials or public employees who bring to their respective offices or employment their own unique personal prestige which is based upon their intelligence, education, experience, skills and abilities, or other personal gifts or traits. In many cases, these persons bring a personal prestige to their office or employment which inures to the benefit of the state and its citizens. Those persons may, in fact, be sought by the state to serve in their office or employment because, through their unusual gifts or traits, they bring stature and recognition to their office or employment and to the state itself. While the office or employment held or to be held by those persons may have its own inherent prestige, it would be unfair to those individuals and against the best interests of the citizens of this state to deny those persons the right to hold public office or to be publicly employed on the grounds that they would, in addition to the emoluments of their office or

employment, be in a position to benefit financially from the personal prestige which otherwise inheres to them. Accordingly, the commission is directed, by legislative rule, to establish categories of public officials and public employees, identifying them generally by the office or employment held, and offering persons who fit within those categories the opportunity to apply for an exemption from the application of the provisions of this subsection. Exemptions may be granted by the commission, on a case-by-case basis, when it is shown that: (A) The public office held or the public employment engaged in is not such that it would ordinarily be available or offered to a substantial number of the citizens of this state; (B) the office held or the employment engaged in is such that it normally or specifically requires a person who possesses personal prestige; and (C) the person's employment contract or letter of appointment provides or anticipates that the person will gain financially from activities which are not a part of his or her office or employment.

(4) A public official or public employee may not show favoritism or grant patronage in the employment or working conditions of his or her relative or a person with whom he or she resides: *Provided*, That as used in this subdivision, 'employment or working conditions' shall only apply to government employment: *Provided, however*, That government employment includes only those governmental entities specified in subsection (a) of this section.

(c) *Gifts*. — (1) A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family: *Provided*, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position is subordinate to the soliciting official or employee: *Provided, however*, That nothing herein shall prohibit a candidate for public office from soliciting a lawful political contribution. No official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or

from any person whom the official or employee knows or has reason to know:

(A) Is doing or seeking to do business of any kind with his or her agency;

(B) Is engaged in activities which are regulated or controlled by his or her agency; or

(C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a person who is a public official or public employee may accept a gift described in this subdivision, and there shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person. This presumption may be rebutted only by direct objective evidence that the gift did impair the impartiality and independent judgment of the person or that the person knew or had reason to know that the gift was offered with the intent to impair his or her impartiality and independent judgment. The provisions of subdivision (1) of this subsection do not apply to:

(A) Meals and beverages;

(B) Ceremonial gifts or awards which have insignificant monetary value;

(C) Unsolicited gifts of nominal value or trivial items of informational value;

(D) Reasonable expenses for food, travel and lodging of the official or employee for a meeting at which the official or employee participates in a panel or has a speaking engagement;

(E) Gifts of tickets or free admission extended to a public official or public employee to attend charitable, cultural or political

events, if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office;

(F) Gifts that are purely private and personal in nature; or

(G) Gifts from relatives by blood or marriage, or a member of the same household.

(3) The commission shall, through legislative rule promulgated pursuant to chapter twenty-nine-a of this code, establish guidelines for the acceptance of a reasonable honorarium by public officials and elected officials. The rule promulgated shall be consistent with this section. Any elected public official may accept an honorarium only when:

(A) That official is a part-time elected public official;

(B) The fee is not related to the official's public position or duties;

(C) The fee is for services provided by the public official that are related to the public official's regular, nonpublic trade, profession, occupation, hobby or avocation; and

(D) The honorarium is not provided in exchange for any promise or action on the part of the public official.

(4) Nothing in this section shall be construed so as to prohibit the giving of a lawful political contribution as defined by law.

(5) The Governor or his designee may, in the name of the State of West Virginia, accept and receive gifts from any public or private source. Any gift so obtained shall become the property of the state and shall, within thirty days of the receipt thereof, be registered with the commission and the Division of Culture and History.

(6) Upon prior approval of the Joint Committee on Government and Finance, any member of the Legislature may solicit donations for a regional or national legislative organization conference or other legislative organization function to be held in the state for the

purpose of deferring costs to the state for hosting of the conference or function. Legislative organizations are bipartisan regional or national organizations in which the Joint Committee on Government and Finance authorizes payment of dues or other membership fees for the Legislature's participation and which assist this and other state legislatures and their staff through any of the following:

(A) Advancing the effectiveness, independence and integrity of legislatures in the states of the United States;

(B) Fostering interstate cooperation and facilitating information exchange among state legislatures;

(C) Representing the states and their Legislatures in the American federal system of government;

(D) Improving the operations and management of state legislatures and the effectiveness of legislators and legislative staff, and to encourage the practice of high standards of conduct by legislators and legislative staff;

(E) Promoting cooperation between state legislatures in the United States and legislatures in other countries.

The solicitations may only be made in writing. The legislative organization may act as fiscal agent for the conference and receive all donations. In the alternative, a bona fide banking institution may act as the fiscal agent. The official letterhead of the Legislature may not be used by the legislative member in conjunction with the fund raising or solicitation effort. The legislative organization for which solicitations are being made shall file with the Joint Committee on Government and Finance and with the Secretary of State for publication in the State Register as provided in article two of chapter twenty-nine-a of the code, copies of letters, brochures and other solicitation documents, along with a complete list of the names and last known addresses of all donors and the amount of donations received. Any solicitation by a legislative member shall contain the following disclaimer:

‘This solicitation is endorsed by [name of member]. This endorsement does not imply support of the soliciting organization, nor of the sponsors who may respond to the solicitation. A copy of all solicitations are on file with the West Virginia Legislature’s Joint Committee on Government and Finance, and with the Secretary of State and are available for public review.’

(7) Upon written notice to the commission, any member of the Board of Public Works may solicit donations for a regional or national organization conference or other function related to the office of the member to be held in the state for the purpose of deferring costs to the state for hosting of the conference or function. The solicitations may only be made in writing. The organization may act as fiscal agent for the conference and receive all donations. In the alternative, a bona fide banking institution may act as the fiscal agent. The official letterhead of the office of the Board of Public Works member may not be used in conjunction with the fund raising or solicitation effort. The organization for which solicitations are being made shall file with the Joint Committee on Government and Finance, with the Secretary of State for publication in the State Register as provided in article two of chapter twenty-nine-a of the code and with the commission, copies of letters, brochures and other solicitation documents, along with a complete list of the names and last known addresses of all donors and the amount of donations received. Any solicitation by a member of the Board of Public Works shall contain the following disclaimer: ‘This solicitation is endorsed by (name of member of Board of Public Works.) This endorsement does not imply support of the soliciting organization, nor of the sponsors who may respond to the solicitation. Copies of all solicitations are on file with the West Virginia Legislature’s Joint Committee on Government and Finance, with the West Virginia Secretary of State and with the West Virginia Ethics Commission and are available for public review.’ Any moneys in excess of those donations needed for the conference or function shall be deposited in the Capitol Dome and Capitol Improvement Fund established in section two, article four of chapter five-a of this code.

(d) *Interests in public contracts.* —

(1) In addition to the provisions of section fifteen, article ten, chapter sixty-one of this code, no elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control: *Provided*, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body: *Provided, however*, That nothing herein shall be construed to prohibit a member of the Legislature from entering into a contract with any governmental body, or prohibit a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to enter into or over which he or she may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.

(2) In the absence of bribery or a purpose to defraud, an elected or appointed public official or public employee or a member of his or her immediate family or a business with which he or she is associated shall not be considered as having a prohibited financial interest in a public contract when such a person has a limited interest as an owner, shareholder or creditor of the business which is awarded a public contract. A limited interest for the purposes of this subsection is:

(A) An interest which does not exceed \$1,000 in the profits or benefits of the public contract or contracts in a calendar year;

(B) An interest as a creditor of a public employee or official who exercises control over the contract, or a member of his or her immediate family, if the amount is less than \$5,000.

(3) If a public official or employee has an interest in the profits or benefits of a contract, then he or she may not make, participate in making, or in any way attempt to use his office or employment to influence a government decision affecting his or her financial or

limited financial interest. Public officials shall also comply with the voting rules prescribed in subsection (j) of this section.

(4) Where the provisions of subdivisions (1) and (2) of this subsection would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship, or other substantial interference with the operation of a state, county, municipality, county school board or other governmental agency, the affected governmental body or agency may make written application to the Ethics Commission for an exemption from subdivisions (1) and (2) of this subsection.

(e) *Confidential information.* — No present or former public official or employee may knowingly and improperly disclose any confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests or the interests of another person.

(f) *Prohibited representation.* — No present or former elected or appointed public official or public employee shall, during or after his or her public employment or service, represent a client or act in a representative capacity with or without compensation on behalf of any person in a contested case, rate-making proceeding, license or permit application, regulation filing or other particular matter involving a specific party or parties which arose during his or her period of public service or employment and in which he or she personally and substantially participated in a decision-making, advisory or staff support capacity, unless the appropriate government agency, after consultation, consents to such representation. A staff attorney, accountant or other professional employee who has represented a government agency in a particular matter shall not thereafter represent another client in the same or substantially related matter in which that client's interests are materially adverse to the interests of the government agency, without the consent of the government agency: *Provided*, That this prohibition on representation shall not apply when the client was not directly involved in the particular matter in which the professional employee represented the government agency, but was involved only as a member of a class. The provisions of this subsection shall not apply to legislators who were in office and

legislative staff who were employed at the time it originally became effective on July 1, 1989, and those who have since become legislators or legislative staff and those who shall serve hereafter as legislators or legislative staff.

(g) *Limitation on practice before a board, agency, commission or department.* — Except as otherwise provided in section three, four or five, article two, chapter eight-a of this code: (1) No elected or appointed public official and no full-time staff attorney or accountant shall, during his or her public service or public employment or for a period of one year after the termination of his or her public service or public employment with a governmental entity authorized to hear contested cases or promulgate or propose rules, appear in a representative capacity before the governmental entity in which he or she serves or served or is or was employed in the following matters:

(A) A contested case involving an administrative sanction, action or refusal to act;

(B) To support or oppose a proposed rule;

(C) To support or contest the issuance or denial of a license or permit;

(D) A rate-making proceeding; and

(E) To influence the expenditure of public funds.

(2) As used in this subsection, ‘represent’ includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person: *Provided*, That nothing contained in this subsection shall prohibit, during any period, a former public official or employee from being retained by or employed to represent, assist or act in a representative capacity on behalf of the public agency by which he or she was employed or in which he or she served. Nothing in this subsection shall be construed to prevent a former public official or employee from representing another state, county, municipal or other governmental entity before the governmental entity in which

he or she served or was employed within one year after the termination of his or her employment or service in the entity.

(3) A present or former public official or employee may appear at any time in a representative capacity before the Legislature, a county commission, city or town council or county school board in relation to the consideration of a statute, budget, ordinance, rule, resolution or enactment.

(4) Members and former members of the Legislature and professional employees and former professional employees of the Legislature shall be permitted to appear in a representative capacity on behalf of clients before any governmental agency of the state or of county or municipal governments, including county school boards.

(5) An elected or appointed public official, full-time staff attorney or accountant who would be adversely affected by the provisions of this subsection may apply to the Ethics Commission for an exemption from the one year prohibition against appearing in a representative capacity, when the person's education and experience is such that the prohibition would, for all practical purposes, deprive the person of the ability to earn a livelihood in this state outside of the governmental agency. The Ethics Commission shall by legislative rule establish general guidelines or standards for granting an exemption or reducing the time period, but shall decide each application on a case-by-case basis.

(h) *Employment by regulated persons and vendors.* — (1) No full-time official or full-time public employee may seek employment with, be employed by, or seek to purchase, sell or lease real or personal property to or from any person who:

(A) Had a matter on which he or she took, or a subordinate is known to have taken, regulatory action within the preceding twelve months; or

(B) Has a matter before the agency on which he or she is working or a subordinate is known by him or her to be working.

(C) Is a vendor to the agency where the official serves or public employee is employed and the official or public employee, or a subordinate of the official or public employee, exercises authority or control over a public contract with such vendor, including, but not limited to:

(i) Drafting bid specifications or requests for proposals;

(ii) Recommending selection of the vendor;

(iii) Conducting inspections or investigations;

(iv) Approving the method or manner of payment to the vendor;

(v) Providing legal or technical guidance on the formation, implementation or execution of the contract; or

(vi) Taking other nonministerial action which may affect the financial interests of the vendor.

(2) Within the meaning of this section, the term ‘employment’ includes professional services and other services rendered by the public official or public employee, whether rendered as employee or as an independent contractor; ‘seek employment’ includes responding to unsolicited offers of employment as well as any direct or indirect contact with a potential employer relating to the availability or conditions of employment in furtherance of obtaining employment; and ‘subordinate’ includes only those agency personnel over whom the public official or public employee has supervisory responsibility.

(3) A full-time public official or full-time public employee who would be adversely affected by the provisions of this subsection may apply to the Ethics Commission for an exemption from the prohibition contained in subdivision (1) of this subsection.

(A) The Ethics Commission shall by legislative rule establish general guidelines or standards for granting an exemption, but shall decide each application on a case-by-case basis;

(B) A person adversely affected by the restriction on the purchase of personal property may make such purchase after seeking and obtaining approval from the commission or in good faith reliance upon an official guideline promulgated by the commission, written advisory opinions issued by the commission, or a legislative rule.

(C) The commission may establish exceptions to the personal property purchase restrictions through the adoption of guidelines, advisory opinions or legislative rule.

(4) A full-time public official or full-time public employee may not take personal regulatory action on a matter affecting a person by whom he or she is employed or with whom he or she is seeking employment or has an agreement concerning future employment.

(5) A full-time public official or full-time public employee may not personally participate in a decision, approval, disapproval, recommendation, rendering advice, investigation, inspection or other substantial exercise of nonministerial administrative discretion involving a vendor with whom he or she is seeking employment or has an agreement concerning future employment.

(6) A full-time public official or full-time public employee may not receive private compensation for providing information or services that he or she is required to provide in carrying out his or her public job responsibilities.

(i) *Members of the Legislature required to vote.* — Members of the Legislature who have asked to be excused from voting or who have made inquiry as to whether they should be excused from voting on a particular matter and who are required by the presiding officer of the House of Delegates or Senate of West Virginia to vote under the rules of the particular house shall not be guilty of any violation of ethics under the provisions of this section for a vote so cast.

(j) *Limitations on voting.* —

(1) Public officials, excluding members of the Legislature who are governed by subsection (i) of this section, may not vote on a matter:

(A) In which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest. Business with which they are associated means a business of which the person or an immediate family member is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stocks of any class.

(B) If a public official is employed by a financial institution and his or her primary responsibilities include consumer and commercial lending, the public official may not vote on a matter which directly affects the financial interests of a customer of the financial institution if the public official is directly involved in approving a loan request from the person or business appearing before the governmental body or if the public official has been directly involved in approving a loan for that person or business within the past twelve months: *Provided*, That this limitation only applies if the total amount of the loan or loans exceeds \$15,000.

~~(C) A personnel matter involving the public official's spouse or relative;~~

(C) The employment or working conditions of the public official's relative or person with whom the public official resides.

(D) The appropriations of public moneys or the awarding of a contract to a nonprofit corporation if the public official or an immediate family member is employed by, or a compensated officer or board member of, the nonprofit: *Provided*, That if the public official or immediate family member is an uncompensated officer or board member of the nonprofit, then the public official shall publicly disclose such relationship prior to a vote on the appropriations of public moneys or award of contract to the nonprofit: *Provided, however*, That for purposes of this paragraph, public disclosure shall mean disclosure of the public official's, or his or her immediate family member's, relationship to the nonprofit

(i) on the agenda item relating to the appropriation or award contract, if known at time of agenda, (ii) by the public official at the meeting prior to the vote, and (iii) in the minutes of the meeting.

~~(H)~~ (2) A public official may vote:

(A) If the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession, occupation, class of persons or class of businesses. A class shall consist of not fewer than five similarly situated persons or businesses; or

(B) If the matter affects a publicly traded company when:

(i) The public official, or dependent family members individually or jointly own less than five percent of the issued stock in the publicly traded company and the value of the stocks individually or jointly owned is less than \$10,000; and

(ii) Prior to casting a vote the public official discloses his or her interest in the publicly traded company.

(3) For a public official's recusal to be effective, it is necessary to excuse him or herself from participating in the discussion and decision-making process by physically removing him or herself from the room during the period, fully disclosing his or her interests, and recusing him or herself from voting on the issue. The recusal shall also be reflected in the meeting minutes.

(k) *Limitations on participation in licensing and rate-making proceedings.* — No public official or employee may participate within the scope of his or her duties as a public official or employee, except through ministerial functions as defined in section three, article one of this chapter, in any license or rate-making proceeding that directly affects the license or rates of any person, partnership, trust, business trust, corporation or association in which the public official or employee or his or her immediate family owns or controls more than ten percent. No public official or public employee may participate within the scope of his or her duties as a public official or public employee, except through

ministerial functions as defined in section three, article one of this chapter, in any license or rate-making proceeding that directly affects the license or rates of any person to whom the public official or public employee or his or her immediate family, or a partnership, trust, business trust, corporation or association of which the public official or employee, or his or her immediate family, owns or controls more than ten percent, has sold goods or services totaling more than \$1,000 during the preceding year, unless the public official or public employee has filed a written statement acknowledging such sale with the public agency and the statement is entered in any public record of the agency's proceedings. This subsection shall not be construed to require the disclosure of clients of attorneys or of patients or clients of persons licensed pursuant to article three, eight, fourteen, fourteen-a, fifteen, sixteen, twenty, twenty-one or thirty-one, chapter thirty of this code.

(1) *Certain compensation prohibited.* — (1) A public employee may not receive additional compensation from another publicly-funded state, county or municipal office or employment for working the same hours, unless:

(A) The public employee's compensation from one public employer is reduced by the amount of compensation received from the other public employer;

(B) The public employee's compensation from one public employer is reduced on a pro rata basis for any work time missed to perform duties for the other public employer;

(C) The public employee uses earned paid vacation, personal or compensatory time or takes unpaid leave from his or her public employment to perform the duties of another public office or employment; or

(D) A part-time public employee who does not have regularly scheduled work hours or a public employee who is authorized by one public employer to make up, outside of regularly scheduled work hours, time missed to perform the duties of another public office or employment maintains time records, verified by the public employee and his or her immediate supervisor at least once every

pay period, showing the hours that the public employee did, in fact, work for each public employer. The public employer shall submit these time records to the Ethics Commission on a quarterly basis.

(2) This section does not prohibit a retired public official or public employee from receiving compensation from a publicly-funded office or employment in addition to any retirement benefits to which the retired public official or public employee is entitled.

(m) *Certain expenses prohibited.* — No public official or public employee shall knowingly request or accept from any governmental entity compensation or reimbursement for any expenses actually paid by a lobbyist and required by the provisions of this chapter to be reported, or actually paid by any other person.

(n) Any person who is employed as a member of the faculty or staff of a public institution of higher education and who is engaged in teaching, research, consulting or publication activities in his or her field of expertise with public or private entities and thereby derives private benefits from such activities shall be exempt from the prohibitions contained in subsections (b), (c) and (d) of this section when the activity is approved as a part of an employment contract with the governing board of the institution or has been approved by the employee's department supervisor or the president of the institution by which the faculty or staff member is employed.

(o) Except as provided in this section, a person who is a public official or public employee may not solicit private business from a subordinate public official or public employee whom he or she has the authority to direct, supervise or control. A person who is a public official or public employee may solicit private business from a subordinate public official or public employee whom he or she has the authority to direct, supervise or control when:

(A) The solicitation is a general solicitation directed to the public at large through the mailing or other means of distribution of a letter, pamphlet, handbill, circular or other written or printed media; or

(B) The solicitation is limited to the posting of a notice in a communal work area; or

(C) The solicitation is for the sale of property of a kind that the person is not regularly engaged in selling; or

(D) The solicitation is made at the location of a private business owned or operated by the person to which the subordinate public official or public employee has come on his or her own initiative.

(p) The commission may, by legislative rule promulgated in accordance with chapter twenty-nine-a of this code, define further exemptions from this section as necessary or appropriate.

§6B-2-6. Financial disclosure statement; filing requirements.

(a) The financial disclosure statement shall be filed on February 1 of each calendar year to cover the period of the preceding calendar year, except insofar as may be otherwise provided herein. The following persons must file the financial disclosure statement required by this section with the Ethics Commission:

(1) All elected officials in this state, including, but not limited to, all persons elected statewide, all county elected officials, municipal elected officials in municipalities which have, by ordinance, opted to be covered by the disclosure provisions of this section, all members of the several county or district boards of education and all county or district school board superintendents;

(2) All members of state boards, commissions and agencies appointed by the Governor; and

(3) Secretaries of departments, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads.

A person who is required to file a financial disclosure statement under this section by virtue of becoming an elected or appointed public official whose office is described in subdivision (1), (2) or

(3) of this subsection, and who assumes the office less than ten days before a filing date established herein or who assumes the office after the filing date, shall file a financial disclosure statement for the previous twelve months no later than thirty days after the date on which the person assumes the duties of the office, unless the person has filed a financial disclosure statement with the commission during the twelve-month period before he or she assumed office.

(b) A candidate for public office shall file a financial disclosure statement for the previous calendar year with the state Ethics Commission no later than ten days after he or she files a certificate of candidacy ~~but in all circumstances, not later than ten days prior to the election, announcement,~~ unless he or she has previously filed a financial disclosure statement with the state Ethics Commission during for the previous calendar year.

The Ethics Commission shall file a duplicate copy of the financial disclosure statement required in this section in the following offices within ten days of the receipt of the candidate's statement of disclosure:

(1) Municipal candidates in municipalities which have opted, by ordinance, to be covered by the disclosure provisions of this section, in the office of the clerk of the municipality in which the candidate is seeking office;

(2) Legislative candidates in single county districts and candidates for a county office or county school board in the office of the clerk of the county commission of the county in which the candidate is seeking office;

(3) Legislative candidates from multi-county districts and congressional candidates in the office of the clerk of the county commission of the county of the candidate's residence.

After a ninety-day period following any election, the clerks who receive the financial disclosure statements of candidates may destroy or dispose of those statements filed by candidates who were unsuccessful in the election.

(c) No candidate for public office may maintain his or her place on a ballot and no public official may take the oath of office or enter or continue upon his or her duties or receive compensation from public funds unless he or she has filed a financial disclosure statement with the State Ethics Commission as required by the provisions of this section.

(d) The Ethics Commission may, upon request of any person required to file a financial disclosure statement, and for good cause shown, extend the deadline for filing such statement for a reasonable period of time: *Provided*, That no extension of time shall be granted to a candidate who has not filed a financial disclosure statement for the preceding filing period.

(e) No person shall fail to file a statement required by this section.

(f) No person shall knowingly file a materially false statement that is required to be filed under this section.

(g) The Ethics Commission shall publish either on the Internet or by printed document made available to the public, a list of all persons who have violated any Ethics Commission's financial disclosure statement filing deadline.

(h) The Ethics Commission shall, in addition to making all financial disclosure statements available for inspection upon request:

(1) Publish on the internet all financial disclosure statements filed by members of the Legislature and candidates for legislative office, elected members of the executive department and candidates for the offices that constitute the executive department, and members of the Supreme Court of Appeals and candidates for the Supreme Court of Appeals, commencing with those reports filed on or after January 1, 2012; and

(2) Publish on the internet all financial disclosure statements filed by any other person required to file such financial disclosure statements, as the commission determines resources are available to permit the Ethics Commission to make such publication on the

internet. The commission shall redact financial disclosure statements published on the internet to exclude from publication personal information such as signatures, home addresses and mobile and home telephone numbers.

§6B-2-10. Violations and penalties.

(a) Any person who violates the provisions of subsection (e), (f) or (g), section five of this article or violates the provisions of subdivision (1), subsection ~~(e)~~ (f), section four of this article is guilty of a misdemeanor and, upon conviction, shall be confined in jail for a period not to exceed six months or shall be fined not more than \$1,000, or both. A member or employee of the commission or the Review Board convicted of violating said subdivision is subject to immediate removal from office or discharge from employment.

(b) Any person who violates the provisions of subsection (f), section six of this article by willfully and knowingly filing a false financial statement or knowingly and willfully concealing a material fact in filing the statement is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000, or confined in jail not more than one year, or both.

(c) Any person who knowingly fails or refuses to file a financial statement required by section six of this article is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) If any commission member or staff knowingly violates subsection ~~(e)~~ (p), section four of this article, such person, upon conviction thereof, shall be guilty of a misdemeanor and, shall be fined not less than \$100 nor more than \$1,000.

(e) Any person who violates the provisions of subdivision (2), subsection ~~(e)~~ (f), section four of this article by knowingly and willfully disclosing any information made confidential by an order of the commission is subject to administrative sanction by the commission as provided in subsection ~~(e)~~ (s) of said section.

(f) Any person who knowingly gives false or misleading material information to the commission or who induces or procures another

person to give false or misleading material information to the commission is subject to administrative sanction by the commission as provided in subsection ~~(#)~~ (s), section four of this article.

CHAPTER 6D. PUBLIC CONTRACTS.

ARTICLE 1. DISCLOSURE OF INTERESTED PARTIES.

§6D-1-1. Definitions.

For purposes of this article:

(a) ‘Applicable contract’ means a contract of a state agency that has an actual or estimated value of at least \$100,000: *Provided*, That this shall include a series of related contracts or orders in which the cumulative total exceeds \$100,000.

(b) ‘Business entity’ means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership or corporation.

(c) ‘Disclosure’ shall mean a form prescribed and approved by the Ethics Commission pursuant to section three of this article.

(d) ‘Interested party’ or ‘Interested parties’ means: (1) A business entity performing work or service pursuant to, or in furtherance of, the applicable contract, including specifically sub-contractors; (2) the person(s) who have an ownership interest equal to or greater than 25% in the business entity performing work or service pursuant to, or in furtherance of, the applicable contract; and (3) the person or business entity, if any, that served as a compensated broker or intermediary to actively facilitate the applicable contract or negotiated the terms of the applicable contract with the state agency: *Provided*, That subdivision (2) shall be inapplicable if a business entity is a publicly traded company: *Provided, however*, That subdivision (3) shall not include persons or business entities performing legal services related to the negotiation or drafting of the applicable contract.

(e) ‘State agency’ means a board, commission, office, department, or other agency in the executive, judicial or legislative

branch of state government, including publicly funded institutions of higher education: *Provided*, That for purposes of this article, the West Virginia Investment Management Board shall not be deemed a state agency nor subject to the requirements of this article.

§6D-1-2. Disclosure of interested parties to a public contract; supplemental disclosure.

(a) A state agency may not enter into an applicable contract that has been awarded to a business entity unless and until the business entity submits to the state agency a disclosure of interested parties to the applicable contract.

(b) The business entity shall submit the disclosure to the state agency no later than when the contract is submitted to the state agency for signature and approval by the state agency: *Provided*, That this provision does not require submission of a disclosure pursuant to this article as part of a bid for the contract.

(c) Within thirty days following the completion or termination of the applicable contract, the business entity shall submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract.

§6D-1-3. Filing with Ethics Commission.

(a) The disclosure of interested parties must be submitted on a form prescribed and approved by the Ethics Commission that includes:

(1) A list of each interested party to the contract that is known or reasonably anticipated by the contracting business entity; and

(2) The signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

(b) Not later than the fifteenth day after the date the state agency receives an initial or supplemental disclosure of interested parties required under this section, the state agency shall submit a copy of the disclosure to the Ethics Commission.

(c) The Ethics Commission shall make copies of the disclosures received from state agencies publicly available. To the extent possible under existing technology or upon obtaining sufficient technology, the Ethics Commission shall post copies of the disclosures on the commission's website.

§6D-1-4. Higher education compliance.

(a) The provisions of section two and three of this article do not apply to applicable contracts of a state institution of higher education, as defined in section two, article one, chapter eighteen-b, if the state institution of higher education complies with the requirements of this section and has a policy in place that provides as follows:

(1) For business entities that are not registered to do business with the State of West Virginia, at the time of registration of a business entity seeking to enter into an applicable contract with a state institution of higher education, the state institution of higher education requires the business entity to disclose in writing the interested parties of the business entity before any applicable contracts are executed;

(2) For business entities that are already registered to do business with the State of West Virginia, and a business entity is seeking to enter into an applicable contract with a state institution of higher education, the state institution of higher education requires the business entity to disclose in writing the interested parties of the business entity before any applicable contract is executed;

(3) Business entities are required to update any changes to the list of interested parties of the business entity on a periodic basis; and

(4) The disclosures required by this section are made in writing, by an authorized agent under oath and under penalty of perjury.

(b) The state institution of higher education shall provide a report to the ethics commission on or before December 31 of each year listing all business entities that received more than one

hundred thousand dollars from the institution of higher education during the previous fiscal year, with an accompanying list of interested parties provided by each such business entity.

(c) For purposes of this section, the term ‘interested parties’ shall not include any sub-contractors receiving less than \$50,000 under an applicable contract.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2001- “A Bill to amend and reenact §6B-2-1, §6B-2-2, §6B-2-2a, §6B-2-3a, §6B-2-4, §6B-2-5, §6B-2-6 and §6B-2-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new chapter, designated §6D-1-1, §6D-1-2, §6D-1-3 and §6D-1-4, all relating to ethics and transparency in government generally; providing that no more than two members of the Ethics Commission shall be from the same state senatorial district; providing for the disclosure of interested parties to a government contract with an actual or estimated value of at least \$100,000; defining terms; prohibiting contracting with a state agency unless business entity submits disclosure of interested parties; requiring submission of supplemental disclosure within thirty days of completion or termination of the contract; providing exceptions to the disclosure requirement for certain contracts; requiring the Ethics Commission create disclosure form; specifying contents to be included in the disclosure form; requiring state agencies to submit completed forms to the Ethics Commission; requiring the Ethics Commission to make disclosures publicly available; requiring the Ethics Commission to post disclosures on the commission website when technologically able; providing certain exceptions for state institutions of higher education; providing that state institutions of higher education are excepted if they comply with certain requirements and adopt certain policies; providing that institutions of higher education shall provide the ethics Commission a listing of business entities that received more than one hundred thousand dollars from the institution of higher education; providing a definition of interested parties; authorizing members of the Ethics Commission and

members of the Probable Cause Review Board to participate and vote via video conferencing; clarifying and expanding the violations in which a complaint may be referred to the Probable Cause Review Board; clarifying that the Probable Cause Review Board conducts investigations and not hearings to determine probable cause; clarifying and expanding the violations in which a complaint may be initiated by the Ethics Commission; clarifying that the Probable Cause Review Board is the entity to receive evidence bearing on the issue of probable cause; clarifying that the commission and review board may ask a respondent to disclose specific amounts received from a source and request other detailed information; clarifying that both the Ethics Commission and the Probable Cause Review Board have subpoena power; clarifying that confidentiality provisions apply to both the commission and the review board; specifying that at least six members of the Ethics Commission approve of a decision on the truth or falsity of the charges against a respondent and a decision to impose sanctions; clarifying and expanding the violations in which sanctions may be imposed by the Ethics Commission; prohibiting a public official or public employee from showing favoritism or granting patronage in the employment or working conditions of his or her relative or a person with whom he or she resides; eliminating the voting prohibition on personnel matters involving a public official's spouse or relative; prohibiting public officials, except certain members of the Legislature, from voting on the employment or working conditions of the public official's relative or person with whom the public official resides; prohibiting public officials, except certain members of the Legislature, from voting on the appropriation of moneys or award of contract to a nonprofit corporation if the public official or an immediate family member is employed by, or a compensated officer or board member of, the nonprofit; providing that a public official shall publicly disclose his or her relationship prior to the vote if he, she or an immediate family member is an uncompensated officer or board member of the nonprofit; providing that a public official's recusal shall be reflected in the meeting minutes; clarifying the timeframe in which a candidate for public office must file a financial disclosure statement and providing an exception to filing such a financial disclosure statement if the candidate has previously filed a

statement for the previous calendar year; and amending statutory cross-references to reflect proper reference to other statutes.”

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. 584**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Folk.

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. 2001) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2196, Relating to the Secondary Schools Athletic Commission.

Delegate Cowles moved that the House of Delegates concur in the following amendment of the bill by the Senate, with further amendment:

On page one, section twenty-five, line three, after the word “those”, by inserting the word “public”.

On page two, section twenty-five, line thirty-six, by striking out the word “extracurricular” and inserting in lieu thereof the word “interscholastic”.

On page two, section twenty-five, line thirty-eight, after the word “code”, by inserting the words “along with students who are enrolled in a registered private or parochial school that does not have interscholastic programs”.

On page three, section twenty-five, line forty-six, after the word “home-schooled”, by inserting a comma and the words “private or parochial”.

On page three, section twenty-five, line fifty-one, after the word “secondary”, by inserting a comma and the words “private or parochial”.

On page three, section twenty-five, line fifty-two, after the words “home school”, by inserting a comma and the words “private or parochial”.

On page three, section twenty-five, lines fifty-four and fifty-five, by striking out the words “Reasonable fees may be charged to the student to cover the costs of participation in interscholastic programs.” and inserting in lieu thereof the following: Homeschool, private, and parochial school students participating in interscholastic programs shall be required to pay the same amount that public school students pay when participating in these programs.”

On page three, section twenty-five, after line fifty-five, by inserting the following: One year following the effective date of this bill, the West Virginia State Board of Education shall determine the additional costs, on a per student basis, of non-enrolled students participating in interscholastic programs, and shall make recommendations to the Legislature how the costs of these non-enrolled students have affected the school aid formula.”

And,

By amending the title of the bill to read 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; participation by home school, private and parochial school students without an interscholastic program available; providing that the private and parochial schools must be registered; setting forth standards for each nonenrolled student participant to meet; providing that each home school, private or parochial student pay the same fees

associated with participation as public school students; and providing that the state board accumulate data as to the costs associated with the nonenrolled students participating in interscholastic activities.”

Delegate Cowles moved to amend the amendment of the Senate, on page one, section twenty-five, line one, by inserting “(a)” before the word “The”.

On page one, section twenty-five, line seven, by inserting “(b)” before the word “The”.

On page two, section twenty-five, line twenty-seven, by inserting “(c)” before the word “The”.

On page two, section, twenty-five, line thirty-five, by inserting “(d)” before the word “Notwithstanding”.

And,

On page three, section twenty-five, line forty, after the words “*Provided, That*”, by adding a colon and by striking the remainder of subsection one and inserting in lieu thereof the following:

“(A) The home school student’s average test results are within or above the fourth stanine in all subject areas; and

(B) The private or parochial school students meet the same academic and attendance requirements of public school students.”

Delegate Cowles moved to amend the amendment of the Senate, by striking out the fourth paragraph and inserting in lieu thereof the following:

On page three, section twenty-five, line fifty-one, after the word “secondary”, by inserting the words “private or parochial”.

And,

In the last paragraph, on the next to the last line, by striking out the word “legislature” and inserting in lieu thereof “Legislature regarding”.

The motion to concur in the amendment of the bill by the Senate, with further amendment by the House, was adopted.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 585**), and there were—yeas 51, nays 48, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Ambler, Anderson, Arvon, Baldwin, Bates, Brewer, Byrd, Canestraro, Caputo, Cooper, Deem, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hanshaw, Hartman, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rohrbach, R. Romine, Rowan, Sponaule, Storch, Summers, Thompson, Wagner, Westfall, White, Williams and Zatezalo.

Absent and Not Voting: Maynard.

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. 2196) passed.

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

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. 2684, Imposing penalties for repeat violations of the prohibition against driving under the influence on a suspended license.

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

“ARTICLE 4. VIOLATION OF LICENSE PROVISIONS.**§17B-4-3. Driving while license suspended or revoked; driving while license revoked for driving under the influence of alcohol, controlled substances or drugs, or while having alcoholic concentration in the blood of eight hundredths of one percent or more, by weight, or for refusing to take secondary chemical test of blood alcohol contents.**

(a) Except as otherwise provided in subsection (b) or (d) of this section, any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully suspended or revoked by this state or any other jurisdiction is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500; for the third or any subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than ninety days and shall be fined not less than \$150 nor more than \$500.

(b) Any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully revoked for driving under the influence of alcohol, controlled substances or other drugs, or any combination thereof, or for driving while having an alcoholic concentration in his or her blood of eight hundredths of one percent or more, by weight, or for refusing to take a secondary chemical test of blood alcohol content, is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than six months and shall be fined not less than \$100 nor more than \$500; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than six months nor more than one year and shall be fined not less than \$1,000 nor more than \$3,000; for the third or any subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not

less than one year nor more than three years and, in addition to the mandatory prison sentence, shall be fined not less than \$3,000 nor more than \$5,000.

(c) Upon receiving a record of the first or subsequent conviction of any person under subsection (b) of this section upon a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of six months which may be served concurrently with any other suspension or revocation. Upon receiving a record of the second or subsequent conviction of any person under subsection (a) of this section upon a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of ninety days which may be served concurrently with any other suspension or revocation.

(d) Any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully suspended for driving while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for twenty-four hours or shall be fined not less than \$50 nor more than \$500, or both; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than six months and shall be fined not less than \$100 nor more than \$500; for the third or any subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than three years and fined not less than \$1,000 nor more than \$5,000.

Upon receiving a record of a first or subsequent conviction under this subsection for a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for

an additional period of six months which may be served concurrently with any other suspension or revocation.

(e) An order for home detention by the court pursuant to the provisions of article eleven-b, chapter sixty-two of this code may be used as an alternative sentence to any period of incarceration required by this section.”

And,

By amending the title of the bill to read as follows:

H. B. 2684 – “A Bill to amend and reenact §17B-4-3 of the Code of West Virginia, 1931, as amended, relating to imposing enhanced penalties for repeat violations of the prohibition against driving a motor vehicle on any public highway of this state at a time when the privilege to do so has been lawfully suspended for driving while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent by weight.”

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. 586**), 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: Robinson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2684) 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 amendment, a bill of the House of Delegates, as follows:

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 motion of Delegate Cowles, the House concurred in the following amendment of the bill by the Senate:

On page two, section ten, line one, by striking out the words “Beginning January 1, 2002, any” and inserting in lieu thereof the word “Any”.

On page three, section ten, line twenty-six after the words “by the”, by inserting the words “West Virginia”.

On page three, section ten, line twenty-eight, after the word “check”, by inserting a period.

And,

By amending the title of the bill to read 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 for the automatic revocation of a certificate or license for a teacher convicted of an offense under chapter sixty-one, article eight-d, section five of the code; and permitting the West Virginia Department of Education to require that a licensee be fingerprinted for analysis by the West Virginia State Police for a state criminal history record check through the central abuse registry and by the Federal Bureau of Investigation for a national criminal history record check, when the licensee has lived outside of the state for one year or more since licensure, or when the department or school administrator reasonably believes the licensee has not disclosed a felony conviction, a conviction of an offense under chapter sixty-one, article eight-b of this code, or a conviction of an offense similar to those in chapter sixty-one, article eight-b of this code that have been established under the laws of any other state or the United States.”

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. 587**), 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 H. B. 2704) 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 adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates, as follows:

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

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

On page one, by striking out everything after the title and inserting in lieu thereof the following:

“Whereas, Carl J. Crabtree was born on November 8, 1917, in Branchland, Lincoln County, West Virginia. He was raised and educated in Logan County and worked there until he enlisted in the military on August 27, 1940; and

Whereas, Carl J. Crabtree served in WW II in the 325 Glider Infantry Regiment, 82nd Airborne Division as a First Sergeant; and

Whereas, Carl J. Crabtree was wounded on June 8, 1944, in France and was a prisoner of war; and

Whereas, Carl J. Crabtree’s decorations and citations included the American Defense, American Theater, Good Conduct, Purple Heart, European African Middle Eastern Theater Ribbon with one

Bronze Star, Distinguished Unit Badge, Croix De Guerre, Belgium Fourragere and Victory Medal; and

Whereas, Carl J. Crabtree served honorably in the United States Army, ending his active service on May 24, 1946; and

Whereas, Carl J. Crabtree, after returning to Logan County and Rossmore, raised a family and was employed among other occupations in the coal mines; and

Whereas, Carl J. Crabtree died on December 6, 2004, survived by three daughters, Connie Herndon of Switzer, West Virginia, and Janet Cook and Carolyn Greene of Rossmore, West Virginia. He was preceded in death by his wife and a daughter, Patricia Molnar; and

Whereas, Naming a bridge in Logan County in U.S. Army 1SG Carl J. Crabtree's honor is an appropriate recognition of his contributions to his country, 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 bridge number 23-119/15-0.06 (23A247) (37.81172, -81.99561), locally known as National Guard Armory Bridge, carrying County Route 119/15 over Island Creek in Logan County the 'U.S. Army 1SG Carl J. Crabtree Memorial Bridge'; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying bridge number 23-119/15-0.06 (23A247) (37.81172, -81.99561), locally known as National Guard Armory Bridge, carrying County Route 119/15 over Island Creek in Logan County the 'U.S. Army 1SG Carl J. Crabtree 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. 21 - “Requesting the Division of Highways to name bridge number 23-119/15-0.06 (23A247) (37.81172, -81.99561), locally known as National Guard Armory Bridge, carrying County Route 119/15 over Island Creek in Logan County the ‘U.S. Army 1SG Carl J. Crabtree 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, with amendments, of a concurrent resolution of the House of Delegates as follows:

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

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

On page three, in the Resolved clause, line five, by striking out the words “Arnold Miller” and inserting in lieu thereof the words “U.S. Army PFC Arnold Miller”.

On page three, in the first Further Resolved clause, line eight, by striking out the words “Arnold Miller” and inserting in lieu thereof the words “U.S. Army PFC Arnold Miller”.

And,

By amending the title of the resolution to read as follows:

H. C. R. 35 – “Requesting the Division of Highways to name bridge number 20-77-83.84 (20A615), (38.19560, -81.47926), locally known as WV.TPK/WV 79, carrying interstate 77/64 over Route 79/3 and Cabin Creek in Kanawha County, the ‘U.S. Army PFC Arnold Miller 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, with amendment, of a concurrent resolution of the House of Delegates, as follows:

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

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

On page two, in the Resolved clause, line twenty-five, by striking out the word “William” and inserting in lieu thereof the words “U.S. Army CPT William”.

On page three, in the first Further Resolved clause, line four, by striking out the word “William” and inserting in lieu thereof the words “U.S. Army CPT William”.

And,

By amending the title of the resolution to read as follows:

H. C. R. 58 - “Requesting the Division of Highways to name the section of U.S. Route 60 in Cabell County from the Guyan Golf and Country Club to the Huntington City Limits, the ‘U.S. Army CPT William C. Campbell Memorial Highway’.”

The resolution, as amended by the Senate, was 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, with amendments, of a concurrent resolution of the House of Delegates, as follows:

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

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

On page one, line thirteen, by striking out the word “over” and inserting in lieu thereof the words “more than”.

On page two, in the Resolved clause, line four, by striking out the words “Bridge Number:” and inserting in lieu thereof the words “bridge number”.

On page two, in the Resolved clause, line six, by striking out the words “U S” and inserting in lieu thereof the words “U.S.”.

On page two, in the first Further Resolved clause, line nine, by striking out the words “U S” and inserting in lieu thereof the words “U.S.”.

And,

By amending the title of the resolution to read as follows:

H. C. R. 73 - “Requesting the Division of Highways that bridge number 42-23-2.73 (42A045) (38.90822, -79.86085), locally known as Southgate Bridge, carrying County Route 23 over Tygart Valley River in Randolph County, West Virginia, be named the ‘U.S. Army Air Corps PVT William James Irwin, 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.

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

On motion for leave, a resolution was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it be adopted), which was read by its title, as follows:

By Delegates Shott, Hanshaw, Overington, Lovejoy, Sobonya, O'Neal, Canestraro, R. Miller and Zatezalo:

H. C. R. 142 - "Requesting the Joint Committee on the Judiciary study certain topic areas prior to the next Regular Session of the Legislature."

Whereas, During the 2017 Regular Session, multiple bills were introduced that warranted consideration by the Judiciary Committee, but, upon review and examination of the law underlying the bill topic, became apparent that further examination and more in depth consideration was necessary; and

Whereas, The Legislative interim meetings and time prior to the 2018 Regular Session provide an opportunity for further research, evaluation and comparison with other states, and receipt of information from individuals with expertise in the particular topic area; and

Whereas, For the past several years, matters and areas studied during the interims have resulted in more comprehensive, deliberate and focused bills; and

Whereas, The topic areas contained in this resolution are not exclusive nor preclude consideration of other topic areas during the interims; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is hereby requested to study the following matters prior to the beginning of the next regular session:

(1) The procedures, appeal delays, financial impact, efficiencies, and examination of the due process rights to persons appearing before the Office of Administrative Hearings (OAH), along with consideration of alternative means than the current utilization of the office, including the impact upon the drunk driving rates, accidents, and fatalities since creation of the current OAH system;

(2) Consideration of the powers, authority, efficiencies, and financial impact of transferring the Medicaid Fraud Control Unit from the West Virginia Department of Health and Human Resources Office of Inspector General to a different Executive agency or establishing as an independent entity;

(3) The prevalence and impact of cyberbullying upon minors in the age of social media, with specific consideration of emerging case law, potential vagueness or overbreadth of criminal offenses; and a review of other states that have attempted to address the issue within constitutional parameters;

(4) Review of general issues impacting retention and safety of firefighters, including specifically, exposure to chemicals and other substances that are known carcinogens that may lead to future illnesses, including but not limited to, those referenced in House Bill No. 2498;

(5) Review of the current governance structure and efficiencies of the Office of Emergency Services, including specifically, consideration of other surrounding state structures and models; transfer of the Office to a different Executive agency or as independent entity with elevation of Emergency Medical Services Advisory Council; and examination of the dispatch procedures and potential conflicts with regional medical command centers;

(6) Review and consideration of the establishment of a standing committee or office under the purview of the Joint Committee on Government and Finance, as proposed in House Bill 2383; together with consideration of general procedures and efficiencies for redistricting following census years;

(7) Review and consideration of a constitutional amendment, similar in nature to House Joint Resolution 24, relating to education, including specifically, providing for the election of members of the State Board of Education;

(8) Review and consideration of improper public access to personal identifiable information in the records of charitable institutions retained by governmental agencies, including specifically consideration of non-disclosure and redaction of certain information contained within a charitable donor record as contemplated in House Bill 3079;

(9) Review and consideration of the foster care system and procedures in the State, including general review of the system, the legal burdens and obstacles within the current foster care system; the treatment and oversight of children placed in foster care, with specific emphasis on the proposed bill of rights for children in foster care contemplated by House Bill 2088 and proposed bill of rights for foster parents contemplated by House Bill 2089;

(10) Review and consideration of the efficiencies and operation of the Public Defender Services system, including specific emphasis on the impact on panel attorneys; the timely payment to panel attorneys; the rates currently paid; record keeping by panel attorneys; identification of fraud and overbilling by panel attorneys; efficiencies of current voucher system; historic underfunding of Public Defender Services; and potential availability of insurance under the West Virginia Public Employees Insurance Agency;

(11) Examination and consideration of work requirements for applicants for the Supplemental Nutrition Assistance Program (SNAP); along with controls and methods for the detection of fraud; as contemplated by Senate Bill 60, including more general review and consideration of the welfare system in this state, including emphasis on federal guidelines, waivers, and financial eligibility;

(12) Review and examination of campaign finance laws contained in Chapter 3 of the code, with consideration of long-term

review, reorganization and revision of the election and campaign finance statutes; including specifically consideration of differences between the state and federal laws as to monetary donation limits, relationship with political party caucuses and political action committees;

(13) Review and examination of the federal regulations relating to drones and other unmanned aircraft systems, with emphasis on the protection of personal privacy, along with lawful restrictions upon the use of such unmanned aircraft systems, as contemplated by House Bill 3005 and Senate Bill 9;

(14) Review and examination of the penalties under our criminal justice laws, with an emphasis on the establishment of a commission to study and make recommendations on the reorganization and revision of penalties and offenses under Chapter 61 of the code, including consideration of capital punishment as a penalty; and, be it

Further Resolved, That the Joint Committee on the Judiciary may consult or act in conjunction with other Joint Standing Committees of the Legislature in consideration of the foregoing topic areas, and any additional topic areas not identified herein, that the Joint Committee may study or examine during an interim meeting; and, be it

Further Resolved, That, following review and study of a topic area, the Joint Committee on the Judiciary may draft and propose legislation for introduction during the 2018 legislative session, and may make such other recommendations to other Joint Standing Committees of the Legislature as warranted or deemed appropriate; and, be it

Further Resolved, That the expenses necessary to conduct the study of these topic areas, along with other later identified topic areas, be paid from legislative appropriations from the Joint Committee on Government and Finance”.

At the respective requests of Delegate Cowles, and by unanimous consent, the resolution (H. C. R. 142) 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.

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. 129, Study of the West Virginia Office on Drug Policy,

H. C. R. 130, Feasibility study of selling West Virginia's state owned mental health facilities,

H. C. R. 131, Study for Preauthorization procedures legislation,

H. C. R. 132, Feasibility study of the creation of an "Advisory Council on Rare Diseases",

H. C. R. 133, Study of tobacco/smoking harm reduction policies,

H. C. R. 134, Feasibility study of dividing the Department of Health and Human Resources,

H. C. R. 135, Study of the structure and duties of the West Virginia Medical Examiner's Office,

H. C. R. 136, Study of the issues, needs and challenges facing senior citizens,

S. C. R. 33, U. S. Army Ranger SGT Richard E. Arden Memorial Bridge,

S. C. R. 42, Five Champ Brothers Bridge,

And,

S. C. R. 49, Erecting signs in Kanawha County declaring Home of Ralph Maddox 1980 NHPA Hall of Fame,

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

At the request of Delegate Cowles, and by unanimous consent, the resolutions (H. C. R. 129, H. C. R. 130, H. C. R. 131, H. C. R. 132, H. C. R. 133, H. C. R. 134, H. C. R. 135, H. C. R. 136, S. C. R. 33, S. C. R. 42 and S. C. R. 49) were each 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 on those requiring the same.

At 10:20 p.m., on motion of Delegate Cowles, the House of Delegates recessed for fifteen minutes.

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Evening Session

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-Continued-

Conference Committee Reports

Delegate Sobonya, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 2579, Increasing the penalties for transporting controlled substances.

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill 2579 having met, after full

and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate striking out everything following the enacting clause and inserting new language, and agree to the same as follows:

That §60A-4-409 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-409. Prohibited acts – Transportation of controlled substances into state; penalties.

(a) Except as otherwise authorized by the provisions of this code, it ~~shall be~~ is unlawful for any person to transport or cause to be transported into this state a controlled substance with the intent to deliver the same or with the intent to manufacture a controlled substance.

(b) Any person who violates this section with respect to:

(1) A controlled substance classified in Schedule I or II, which is a narcotic drug, shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than fifteen years, or fined not more than \$25,000, or both;

(2) Any other controlled substance classified in Schedule I, II or III shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than ~~five~~ ten years, or fined not more than \$15,000, or both: Provided, That for the substance marihuana, as scheduled in subdivision (24) subsection (d), section two hundred four, article two of this chapter, the penalty, upon conviction of a violation of this subsection, shall be that set forth in subdivision (3) of this subsection.

(3) A substance classified in Schedule IV shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than ~~three~~ five years, or fined not more than \$10,000, or both;

(4) A substance classified in Schedule V shall be guilty of a misdemeanor and, upon conviction, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in article ten of this chapter, the penalties established in said article apply.

(c) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one kilogram or more of heroin, five kilograms or more of cocaine or cocaine base, one hundred grams or more of phencyclidine, ten grams or more of lysergic acid diethylamide, or fifty grams or more of methamphetamine or five hundred grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than thirty years.

(d) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one hundred but fewer than 1000 grams of heroin, not less than five hundred but fewer than 5,000 grams of cocaine or cocaine base, not less than ten but fewer than ninety-nine grams of phencyclidine, not less than one but fewer than ten grams of lysergic acid diethylamide, or not less than five but fewer than fifty grams of methamphetamine or not less than fifty grams but fewer than five hundred grams of a substance or material containing a measurable amount of methamphetamine, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than twenty years.

(e) Notwithstanding the provisions of subsection (b) of this section, any person violating or attempting to violate the provisions

of subsection (a) of this section involving not less than ten grams nor more than one hundred grams of heroin, not less than fifty grams nor more than five hundred grams of cocaine or cocaine base, not less than two grams nor more than ten grams of phencyclidine, not less than two hundred micrograms nor more than one gram of lysergic acid diethylamide, or not less than four hundred ninety nine milligrams nor more than five grams of methamphetamine or not less than twenty grams nor more than fifty grams of a substance or material containing a measurable amount of methamphetamine is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two nor more than fifteen years.

(e)(f) The offense established by this section shall be in addition to and a separate and distinct offense from any other offense set forth in this code.”

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title to read as follows:

Com. Sub. for H. B. 2579 - “A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to the offense of transporting illegal substances into the state generally; increasing penalties for illegal transportation of controlled substances into the state; clarifying that causing illegal transportation of controlled substances into the state is prohibited; providing for a differing penalty for an offense involving marihuana; and creating enhanced criminal penalties for transporting certain controlled substances into the state based on quantity.”

Respectfully submitted,

Kelli Sobonya, *Chair*

Ryan J. Weld, *Chair*

Ray Hollen,

Mark R. Maynard,

Rodney Miller,

Glenn Jeffries,

*Conferees on the part
of the House of Delegates.*

*Conferees on the part of
the Senate.*

On motion of Delegate Sobonya, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 588**), and there were—yeas 91, nays 8, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Criss, Folk, Hornbuckle, McGeehan, Pushkin, Robinson, Rowe and Sponaugle.

Absent and Not Voting: 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. 2579) passed.

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

Delegate R. Miller, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 2585, Creating felony crime of conducting financial transactions involving proceeds of criminal activity.

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill 2585 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the House agree to the amendment of the Senate to the bill striking out everything after the enacting clause, and that both houses agree to the following amendments to the Senate amendment, as follows:

On page three, section two, line fifteen, by striking out the phrase “a determinate term of”.

And,

On page four, section two, line twenty-one, by striking out the phrase “a determinate term of”.

And,

The House agrees to the Senate title.

Respectfully submitted,

Kelli Sobonya, *Chair*

Ryan J. Weld, *Chair*

Ray Hollen,

Mark R. Maynard,

Rodney Miller,

Glenn Jeffries,

*Conferees on the part
of the House of Delegates.*

*Conferees on the part
of the Senate.*

On motion of Delegate R. Miller, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 589**), 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. 2585) passed.

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

Delegate Hollen, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 2329, Prohibiting the production, manufacture or possession of fentanyl.

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill 2329 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate striking out everything following the enacting clause and inserting new language, and agree to the same as follows:

That §60A-1-101 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §60A-2-204 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §60A-4-414, all to read as follows:

ARTICLE 1. DEFINITIONS.

§60A-1-101. Definitions.

As used in this act:

(a) “Administer” means the direct application of a controlled substance whether by injection, inhalation, ingestion or any other means to the body of a patient or research subject by:

(1) A practitioner (or, in his or her presence, by his or her authorized agent); or

(2) The patient or research subject at the direction and in the presence of the practitioner.

(b) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c) “Analogue” means a substance that, in relation to a controlled substance, has a substantially similar chemical structure.

(d) “Bureau” means the “Bureau of Narcotics and Dangerous Drugs, United States Department of Justice” or its successor agency.

(e) “Controlled substance” means a drug, substance or immediate precursor in Schedules I through V of article two of this chapter.

(f) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(g) “Imitation controlled substance” means: (1) A controlled substance which is falsely represented to be a different controlled substance; (2) a drug or substance which is not a controlled substance but which is falsely represented to be a controlled substance; or (3) a controlled substance or other drug or substance or a combination thereof which is shaped, sized, colored, marked, imprinted, numbered, labeled, packaged, distributed or priced so as to cause a reasonable person to believe that it is a controlled substance.

(h) “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of: (1) A controlled substance, whether or not there is an agency relationship; (2) a counterfeit substance; or (3) an imitation controlled substance.

(i) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering,

packaging, labeling or compounding necessary to prepare the substance for that delivery.

(j) “Dispenser” means a practitioner who dispenses.

(k) “Distribute” means to deliver, other than by administering or dispensing, a controlled substance, a counterfeit substance or an imitation controlled substance.

(l) “Distributor” means a person who distributes.

(m) “Drug” means: (1) Substances recognized as drugs in the official “United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary”, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in subdivision (1), (2) or (3) of this subdivision. It does not include devices or their components, parts or accessories.

(n) “Fentanyl analog or derivative” means any substance which has a chemical structure which is substantially similar to the chemical structure of fentanyl, including any of its salts, isomers, or salts of isomers, including any chemical compound or mixture. For purposes of this chapter, the term “fentanyl derivative or analog” includes any fentanyl analog that is not otherwise scheduled in this chapter.

~~(n)~~ (o) “Immediate derivative” means a substance which is the principal compound or any analogue of the parent compound manufactured from a known controlled substance primarily for use and which has equal or similar pharmacologic activity as the parent compound which is necessary to prevent, curtail or limit manufacture.

~~(o)~~ (p) “Immediate precursor” means a substance which is the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to

be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

~~(p)~~ (q) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice; or

(2) By a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

~~(q)~~ (r) “Marijuana” means all parts of the plant “*Cannabis sativa L.*”, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, immediate derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, immediate derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

~~(r)~~ (s) “Narcotic drug” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, immediate derivative or preparation of opium or opiate.

(2) Any salt, compound, isomer, immediate derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) of this subdivision, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, immediate derivative or preparation of coca leaves and any salt, compound, isomer, immediate derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

~~(s)~~ (t) “Opiate” means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section two hundred one, article two of this chapter, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does not include its racemic and levorotatory forms.

~~(t)~~ (u) “Opium poppy” means the plant of the species “*Papaver somniferum* L.”, except its seeds.

~~(u)~~ (v) “Person” means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~(v)~~ (w) “Placebo” means an inert medicament or preparation administered or dispensed for its psychological effect, to satisfy a patient or research subject or to act as a control in experimental series.

~~(w)~~ (x) “Poppy straw” means all parts, except the seeds, of the opium poppy after mowing.

~~(x)~~ (y) “Practitioner” means:

(1) A physician, dentist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

~~(y)~~ (z) “Production” includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

~~(z)~~ (aa) “State”, when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof and any area subject to the legal authority of the United States of America.

~~(aa)~~ (bb) “Ultimate user” means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

ARTICLE 2. STANDARDS AND SCHEDULES.

§60A-2-204. Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (for purposes of subdivision (34) of this subsection only, the term isomer includes the optical and geometric isomers):

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]—phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(—propanilido) piperidine);
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl- 4-piperidinyl]—phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl) -4-piperidinyl]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;

- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxeridine;

(29) Fentanyl analog or derivative, as that term is defined in article one of this chapter: *Provided*, That fentanyl and carfentanil remains a Schedule II substance, as set forth in section two hundred six of this article;

- ~~(29)~~ (30) Furethidine;
- ~~(30)~~ (31) Hydroxypethidine;
- ~~(31)~~ (32) Ketobemidone;
- ~~(32)~~ (33) Levomoramide;
- ~~(33)~~ (34) Levophenacymorphan;
- ~~(34)~~ (35) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- ~~(35)~~ (36) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]—phenylpropanamide);
- ~~(36)~~ (37) Morpheridine;

- ~~(37)~~ (38) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- ~~(38)~~ (39) Noracymethadol;
- ~~(39)~~ (40) Norlevorphanol;
- ~~(40)~~ (41) Normethadone;
- ~~(41)~~ (42) Norpipanone;
- ~~(42)~~ (43) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
- ~~(43)~~ (44) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- ~~(44)~~ (45) Phenadoxone;
- ~~(45)~~ (46) Phenampromide;
- ~~(46)~~ (47) Phenomorphan;
- ~~(47)~~ (48) Phenoperidine;
- ~~(48)~~ (49) Piritramide;
- ~~(49)~~ (50) Proheptazine;
- ~~(50)~~ (51) Properidine;
- ~~(51)~~ (52) Propiram;
- ~~(52)~~ (53) Racemoramide;
- ~~(53)~~ (54) Thiofentanyl (N-phenyl-N-[1-(2-thienyl) ethyl-4-piperidinyl]-propanamide);
- ~~(54)~~ (55) Tilidine;
- ~~(55)~~ (56) Trimeperidine.

(c) *Opium derivatives.* — Unless specifically excepted or unless listed in another schedule, any of the following opium immediate derivatives, its salts, isomers and salts of isomers

whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except HCl Salt);
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myorphine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;

(22) Pholcodine;

(23) Thebacon.

(d) *Hallucinogenic substances.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term “isomer” includes the optical, position and geometric isomers):

(1) Alpha-ethyltryptamine; some trade or other names: etryptamine; Monase; alpha-ethy-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

(2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;

(3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

(4)(A) N-(2-Methoxybenzyl)-4-bromo-2, 5-dimethoxyphenethylamine. The substance has the acronym 25B-NBOMe.

(B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe).

(C) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe)

(5) 2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;

(6) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;

(7) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

(8) 4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;

(9) 5-methoxy-3, 4-methylenedioxy-amphetamine;

(10) 4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP";

(11) 3,4-methylenedioxy amphetamine;

(12) 3,4-methylenedioxymethamphetamine (MDMA);

(13) 3,4-methylenedioxy-N-ethylamphetamine (also known as – ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);

(14) N-hydroxy-3,4-methylenedioxyamphetamine (also known as – hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and – hydroxy MDA);

(15) 3,4,5-trimethoxy amphetamine;

(15) (16) 5-methoxy-N, N-dimethyltryptamine (5-MeO-DMT);

(17) Alpha-methyltryptamine (other name: AMT);

(18) Bufotenine; some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl) -5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N- dimethyltryptamine; mappine;

(19) Diethyltryptamine; some trade and other names: N, N-Diethyltryptamine; DET;

(20) Dimethyltryptamine; some trade or other names: DMT;

(21) 5-Methoxy-N, N-diisopropyltryptamine (5-MeO-DIPT);

(22) Ibogaine; some trade and other names: 7-Ethyl-6, 6 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe iboga;

(23) Lysergic acid diethylamide;

(24) Marijuana;

(25) Mescaline;

(26) Parahexyl-7374; some trade or other names: 3-Hexyl -1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;

(27) Peyote; meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, immediate derivative, mixture or preparation of such plant, its seeds or extracts;

(28) N-ethyl-3-piperidyl benzilate;

(29) N-methyl-3-piperidyl benzilate;

(30) Psilocybin;

(31) Psilocyn;

(32) Tetrahydrocannabinols; synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, immediate derivatives and their isomers with similar chemical structure and pharmacological activity such as the following:

delta-1 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3,4 Cis or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

(33) Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(34) Pyrrolidine analog of phencyclidine; some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(35) Thiophene analog of phencyclidine; some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine; TPCP, TCP;

(36) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy.

(37) 4-methylmethcathinone (Mephedrone);

(38) 3,4-methylenedioxypropylvalerone (MDPV);

(39) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

(40) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)

(41) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)

(42) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)

(43) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)

(44) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)

(45) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)

(46) 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)

(47) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P)

(48) 3,4-Methylenedioxy-N-methylcathinone (Methylone)

(49) (2,5-dimethoxy-4-(n)-propyltghiophenethylamine (2C-T-7, itsoptical isomers, salts and salts of isomers

(50) 5-methoxy-N, N-dimethyltryptamine some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT(5-MeO-DMT)

(51) Alpha-methyltryptamine (other name: AMT)

(52) 5-methoxy-N, N-diisopropyltryptamine (other name: 5-MeO-DIPT)

(53) Synthetic Cannabinoids as follows:

(A) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol {also known as CP 47,497 and homologues};

(B) rel-2-[(1S,3R)-3-hydroxycyclohexyl] -5-(2-methylnonan-2-yl) phenol {also known as CP 47,497-C8 homolog};

(C) [(6aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[c]chromen-1-ol)] {also known as HU-210};

(D) (dexanabinol); (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzol[c]chromen-1-ol) {also known as HU-211};

(E) 1-Pentyl-3-(1-naphthoyl) indole {also known as JWH-018};

(F) 1-Butyl-3-(1-naphthoyl) indole {also known as JWH-073};

(G) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-015};

(H) (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-019};

(I) [1-[2-(4-morpholinyl) ethyl] -1H-indol-3-yl]-1-naphthalenyl-methanone {also known as JWH-200};

(J) 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone {also known as JWH-250};

(K) 2-((1S,2S,5S)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl)-5-(2-methyloctan-2-yl)phenol {also known as CP 55,940};

(L) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-122};

(M) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-398};

(N) (4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone {also known as RCS-4};

(O) 1-(1-(2-cyclohexylethyl) -1H-indol-3-yl) -2-(2-methoxyphenyl) ethanone {also known as RCS-8};

(P) 1-pentyl-3-[1-(4-methoxynaphthoyl) indole (JWH-081);

(Q) 1-(5-fluoropentyl)-3-(1-naphthoyl) indole (AM2201); and

(R) 1-(5-fluoropentyl)-3-(2-iodobenzoyl) indole (AM694).

(54) Synthetic cannabinoids or any material, compound, mixture or preparation which contains any quantity of the following substances, including their analogues, congeners, homologues, isomers, salts and salts of analogues, congeners, homologues and isomers, as follows:

(A) CP 47,497 and homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-YL) phenol);

(B) HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-6A,7,10, 10A-tetrahydrobenzo[C]chromen-1-OL)];

(C) HU-211, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-methyloctan-2-yl)-6A,7,10,10atetrahydrobenzo [C] chromen-1-OL);

(D) JWH-018, 1-pentyl-3-(1-naphthoyl) indole;

(E) JWH-019, 1-hexyl-3-(1-naphthoyl) indole;

(F) JWH-073, 1-butyl-3-(1-naphthoyl) indole;

(G) JWH-200, (1-(2-morpholin-4-ylethyl) indol-3-yl)-Naphthalen-1-ylmethanone;

(H) JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl) indole.

(55) Synthetic cannabinoids including any material, compound, mixture or preparation that is not listed as a controlled substance in Schedule I through V, is not a federal Food and Drug Administration approved drug or used within legitimate and approved medical research and which contains any quantity of the following substances, their salts, isomers, whether optical positional or geometric, analogues, homologues and salts of isomers, analogues and homologues, unless specifically exempted, whenever the existence of these salts, isomers, analogues, homologues and salts of isomers, analogues and homologues if possible within the specific chemical designation:

(A) Tetrahydrocannabinols meaning tetrahydrocannabinols which are naturally contained in a plant of the genus cannabis as well as synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis or synthetic substances, derivatives and their isomers with analogous chemical structure and or pharmacological activity such as the following:

(i) DELTA-1 CIS or trans tetrahydrocannabinol and their optical isomers.

(ii) DELTA-6 CIS or trans tetrahydrocannabinol and their optical isomers.

(iii) DELTA-3,4 CIS or their trans tetrahydrocannabinol and their optical isomers.

(B) Naphthoyl indoles or any compound containing a 3-(1-Naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include the following:

- (i) JWH 015;
- (ii) JWH 018;
- (iii) JWH 019;
- (iv) JWH 073;
- (v) JWH 081;
- (vi) JWH 122;
- (vii) JWH 200;
- (viii) JWH 210;
- (ix) JWH 398;
- (x) AM 2201;
- (xi) WIN 55,212.

(56) Synthetic Phenethylamines (including their optical, positional, and geometric isomers, salts and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers):

(A) _____ 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe/ 2C-I-NBOMe);

(B) _____ 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe/2C-C-NBOMe);

(C) _____ 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe/ 2C-B-NBOMe);

(57) Synthetic Opioids (including their isomers, esters, ethers, salts and salts of isomers, esters and ethers):

(A) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl):

(B) furanyl fentanyl:

(C) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide (also known as U-47700):

(D) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide, (butyryl fentanyl):

(E) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, also known as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide, (beta-hydroxythiofentanyl).

(58) Opioid Receptor Agonist (including its isomers, esters, ethers, salts, and salts of isomers, esters and ethers):

(A) AH-7921 (3,4-dichloro-N-(1dimethylamino)cyclohexylmethyl]benzamide).

~~(56)~~ (59) Naphylmethylindoles or any compound containing a 1hindo1-3-yl-(1-naphthyl) methane structure with a substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 175 and JWH 184.

~~(57)~~ (60) Naphthoylpyrroles or any compound containing a 3-(1- Naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 147 and JWH 307.

~~(58)~~ (61) Naphthylmethylenes or any compound containing a Naphthylideneindene structure with substitution at the 3- Position of the indene ring whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 176.

~~(59)~~ (62) Phenylacetylindoles or any compound containing a 3- Phenylacetylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

- (A) RCS-8, SR-18 OR BTM-8;
- (B) JWH 250;
- (C) JWH 203;
- (D) JWH 251;
- (E) JWH 302.

~~(60)~~ (63) Cyclohexylphenols or any compound containing a 2-(3- hydroxycyclohexyl) phenol structure with a substitution at the 5-position of the phenolic ring whether or not substituted in the cyclohexyl ring to any extent. This shall include the following:

- (A) CP 47,497 and its homologues and analogs;
- (B) Cannabicyclohexanol;
- (C) CP 55,940.

~~(61)~~ (64) Benzoylindoles or any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

- (A) AM 694;

(B) Pravadoline WIN 48,098;

(C) RCS 4;

(D) AM 679.

~~(62)~~ (65) [2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-benzoxazin-6-YL]-1-naphthalenymethanone. This shall include WIN 55,212-2.

~~(63)~~ (66) Dibenzopyrans or any compound containing a 11-hydroxydelta 8-tetrahydrocannabinol structure with substitution on the 3-pentyl group. This shall include HU-210, HU-211, JWH 051 and JWH 133.

~~(64)~~ (67) Adamantoylindoles or any compound containing a 3-(-1- Adamantoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the adamantoyl ring system to any extent. This shall include AM1248.

~~(65)~~ (68) Tetramethylcyclopropylindoles or any compound containing A 3-tetramethylcyclopropylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent. This shall include UR-144 and XLR-11.

~~(66)~~ (69) N-(1-Adamantyl)-1-pentyl-1h-indazole-3-carboxamide. This shall include AKB48.

~~(67)~~ (70) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research. Since nomenclature of these substances is not internationally standardized, any immediate precursor or immediate derivative of these substances shall be covered.

~~(68)~~ (71) Tryptamines:

(A) 5- methoxy-N-methyl-N-isopropyltryptamine (5-MeO-MiPT)

(B) 4-hydroxy-N, N-diisopropyltryptamine (4-HO-DiPT)

(C) 4-hydroxy-N-methyl-N-isopropyltryptamine (4-HO-MiPT)

(D) 4-hydroxy-N-methyl-N-ethyltryptamine (4-HO-MET)

(E) 4-acetoxy-N, N-diisopropyltryptamine (4-AcO-DiPT)

(F) 5-methoxy- α -methyltryptamine (5-MeO-AMT)

(G) 4-methoxy-N, N-Dimethyltryptamine (4-MeO-DMT)

(H) 4-hydroxy Diethyltryptamine (4-HO-DET)

(I) 5- methoxy- N, N- diallyltryptamine (5-MeO-DALT)

(J) 4-acetoxy-N, N-Dimethyltryptamine (4-AcO-DMT)

(K) 4-hydroxy Diethyltryptamine (4-HO-DET)

(72) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (AB-CHMINACA);

(73) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB-PINACA);

(74) [1-(5-fluoropentyl)-1H-indazol-3-yl (naphthalen-1-yl)methanone (THJ-2201);

(75) quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate (PB-22; QUPIC);

(76) quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22);

(77) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (AB-FUBINACA);

(78) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA); and

(79) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (common names, MAB-CHMINACA and ADB-CHMINACA);

(e) *Depressants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Mecloqualone;
- (2) Methaqualone.

(f) *Stimulants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Aminorex; some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(2) Cathinone; some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(3) Fenethylamine;

(4) Methcathinone, its immediate precursors and immediate derivatives, its salts, optical isomers and salts of optical isomers; some other names: (2-(methylamino)-propyl)phenone; alpha-

(methylamino)propylphenone; 2-(methylamino)-1-phenylpropan-1-one; alpha—methylaminopropylphenone; monomethylpropylamine; 3,4-methylenedioxypropylphenone and/or

mephedrone; 3,4-methylenedioxypropylamphetamine (MPVD);
ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-
422; AL- 463 and UR1432;

(5) (+-) cis-4-methylaminorex; ((+-) cis-4,5-dihydro-4-methyl-
5-phenyl-2-oxazolamine);

(6) N-ethylamphetamine;

(7) N,N-dimethylamphetamine; also known as N,N-alpha-
trimethyl-benzeneethanamine; N,N-alpha-
trimethylphenethylamine.

(8) Alpha-pyrrolidinopentiophenone, also known as alpha-
PVP, optical isomers, salts and salts of isomers.

(9) Substituted amphetamines:

(A) 2-Fluoroamphetamine

(B) 3-Fluoroamphetamine

(C) 4-Fluoroamphetamine

(D) 2-chloroamphetamine

(E) 3-chloroamphetamine

(F) 4-chloroamphetamine

(G) 2-Fluoromethamphetamine

(H) 3-Fluoromethamphetamine

(I) 4-Fluoromethamphetamine

(J) 4-chloromethamphetamine

(10) 4-methyl-N-ethylcathinone (4-MEC);

(11) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);

(12) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone);

(13) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);

(14) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone);

(15) 4-fluoro-N-methylcathinone (4-FMC);

(16) 3-fluoro-N-methylcathinone (3-FMC);

(17) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); and

(18) Alpha-pyrrolidinobutiophenone (α -PBP).

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers.

(2) N-[1-(2-thienyl) methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

(3) N-benzylpiperazine, also known as BZP.

(h) The following controlled substances are included in Schedule I:

(1) Synthetic Cathinones or any compound, except bupropion or compounds listed under a different schedule, or compounds used within legitimate and approved medical research, structurally derived from 2- Aminopropan-1-one by substitution at the 1-position with Monocyclic or fused polycyclic ring systems, whether or not the compound is further modified in any of the following ways:

(A) By substitution in the ring system to any extent with Alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl or halide Substituents whether or not further substituted in the ring system by one or more other univalent substituents.

(B) By substitution at the 3-Position with an acyclic alkyl substituent.

(C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups.

(D) By inclusion of the 2-amino nitrogen atom in a cyclic structure.

(2) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and V, not Federal Food and Drug Administration approved drug or used within legitimate, approved medical research.

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-414. Unlawful manufacture, delivery, transport into state, or possession of fentanyl.

(a) For purposes of this section,

(1) “Controlled substance” shall have the same meaning as provided in subsection (e), section one hundred one, article one of this chapter.

(2) “Fentanyl” refers to the substance identified in subdivision (9), subsection (c), section two hundred six, article two of this chapter, and any analog or derivative thereof.

(b) Any person who violates the provisions of subsection (a), section four hundred one of this article or section four hundred nine of this article in which fentanyl is a controlled substance involved in the offense, either alone or in combination with another controlled substance, shall be guilty of a felony, and upon

conviction thereof, shall be punished in accordance with the following:

(1) If the net weight of fentanyl involved in the offense is less than one gram, such person shall be imprisoned in a correctional facility not less than two nor more than ten years.

(2) If the net weight of fentanyl involved in the offense is one gram or more but less than five grams, such person shall be imprisoned in a correctional facility not less than three nor more than fifteen years.

(3) If the net weight of fentanyl involved in the offense is five grams or more, such person shall be imprisoned in a correctional facility not less than four nor more than twenty years.

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title to read as follows:

Com. Sub. for H. B. 2329 - “A Bill to amend and reenact §60A-1-101 of the Code of West Virginia, 1931, as amended; to amend and reenact §60A-2-204 of said code; and to amend said code by adding thereto a new section, designated §60A-4-414, all relating to prohibiting the unlawful production, manufacture or possession of fentanyl and fentanyl analogs and derivatives; defining a fentanyl analog or derivative; classifying a fentanyl analog or derivative as a Schedule I drug; classifying additional drugs to Schedule I of uniform controlled substances act; creating a felony offense and imposing criminal penalties for the unlawful manufacture, delivery, possession with intent to manufacture or deliver, and transport into state of fentanyl; defining terms; establishing increased penalties for manufacturing, delivering, possessing with intent to manufacture or deliver, and transporting into state with intent to deliver or manufacture in which fentanyl is a controlled substance involved in the offense; and providing for penalties based upon weight.”

Respectfully submitted,

Kelli Sobonya, *Chair*,

Ryan J. Weld, *Chair*,

Ray Hollen,

Mark R. Maynard,

Rodney Miller,

Glenn Jeffries,

*Conferees on the part
of the House of Delegates.*

*Conferees on the part
of the Senate.*

On motion of Delegate Hollen, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 590**), 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. 2329) passed.

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

Delegate Blair, from the Committee of Conference on matters of disagreement between the two houses, as to

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.

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendments of the Senate to the Committee Substitute for House Bill 2589 having met, after full and free

conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses agree with the Senate's amendment, except that it be further amended on page one, section fifteen-g, line three, after the word "counties", by changing the period to a colon and by inserting the following:

Provided, That such students will be treated equally for admission purposes with applicants enrolled in public school.

Saira Blair, *Chair*,

Ed Gaunch, *Chair*,

Jill Upson,
(*Did not sign.*)

Kenny Mann,

Mike Romano,

Ralph Rodighiero,

*Conferees on the part of
the House of Delegates.*

*Conferees on the part of
the Senate.*

Delegate Blair moved that the report of the Committee of Conference be adopted.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 591**), and there were—yeas 65, nays 35, absent and not voting none, with the nays being as follows:

Nays: Ambler, Baldwin, Bates, Boggs, Canestraro, Caputo, Cooper, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Harshbarger, Hartman, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, R. Miller, Moye, Pethel, Pyles, Rodighiero, Rohrbach, Sponaugle, Thompson, Wagner and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the report of the Committee of Conference was adopted.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 592**), and there were—yeas 78, nays 22, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Canestraro, Cooper, Diserio, E. Evans, Ferro, Fleischauer, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, R. Miller, Moye, Pethtel, Pyles, Rohrbach, Thompson, Wagner and Westfall.

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.

At 10:37 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 11:00 p.m.

* * * * *

Evening Session

* * * * *

-Continued-

The House 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, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

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 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 §3-2-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-11. Registration in conjunction with driver licensing.

(a) The Division of Motor Vehicles or other division or department that may be established by law to perform motor vehicle driver licensing services shall obtain, as an integral and simultaneous part of every process of application for the issuance, renewal or change of address of a motor vehicle driver’s license or official identification card pursuant to the provisions of article two, chapter seventeen-b of this code, when the division’s regional offices are open for regular business, the following information from each qualified registrant:

- (1) Full name, including first, middle, last and any premarital names;
- (2) Date of birth;
- (3) Residence address and mailing address, if different;
- (4) The applicant’s electronic signature;
- (5) Telephone number, if available;
- (6) Email address, if available;
- (7) Political party membership, if any;
- (8) Driver’s license number and last four digits of social security number;

(9) A notation that the applicant has attested that he or she meets all voter eligibility requirements, including United States citizenship;

(10) Whether the applicant affirmatively declined to become registered to vote during the transaction with the Division of Motor Vehicles;

(11) Date of application; and

(12) Any other information specified in rules adopted to implement this section.

(b) Unless the applicant affirmatively declines to become registered to vote or update their voter registration during the transaction with the Division of Motor Vehicles, the Division of Motor Vehicles shall release all of the information obtained pursuant to subsection (a) of this section, to the Secretary of State, who shall forward the information to the county clerk for the relevant county to process the newly registered voter or updated information for the already-registered voter pursuant to law. ~~Notwithstanding any other provision of this code to the contrary, if the applicant affirmatively declines to become registered to vote, the Division of Motor Vehicles is required to release the first name, middle name, last name, premarital name, if applicable, complete residence address, complete date of birth of an applicant and the applicant's electronic signature, entered in the division's records for driver license or nonoperator identification purposes to the Secretary of State in order to facilitate any future attempt of the applicant to register to vote online, along with the notation that the applicant affirmatively declined to become registered at that time.~~ The Division of Motor Vehicles shall notify that applicant that by submitting his or her signature, the applicant grants written consent for the submission of the information obtained and required to be submitted to the Secretary of State pursuant to this section.

(c) Information regarding a person's failure to sign the voter registration application is confidential and may not be used for any purpose other than to determine voter registration.

(d) A qualified voter who submits the required information or update to his or her voter registration, pursuant to the provisions of subsection (a) of this section, in person at a driver licensing facility at the time of applying for, obtaining, renewing or transferring his or her driver's license or official identification card and who presents identification and proof of age at that time is not required to make his or her first vote in person or to again present identification in order to make that registration valid.

(e) A qualified voter who submits by mail or by delivery by a third party an application for registration on the form used in conjunction with driver licensing is required to make his or her first vote in person and present identification as required for other mail registration in accordance with the provisions of subsection (g), section ten of this article. If the applicant has been previously registered in the jurisdiction and the application is for a change of address, change of name, change of political party affiliation or other correction, the presentation of identification and first vote in person is not required.

(f) An application for voter registration submitted pursuant to the provisions of this section updates a previous voter registration by the applicant and authorizes the cancellation of registration in any other county or state in which the applicant was previously registered.

(g) A change of address from one residence to another within the same county which is submitted for driver licensing or nonoperator's identification purposes in accordance with applicable law serves as a notice of change of address for voter registration purposes if requested by the applicant after notice and written consent of the applicant.

(h) Completed applications for voter registration or change of address for voting purposes received by an office providing driver licensing services shall be forwarded to the Secretary of State within five days of receipt unless other means are available for a more expedited transmission. The Secretary of State shall remove and file any forms which have not been signed by the applicant and

shall forward completed, signed applications to the clerk of the appropriate county commission within five days of receipt.

(i) Voter registration application forms containing voter information which are returned to a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted to the Secretary of State and maintained by the Secretary of State's office according to the retention policy adopted by the Secretary of State.

(j) The Secretary of State shall establish procedures to protect the confidentiality of the information obtained from the Division of Motor Vehicles, including any information otherwise required to be confidential by other provisions of this code.

(k) A person registered to vote pursuant to this section may cancel his or her voter registration at any time by any method available to any other registered voter.

(l) This section shall not be construed as requiring the Division of Motor Vehicles to determine eligibility for voter registration and voting.

(m) The changes made to this section during the 2016 Regular Legislative Session shall become effective on July 1, ~~2017~~2019, and any costs associated therewith shall be paid by the Division of Motor Vehicles. If the Division of Motor Vehicles is unable to meet the requirements of this section by February 1, ~~2017~~2019, it shall make a presentation to the Joint Committee on Government and Finance explaining any resources necessary to meet the requirements or any changes to the code that it recommends immediately prior to the ~~2017-2019~~2019 Regular Legislative Session; Provided, 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 the purposes of this section.

(n) The Secretary of State shall propose rules for legislative approval in accordance with the provisions of article three, chapter

twenty-nine-a of this code in order to implement the requirements of this section.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2781 – “A Bill to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating to voting procedures; removing requirement that Division of Motor Vehicles forward certain information of persons who decline to become registered to vote to Secretary of State; amending the effective date for voter registration procedures passed in 2016 and 2017 legislative sessions to July 1, 2019; requiring Division of Motor Vehicles to make presentation to Joint Committee on Government and Finance if unable to meet requirements of section by February 1, 2019; and requiring Division of Motor Vehicles shall report to the Joint Committee on Government and Finance by January 1, 2018, with full and complete list of all infrastructure they require to achieve certain purposes.”

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. 593**), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Cooper and Eldridge.

Absent and Not Voting: Phillips, Sponaugle, Westfall and White.

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. 2781) passed.

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

On this question, the yeas and nays were taken (**Roll No. 594**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Cooper.

Absent and Not Voting: Phillips and Sponaugle.

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. 2781) 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 House of Delegates amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for H. B. 2648, Increasing penalties for manufacturing or transportation of a controlled substance in the presence of a minor.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of

Com. Sub. for S. B. 220, Relating to offenses and penalties under Uniform Controlled Substances Act.

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

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 §60A-4-414, to read as follows:

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-414. Drug delivery resulting in death; failure to render aid.

(a) Any person who knowingly and willfully delivers a controlled substance or counterfeit controlled substance in violation of the provisions of section four hundred one, article four of this chapter for an illicit purpose and the use, ingestion or consumption of the controlled substance or counterfeit controlled substance alone or in combination with one or more other controlled substances, proximately causes the death of a person using, ingesting or consuming the controlled substance, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than three nor more than fifteen years.

(b) Any person who, while engaged in the illegal use of a controlled substance with another, who knowingly fails to seek medical assistance for such other person when the other person suffers an overdose of the controlled substance or suffers a significant adverse physical reaction to the controlled substance and the overdose or adverse physical reaction proximately causes the death of the other person, is guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than five years.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for S. B. 220 – “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 offenses and penalties under the Uniform Controlled Substances Act; creating the felony offense of delivering controlled substances or counterfeit controlled substances for an illicit purpose resulting in

the death of another person and providing criminal penalties therefor; creating the criminal offense of failing to seek necessary medical attention for another while jointly engaged in illegal use of controlled substances where death ensues; and providing criminal penalties therefor.”

The bill, as amended by the House, and further 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. 595**), and there were—yeas 73, nays 27, absent and not voting none, with the nays being as follows:

Nays: Ambler, Arvon, Cooper, Cowles, Fast, Folk, N. Foster, Harshbarger, Hill, Hornbuckle, Howell, Isner, Kelly, Lane, Lynch, McGeehan, Moore, Moye, Paynter, Pushkin, Pyles, Rowe, Sponaugle, Statler, Wagner, Walters 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. 220) 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 amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2620, West Virginia Drug Overdose Monitoring Act.

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 the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-5T-1,

§16-5T-2, §16-5T-3, §16-5T-4 and §16-5T-5, all to read as follows:

ARTICLE 5T. OFFICE OF DRUG CONTROL POLICY.

§16-5T-1. Short title.

This article shall be referred to as the West Virginia Drug Control Policy Act.

§16-5T-2. Office of Drug Control Policy.

(a) The Office of Drug Control Policy is created within the Department of Health and Human Resources under the direction of the Secretary and supervision of the State Health Officer.

(b) The Office of Drug Control Policy shall create a state drug control policy in coordination with the bureaus of the Department and other state agencies. This policy shall include all programs which are related to the prevention, treatment and reduction of substance abuse use disorder.

(c) The Office of Drug Control Policy shall:

(1) Develop a strategic plan to reduce the prevalence of drug and alcohol abuse and smoking by at least ten percent by July 1, 2018;

(2) Monitor, coordinate and oversee the collection of data and issues related to drug, alcohol and tobacco access, substance use disorder policies and smoking cessation and prevention and their impact on state and local programs;

(3) Make policy recommendations to executive branch agencies that work with alcohol and substance use disorder issues, and smoking cessation and prevention to ensure the greatest efficiency and consistency in practices will be applied to all efforts undertaken by the administration;

(4) Identify existing resources and prevention activities in each community that advocate or implement emerging best practice and evidence-based programs for the full substance use disorder

continuum of drug and alcohol abuse education and prevention, including smoking cessation or prevention, early intervention, treatment and recovery;

(5) Encourage coordination among public and private, state and local, agencies, organizations and service providers and monitor related programs;

(6) Act as the referral source of information, using existing information clearinghouse resources within the Department for Health and Human Resources, relating to emerging best practice and evidence-based substance use disorder prevention, cessation, treatment and recovery programs, and youth tobacco access, smoking cessation and prevention. The Office of Drug Control Policy will identify gaps in information referral sources;

(7) Apply for grant opportunities for existing programs;

(8) Observe programs in other states;

(9) Make recommendations and provide training, technical assistance and consultation to local service providers;

(10) Review existing research on programs related to substance use disorder prevention and treatment and smoking cessation and prevention and provide for an examination of the prescribing and treatment history, including court-ordered treatment or treatment within the criminal justice system, of persons in the state who suffered fatal or nonfatal opiate overdoses;

(11) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment and education program based on the strategic plan that could encourage smoking cessation and prevention through efficient, effective and research-based strategies;

(12) Establish a mechanism to coordinate the distribution of funds to support a local program based on the strategic plan that could encourage substance use prevention, early intervention, treatment and recovery through efficient, effective and research-based strategies;

(13) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement school-based anti-drug and anti-tobacco programs;

(14) Coordinate media campaigns designed to demonstrate the negative impact of substance use disorder, smoking and the increased risk of tobacco addiction and the development of other diseases;

(15) Review Drug Enforcement Agency and the West Virginia scheduling of controlled substances and recommend changes that should be made based on data analysis;

(16) Develop recommendations to improve communication between health care providers and their patients about the risks and benefits of opioid therapy for acute pain, improve the safety and effectiveness of pain treatment and reduce the risks associated with long-term opioid therapy, including opioid use disorder and overdose;

(17) Develop and implement a program, in accordance with the provisions of section three of this article, to collect data on fatal and nonfatal drug overdoses, caused by abuse and misuse of prescription and illicit drugs from law enforcement agencies, emergency medical services, health care facilities and the Office of the Chief Medical Examiner;

(18) Develop and implement a program that requires the collection of data on the dispensing and use of an opioid antagonist from law enforcement agencies, emergency medical services, health care facilities, the Office of the Chief Medical Examiner and other entities as required by the office;

(19) Develop a program that provides assessment of persons who have been administered an opioid antagonist; and

(20) Report semi-annually to the Joint Committee on Health on the status of the Office of Drug Control Policy.

(d) Notwithstanding any other provision of this code to the contrary, and to facilitate the collection of data and issues, the

Office of Drug Control Policy may exchange necessary data and information with the bureaus within the Department, the Department of Military Affairs and Public Safety, the Department of Administration, the Administrator of Courts, the Poison Control Center, and the Board of Pharmacy. The data and information may include, but is not be limited to: data from the Controlled Substance Monitoring Program; the all-payer claims database; the criminal offender record information database; and the court activity record information;

(e) Prior to July 1, 2018, the office shall develop a plan to expand the number of treatment beds in locations throughout the state which the office determines to be the highest priority for serving the needs of the citizens of the state.

§16-5T-3. Reporting system requirements; implementation; central repository requirement.

(a) The Office of Drug Control Policy shall implement a program in which a central repository is established and maintained that shall contain information required by this article. In implementing this program, the office shall consult with all affected entities, including law-enforcement agencies, health care providers, emergency response providers, pharmacies and medical examiners.

(b) The program authorized by subsection (a) of this section shall be designed to minimize inconvenience to all entities maintaining possession of the relevant information while effectuating the collection and storage of the required information. The Office of Drug Control Policy shall allow reporting of the required information by electronic data transfer where feasible, and where not feasible, on reporting forms promulgated by the Office of Drug Control Policy. The information required to be submitted by the provisions of this article shall be required to be filed no more frequently than on a quarterly basis.

§16-5T-4. Entities required to report; required information.

(a) To fulfill the purposes of this article, the following information shall be reported to the Office of Drug Control Policy:

(1) An emergency medical or law-enforcement response to a suspected or reported overdose, or a response in which an overdose is identified by the responders;

(2) Medical treatment for an overdose;

(3) The dispensation or provision of an opioid antagonist; and

(4) Death attributed to overdose or ‘drug poisoning’.

(b) The following entities shall be required to report information contained in subsection (a) of this section:

(1) Pharmacies operating in the state;

(2) Health care providers;

(3) Medical examiners;

(4) Law-enforcement agencies, including prosecuting attorneys, state, county and local police departments; and

(5) Emergency response providers.

§16-5T-5. Promulgation of rules.

The Secretary of the Department of Health and Human Resources may propose rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to implement the provisions of this section. The Legislature finds that for the purposes of section fifteen, article three, chapter twenty-nine-a of this code, an emergency exists requiring the promulgation of emergency rules to preserve the public peace, health, safety or welfare and to prevent substantial harm to the public interest.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2620 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5T-1, §16-5T-2, §16-5T-3, §16-5T-4 and §16-5T-5, all relating to the West Virginia Drug Control Policy Act; creating the Office of Drug Control Policy within the Department of Health and Human Resources; requiring the office to develop a state drug control policy and a strategic plan; requiring the office to coordinate with other entities; setting forth duties of the office; requiring the coordination of funding; requiring data sharing; requiring the office to develop a plan to add treatment beds; required reporting; requiring the office to create a central repository of drug overdose information in West Virginia; establishing the program and purpose; establishing the reporting system requirements; establishing responsibility of entities to report information; setting forth information required to be reported and the agencies which are affected; providing for data collection and reporting; and providing for rule-making authority and emergency rule-making authority.”

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. 596**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Cooper, Fast, Folk and McGeehan.

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. 2620) 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 amendment, a bill of the House of Delegates, as follows:

H. B. 3022, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations.

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 the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §7-1-16, that said code be amended by adding thereto a new section, designated §8-9-4, and that said code be amended by adding thereto a new section, designated 30-1-5a, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-16. Reporting of fraud and misappropriation of funds.

(a) Whenever a county commission, or any of a county’s boards, committees, or any other entities of any kind or nature authorized in this chapter, obtains information that an employee, officer or member of the county commission, or any of a county’s boards, committees, or any other entities of any kind or nature authorized in this chapter may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, the county commission, or the county’s board, committee, or other entity authorized in this chapter shall timely report such information or allegation in writing to the County Prosecutor’s office.

(b) The reporting of such information under subsection (a) of this section shall not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 9. PROCEEDINGS OF GOVERNING BODIES.

§8-9-4. Reporting of fraud and misappropriation of funds.

(a) Whenever a governing body of a municipality, or any of a municipality's boards, committees, or any other entities of any kind or nature authorized in this chapter, obtains information that an employee, officer or member of municipality, or any of a municipality's boards, committees, or any other entities of any kind or nature authorized in this chapter may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, municipality, or any of a municipality's board, committee, or any other entity authorized in this chapter shall timely report such information or allegation in writing to the County Prosecutor's office.

(b) The reporting of such information under subsection (a) of this section shall not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.****§30-1-5a. Reporting of fraud and misappropriation of funds.**

(a) Whenever a board referred to in this chapter obtains information that an employee, officer or member of the board may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, the board shall timely report such information or allegation in writing to the Commission on Special Investigations, established in article five, chapter four of this code.

(b) The reporting of such information under subsection (a) of this section shall not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.”

And,

By amending the title of the bill to read as follows:

H. B. 3022 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-12-15a; to amend said code by adding thereto a new section, designated §8-9-4; and to amend said code by adding thereto a new section, designated §30-1-5a, all relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations; requiring reporting when a county commission, or any of a county’s boards, committees, or certain other county entities obtain certain information regarding misappropriation, fraud or violations of law; requiring reporting when a municipality, or any of a municipality’s boards, committees, or certain other municipal entities obtain certain information regarding misappropriation, fraud or violations of law; requiring reporting when certain professional and occupational boards of the state obtain certain information regarding misappropriation, fraud or violations of law; and clarifying that the reporting requirements do not prevent, relieve or replace a report to law-enforcement where appropriate or warranted.”

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. 597**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Cooper and Marcum.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3022) passed.

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

H. B. 3022 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-16; to amend said code by adding thereto a new section, designated §8-9-4; and to amend said code by adding thereto a new section, designated §30-1-5a, all relating to the reporting of fraud, misappropriation of moneys, and other violations of law relating to the public trust to the commission on special investigations; requiring reporting when a county commission, or any of a county’s boards, committees, or

certain other county entities obtain certain information regarding misappropriation, fraud or violations of law relating to the public trust; requiring reporting when a municipality, or any of a municipality's boards, committees, or certain other municipal entities obtain certain information regarding misappropriation, fraud or violations of law relating to the public trust; requiring reporting when certain professional and occupational boards of the state obtain certain information regarding misappropriation, fraud or violations of law relating to the public trust; and clarifying that the reporting requirements do not prevent, relieve or replace a report to law-enforcement where appropriate or warranted."

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the report of the Committee of Conference on, and the passage, as amended by said report, and requested the concurrence of the House of Delegates in the passage, of

S. B. 172, Eliminating salary for Water Development Authority board members,

S. B. 204, Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses,

S. B. 224, Repealing requirement for employer's bond for wages and benefits,

And,

S. B. 554, Relating to false swearing in legislative proceeding.

Conference Committee Reports

Delegate Hanshaw, from the Committee of Conference on matters of disagreement between the two houses, as to

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,

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Committee Substitute for Senate Bill No. 204 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the House, striking out everything after the enacting clause, and agree to the same as follows:

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, and may only remain in the vacated position for a maximum of ninety days.

(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.

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Com. Sub. for S. B. 204 – “A Bill to amend and reenact §5-1-22 of the Code of West Virginia, 1931, as amended, relating to filling vacancies in offices by appointment of the Governor; requiring certain appointments be made within ninety days; authorizing temporary appointments; and providing requirements for persons appointed temporarily to fill vacancies.”

Respectfully submitted,

Greg Boso, *Chair,*

Roger Hanshaw, *Chair,*

Ed Gaunch,

Mark Zatezalo,

Douglas Facemire,

Phil Isner,

*Conferees on the part of
the Senate.*

*Conferees on the part of
the House of Delegates.*

On motion of Delegate Hanshaw, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 598**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Cooper, Kelly and 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. 204) passed.

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

Delegate Hanshaw, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for S. B. 224, Repealing requirement for employer's bond for wages and benefits,

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill 224 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking everything after the enacting clause, and agree to the same as follows:

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. Employee'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;
- (2) Has at least \$100,000 in assets; or

(3) Is a subsidiary of a parent company that has been 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~~ year 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~~ one year 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.

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same 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 generally; 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; providing exemptions for employers, persons, firms, or corporations who have been in business in another state for at least five years, employers, persons, firms or corporations who have at least \$100,000 in assets or employers, persons, firms, or corporations who are a subsidiary of a parent company that has been in business for at least five years; 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; 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 from \$30,000 to \$60,000; and making corrections to current code.”

Respectfully submitted,

Chandler Swope, *Chair*

Roger Hanshaw, *Chair*,

Robert L. Karnes,

Geoff Foster,

Richard Ojeda,

Barbara Fleischauer,

*Conferees on the part of
the Senate.*

*Conferees on the part of
the House of Delegates.*

On motion of Delegate Hanshaw, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 599**), and there were—yeas 63, nays 37, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Brewer, Byrd, Canestraro, Caputo, Cooper, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hicks, Hornbuckle, Iaquinta, Isner, Kelly, 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. 224) passed.

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

Delegate Capito, from the Committee of Conference on matters of disagreement between the two houses, as to

S. B. 554, Relating to false swearing in legislative proceeding,

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Senate Bill 554 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the House of Delegates recede from its amendments to the bill.

Respectfully submitted,

Ryan Weld, *Chair,*

Moore Capito, *Chair,*

Charles H. Clements,

Charlotte R. Lane,

Robert D. Beach,

Barbara Fleischauer,

*Conferees on the part of
the Senate.*

*Conferees on the part of
the House of Delegates.*

On motion of Delegate Capito, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 600**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Cooper, Kelly and Marcum.

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.

Delegate Criss, from the Committee of Conference on matters of disagreement between the two houses, as to

S. B. 172, Eliminating salary for Water Development Authority board members,

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Senate Bill 172 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses agree to the House amendment to the bill on page two, section four;

And,

That the Senate and House agree to an amendment on page two, section four, line thirty-six, after the word "board", by striking out "in a manner consistent with guidelines of the travel management office of the Department of Administration." and inserting in lieu thereof the following:

"in the following manner: Each board member who lives more than fifty miles from the location where the meetings are held may receive the sum of one hundred thirty-one dollars per day as per diem allowance for any day on which such a meeting is held. Each board member who lives fifty miles or fewer from the location where the meetings are held may receive the sum of fifty-five dollars per day as the per diem allowance. In addition, each board member may be reimbursed for overnight commuting expenses at the mileage rate equal to the amount paid by the travel management office of the Department of Administration for the most direct usually traveled route, if travel is by private automobile, or for actual transportation costs for direct route travel, if travel is by public carrier, or for any combination of the means of transportation actually used, plus the costs of necessary taxi or limousine service, tolls and parking fees in connection with the travel: *Provided*, That the total of this per diem allowance plus travel expense for a daily commuting board member may not exceed one hundred thirty-one dollars per day. The amount for

mileage paid pursuant to this subsection may change from time to time in accordance with changes in the level of reimbursement by the travel management office.”

And,

That both houses agree to a new title, to read as follows:

S. B. 172 – “A Bill to amend and reenact §22C-1-4 of the Code of West Virginia, 1931, as amended, relating to the Water Development Authority; eliminating the salary for appointed board members effective July 1, 2017; authorizing appointed board members receive same compensation for attending official meetings or engaging in official duties at rate not to exceed amount paid to members of Legislature for interim duties as recommended by Citizens Legislative Compensation Commission and authorized by law; permitting reimbursement for reasonable and necessary expenses actually incurred in the performance of duties as member of board; providing manner in which expenses may be reimbursed; setting per diem allowances; permitting board members to be reimbursed for overnight commuting expenses; setting manner for calculating reimbursement rates; setting cap on per diem allowance and travel expenses for daily commuting board member; and permitting amount for mileage paid to change from time to time under certain conditions.”

Respectfully submitted,

Craig Blair, *Chair,*

Vernon Criss, *Chair,*

Randy Smith,

Martin Atkinson, III,

Mike Woelfel,

John Williams,

*Conferees on the part of
the Senate.*

*Conferees on the part of
the House of Delegates.*

On motion of Delegate Criss, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 601**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Cooper, Eldridge, Kelly and Marcum.

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. 602**), and there were—yeas 95, nays 5, absent and not voting none, with the nays being as follows:

Nays: Cooper, Eldridge, Isner, Kelly and Marcum.

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.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of

Com. Sub. for S. B. 76, Creating WV Second Chance for Employment Act.

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

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 §61-11B-1,

§61-11B-2, §61-11B-3, §61-11B-4 and §61-11B-5, all to read as follows:

ARTICLE 11B. CRIMINAL OFFENSE REDUCTION.

§61-11B-1. Legislative intent.

It is the Legislature's intention in enacting this article to establish a procedure whereby individuals convicted of certain criminal offenses may, pursuant to the provisions of this article, obtain a reduced offense of conviction. In enacting this article, it is also the Legislature's intent to improve the employment possibilities of certain persons while allowing the public notice of their actual conduct and prior transgressions without further penalty or diminution of employment opportunities.

§61-11B-2. Definitions.

(a) As used in this article, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) 'Criminal offense reduction' means the reduction of a qualifying felony offense to a misdemeanor offense pursuant to this article.

(2) 'Excluded offense' means:

(A) An offense which involves the infliction of serious physical injury;

(B) A sexual offense, including, but not limited to, a violation of the felony provisions of article eight, eight-b, eight-c, or eight-d of this chapter;

(C) An offense which involves the use or exhibition of a deadly weapon or dangerous instrument;

(D) A felony violation of the provisions of section nine, article two of this chapter;

(E) A felony violation of the provisions of section twenty-eight, article two of this chapter;

(F) A felony violation of article four, chapter seventeen-b of this code; or

(G) A felony, the facts and circumstances of which the circuit court finds to be inconsistent with the purposes of this article.

(3) ‘Non-violent felony’ means a felony conviction in a circuit court of this state, which the circuit court finds is not (i) an excluded offense as defined in subdivision (2) of this article, and (ii) which does not involve violence or potential violence to another person or the public.

(4) ‘Petitioner’ means a person who has filed a petition seeking a criminal offense reduction under the provisions of this article.

(5) ‘Qualifying felony offense’ means a non-violent felony offense that is not excluded from relief under this article.

(6) ‘Reduced misdemeanor’ means a legal status representing that a person previously convicted of a non-violent qualifying felony has successfully petitioned a circuit court to have the felony conviction reduced to the status of a misdemeanor.

(7) ‘Requisite time period’ means ten years after completion of any sentence or period of supervision or probation, whichever is later during which time there has been no commission and conviction for a violation of law by the petitioner other than for a minor traffic offense.

§61-11B-3. Criminal Offense Reduction.

(a) Subject to the limitations and procedures set forth in this article, a person convicted of a non-violent felony offense may seek a criminal offense reduction by petition to the circuit court. If granted, the petitioner’s felony conviction shall be vacated and the petitioner’s status will thereafter be designated on all records relating to the offense as a ‘reduced misdemeanor.’ The petitioner’s criminal record shall also reflect that he or she be granted such legal

status as is associated with being convicted of a misdemeanor and, except as provided by the provisions of this article, the person shall not be deemed to have been convicted of a felony for any legal purpose or restriction.

(b) Notwithstanding any provision of law to the contrary, the reduced misdemeanor provided for under this article may not be expunged as part of this petition or by subsequent legal proceeding or petition.

(c) There shall be no entitlement to a criminal offense reduction and the granting of the petition shall remain in the discretion of the circuit court.

(d) Nothing in the section may be construed to allow a person obtaining relief pursuant to this article to be eligible for reinstatement of any retirement or employment benefit which he or she lost or forfeited due to the felony conviction or convictions vacated and reduced to the status of a misdemeanor.

§61-11B-4. Petition for reduction.

(a) A person seeking a criminal offense reduction under this article shall file with the circuit court a petition, in a form and manner set forth by the West Virginia Supreme Court of Appeals.

(b) Any person filing a petition pursuant to the provisions of this article shall pay the filing fee set by the provisions of subdivision (1), subsection (a), section eleven, article one, chapter fifty-nine of this code: *Provided*, That in addition to the fee required by the provisions of this subsection a petitioner shall pay a fee of \$100 which shall be deposited into a non-appropriated special revenue account within the State Treasurer's office to be known as the West Virginia State Police Criminal History Account, said fee to be used to offset costs to the State Police for actions to facilitate the operation of this article.

(c) Each petition for criminal offense reduction filed pursuant to this section shall be verified under oath and include the following information:

(1) Petitioner's current name and all other legal names or aliases by which the petitioner has been known at any time;

(2) All of petitioner's addresses from the date of the offense for which a criminal offense reduction order is sought to the date of the filing of the petition;

(3) Petitioner's date of birth and social security number;

(4) Petitioner's date of arrest, the court of jurisdiction and criminal case number;

(5) The offense or offenses with which petitioner was charged and of which petitioner was convicted and the statutory citations therefor;

(6) The names of any victim or victims, or where there are no identifiable victims such shall be stated;

(7) Whether there is any current order for restitution, protection, restraining order or other no contact order prohibiting the petitioner from contacting the victims or whether there has ever been a prior order for restitution, protection or restraining order prohibiting the petitioner from contacting the victim. If there is such a current order, petitioner shall attach a copy of that order to his or her petition;

(8) The court's disposition of the matter and sentence imposed;

(9) The reasons a criminal offense reduction is sought, such as, but not limited to, employment or licensure purposes, and arguments in support thereof;

(10) The date upon which he or she completed any sentence or period of supervision or probation;

(11) An express averment by the petitioner that he or she has neither committed nor been convicted of a violation of law;

(12) The action the petitioner has taken since the time of the offense or offenses toward personal rehabilitation, including

treatment, work or other personal history that demonstrates rehabilitation;

(13) Whether petitioner has ever been granted criminal offense reduction, expungement or similar relief regarding a criminal conviction by any court in this state, any other state or by any federal court; and

(14) Any supporting documents, sworn statements, affidavits or other information supporting the petition to reduce criminal offense.

(d) A copy of the petition, with any supporting documentation, shall be served by petitioner pursuant to the West Virginia Rules of Civil Procedure upon the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law-enforcement officer of any other law-enforcement agency which participated in the arrest of the petitioner; the circuit court of conviction, if the petition is filed in another circuit; the superintendent or warden of any state correctional facility in which the petitioner was imprisoned; and any state and local government agencies the records of which would be affected by the proposed criminal offense reduction.

(e) The prosecuting attorney of the county in which the petition is filed shall serve by first class mail the petition for criminal offense reduction, accompanying documentation and any proposed criminal offense reduction order to any identified victims.

(f) Upon receipt of a petition for criminal offense reduction, the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law-enforcement officer of any other law-enforcement agency which participated in the arrest of the petitioner; the superintendent or warden of any institution in which the petitioner was confined; the circuit court of conviction, if the petition is filed in another circuit; any state and local government agencies the records of which would be affected by the proposed

criminal offense reduction and any interested individual or agency that desires to oppose the criminal offense reduction shall, within thirty days of receipt of the petition, file a notice of opposition with the court with supporting documentation and sworn statements setting forth the reasons for resisting the petition for criminal offense reduction. A copy of any notice of opposition with supporting documentation and sworn statements shall be served upon the petitioner or his or her counsel in accordance with West Virginia Rules of Civil Procedure. The petitioner may file a reply no later than fifteen days after service of any notice of opposition to the petition for criminal offense reduction.

(g) The burden of proof shall be on the petitioner to prove by clear and convincing evidence that:

(1) The conviction or convictions for which criminal offense reduction is sought are qualifying offenses and are the only convictions against petitioner;

(2) That the requisite time period has passed since the conviction or convictions or end of the completion of any sentence of incarceration or probation;

(3) That the petitioner has neither committed nor been convicted of a violation of law in the preceding ten years;

(4) That petitioner has no criminal charges pending against him or her;

(5) That the criminal offense reduction is consistent with the public welfare;

(6) That petitioner has, by his or her behavior since the conviction or convictions, evidenced that he or she has been rehabilitated and has remained law-abiding; and

(7) Any other matter deemed appropriate or necessary by the court to make a determination regarding the petition for criminal offense reduction.

(h) Within one hundred eighty days of the filing of a petition for criminal offense reduction or as soon thereafter as is practicable the circuit court shall:

(1) Summarily grant the petition;

(2) Set the matter for hearing; or

(3) Summarily deny the petition, if the court determines that the petition is insufficient, or based upon supporting documentation and sworn statements filed in opposition to the petition, the court determines that the petitioner, as a matter of law, is not entitled to reduction.

(i) If the court sets the matter for hearing, all interested parties who have filed a notice of opposition shall be notified. At the hearing, the court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with any law-enforcement authority, the institution of confinement, if any, and parole authority or other agency which was in any way involved with the petitioner's arrest, conviction, sentence and post-conviction supervision, including any record of arrest or conviction in any other state or federal court. The court may hear testimony of witnesses and evidence of any other matter the court deems proper and relevant to its determination regarding the petition. The court shall enter an order reflecting its ruling on the petition for criminal offense reduction with appropriate findings of fact and conclusions of law.

(j) If the court grants the petition for criminal offense reduction, it shall order any records in the custody of the court, and of any other agency or official, including law-enforcement records, to reflect reduction of the felony offense to the status of reduced misdemeanor. Every agency with records relating to the arrest, charge or other matters arising out of the arrest or conviction that is ordered to reflect the criminal offense reduction in its records shall certify to the court within ninety days of the entry of the criminal offense reduction order that the required reduction has been completed: *Provided*, That upon inquiry by a prospective employer or on an application for employment, credit or other type

of application, he or she shall disclose the existence of the reduced misdemeanor and acknowledgement of the prior conviction if asked about prior convictions or crimes.

(k) Upon granting of criminal offense reduction, the person whose felony offense has been reduced under the provisions of this article shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit or other type of application that he or she has a felony conviction.

§61-11B-5. Employer protections.

(a) A cause of action may not be brought against an employer, general contractor, premises owner, or other third party solely based on the employer, general contractor, premises owner, or other third party employing a person or independent contractor who has been convicted of a nonviolent, non-sexual offense or a person who has had his or her conviction reduced pursuant to this article.

(b) In a negligent hiring action against an employer, general contractor, premises owner, or other third party for the acts of an employee or independent contractor that is based on a theory of liability other than that described by subsection (a) of the section, the fact that the employee or independent contractor was convicted of a nonviolent, non-sexual offense or had his or her conviction reduced pursuant to this article before the employee or independent contractor's employment or contractual obligation with the employer, general contractor, premises owner, or other third party, as applicable, may not be introduced into evidence.

(c) This section does not preclude any existing cause of action for failure of an employer or other person to provide adequate supervision of an employee or independent contractor, except that the fact that the employee or independent contractor has been convicted of a nonviolent, non-sexual criminal offense or had his or her conviction reduced pursuant to this article may be introduced into evidence in the suit only if the employer:

(1) Knew of the conviction or was grossly negligent in not knowing of the conviction or reduced offense; and

(2) The conviction or reduced offense was directly related to the nature of the employee's or independent contractor's work and the conduct that gave rise to the alleged injury that is the basis of the suit.

(d) This section shall not be interpreted as implying a cause of action exists for negligent hiring of a person based upon his or her criminal record in factual situations not covered by the provisions of this section."

And,

By amending the title of the bill to read as follows:

Com. Sub. for S. B. 76 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-11B-1, §61-11B-2, §61-11B-3, §61-11B-4 and §61-11B-5, all relating to establishment of a criminal offense reduction program; creating the criminal offense classification of reduced misdemeanor; setting forth legislative intent; setting forth definitions; allowing persons convicted of certain criminal felony offenses to petition under specified circumstances for reduction of the felony to misdemeanor status; setting forth limitations; providing for reduced offense status to be reflected on criminal records; expressly providing that reduction of felony offense means person shall not be deemed as being convicted of a felony for certain legal purposes or restrictions; clarifying that a reduced misdemeanor may not be expunged; clarifying that criminal offense reduction is in the discretion of the circuit court; establishing procedures for petition to the court; requiring payment of a filing fee when filing petition; directing a fee be paid to the State Police to offset costs associated with facilitating the purposes of this article; setting forth information to be included on the petition; providing for notification of petition to certain persons; requiring prosecuting attorney to contact identified victims; providing for notice of opposition to the petition by certain persons; establishing burden and standard of proof for petitions; providing for a hearing and setting forth procedures; providing for entry of an

order by the court; authorizing court to enter an order directing certain records to reflect reduction of a felony offense to the status of reduced misdemeanor; requiring certification of compliance to the court; and providing for disclosure requirements; and granting employers limited civil immunity for hiring of convicted felons and persons in reduced misdemeanor status and exceptions thereto.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 603**), and there were—yeas 92, nays 8, absent and not voting none, with the nays being as follows:

Nays: Cooper, Cowles, Fast, G. Foster, Gearheart, Howell, Kelly and Mr. Speaker, Mr. Armstead.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 76) 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 by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

Com. Sub. for H. B. 2526, Classifying additional drugs to Schedules I, II, IV and V of controlled substances.

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the title amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

H. B. 3022, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations,

And,

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

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had receded from its amendments to, and passed,

Com. Sub. for H. B. 2555, Relating to tax credits for apprenticeship training in construction trades,

Com. Sub. for H. B. 2561, Relating to public school support,
And,

Com. Sub. for H. B. 2731, Clarifying civil actions heard in circuit 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, to take effect August 1, 2017, of

Com. Sub. for S. B. 40, Requiring inclusion of protocols for response to after-school emergencies in school crisis response plans.

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. 187, Providing for confidentiality of patients' medical records,

S. B. 235, Relating to motorcycle registration renewal,

Com. Sub. for S. B. 239, Limiting use of wages by employers and labor organizations for political activities,

Com. Sub. for S. B. 255, Relating generally to filling vacancies in elected office,

Com. Sub. for S. B. 339, Creating Legislative Coalition on Chronic Pain Management,

Com. Sub. for S. B. 345, Allowing certain hunting and trapping on private lands on Sundays,

Com. Sub. for S. B. 360, Creating Legislative Coalition on Diabetes Management,

Com. Sub. for S. B. 388, Relating to dangerous weapons,

Com. Sub. for S. B. 402, Relating to covenants not to compete between physicians and hospitals,

S. B. 490, Clarifying standard of liability for officers of corporation,

Com. Sub. for S. B. 535, Reorganizing Division of Tourism,

S. B. 547, Modifying fees paid to Secretary of State,

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. 622, Relating generally to tax procedures and administration,

Com. Sub. for S. B. 631, Prosecuting violations of municipal building code,

Com. Sub. for S. B. 656, Relating to Student Data Accessibility, Transparency and Accountability Act,

S. B. 686, Exempting facilities governed by DHHR that provide direct patient care,

And,

S. B. 691, Relating to off-road vehicles.

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. 523, Converting to biweekly pay cycle for state employees,

And,

S. B. 687, Relating generally to coal mining, safety and environmental protection.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, to take effect July 1, 2017, of

Com. Sub. for S. B. 486, Relating to health care provider taxes.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendments of the House of Delegates to, and the passage, as amended, with its House of Delegates amended title, of

S. B. 174, Exempting transportation of household goods from PSC jurisdiction.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the adoption, as amended, of

S. C. R. 28, U. S. Army SPC4 Randall W. Arbogast Memorial Road.

A message from the Senate, by

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

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

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. 2850, Relating to product liability actions,

And,

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the reports of the Committee of Conference on, and the passage, as amended by said reports, in the passage of

Com. Sub. for H. B. 2329, Prohibiting the production, manufacture or possession of fentanyl,

Com. Sub. for H. B. 2447, Renaming the Court of Claims the State Claims Commission,

Com. Sub. for H. B. 2579, Increasing the penalties for transporting controlled substances,

Com. Sub. for H. B. 2585, Creating felony crime of conducting financial transactions involving proceeds of criminal activity,

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. 2631, Relating to time standards for disposition of complaint proceedings,

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

And,

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

Miscellaneous Business

Delegate Hollen asked and obtained unanimous consent that the remarks of Delegate Frich regarding the amendment offered by Delegates Fluharty, Storch, Ferro and Canestraro to Com. Sub. for S. B. 437, on March 28, be printed in the Appendix to the Journal.

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Love regarding the introduction of Jim Bowen, be printed in the Appendix to the Journal.

Delegate Nelson noted to the Clerk that he was absent on today when the votes were taken on Roll Nos. 523, 524, 530 and 531, and that had he been present, he would have voted “Yea” thereon.

Delegate Criss noted to the Clerk that he was absent on today when the vote was taken on Roll No. 551, and that had he been present, he would have voted “Yea” thereon.

At 11:58 p.m., the House of Delegates adjourned until 12:15 a.m., Sunday, April 9, 2017.

Sunday, April 9, 2017

SIXTY-FIRST DAY

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

The House of Delegates met at 12:15 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 8, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

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. 2018, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

On motion of Delegate Cowles, the House of Delegates 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:

“TITLE I – GENERAL PROVISIONS.

1 **Section 1. General policy.** – The purpose of this bill is to
2 appropriate money necessary for the economical and efficient
3 discharge of the duties and responsibilities of the state and its
4 agencies during the fiscal year 2018.

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

2 'Governor' shall mean the Governor of the State of West
3 Virginia.

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

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

9 The 'fiscal year 2018' shall mean the period from July 1, 2017,
10 through June 30, 2018.

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

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

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

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

3 'Personal services' shall mean salaries, wages and other
4 compensation paid to full-time, part-time and temporary
5 employees of the spending unit but shall not include fees or
6 contractual payments paid to consultants or to independent
7 contractors engaged by the spending unit. 'Personal services' shall

8 include 'annual increment' for 'eligible employees' and shall be
9 disbursed only in accordance with Article 5, Chapter 5 of the Code.

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

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

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

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

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

43 West Virginia Council for Community and Technical College
44 Education and Higher Education Policy Commission entities
45 operating with special revenue funds and/or federal funds shall pay
46 their proportionate share of the Board of Risk and Insurance
47 Management total insurance premium cost for their respective
48 institutions.

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

56 'Equipment' shall mean equipment items which have an
57 appreciable and calculable period of usefulness in excess of one
58 year.

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

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

66 'Lands' shall mean the purchase of real property or interest in
67 real property.

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

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

75 Appropriations classified in any of the above categories shall
76 be expended only for the purposes as defined above and only for
77 the spending units herein designated: *Provided*, That the secretary

78 of each department shall have the authority to transfer within the
79 department those general revenue funds appropriated to the various
80 agencies of the department: *Provided, however,* That no more than
81 five percent of the general revenue funds appropriated to any one
82 agency or board may be transferred to other agencies or boards
83 within the department: and no funds may be transferred to a
84 'personal services and employee benefits' appropriation unless the
85 source funds are also wholly from a 'personal services and
86 employee benefits' line, or unless the source funds are from
87 another appropriation that has exclusively funded employment
88 expenses for at least twelve consecutive months prior to the time
89 of transfer and the position(s) supported by the transferred funds
90 are also permanently transferred to the receiving agency or board
91 within the department: *Provided further,* That the secretary of each
92 department and the director, commissioner, executive secretary,
93 superintendent, chairman or any other agency head not governed
94 by a departmental secretary as established by Chapter 5F of the
95 Code shall have the authority to transfer funds appropriated to
96 'personal services and employee benefits,' 'current expenses,'
97 'repairs and alterations,' 'equipment,' 'other assets,' 'land,' and
98 'buildings' to other appropriations within the same account and no
99 funds from other appropriations shall be transferred to the
100 'personal services and employee benefits' or the 'unclassified'
101 appropriation: *And provided further,* That no authority exists
102 hereunder to transfer funds into appropriations to which no funds
103 are legislatively appropriated: *And provided further,* That if the
104 Legislature by subsequent enactment consolidates agencies, boards
105 or functions, the secretary or other appropriate agency head may
106 transfer the funds formerly appropriated to such agency, board or
107 function in order to implement such consolidation. No funds may
108 be transferred from a Special Revenue Account, dedicated account,
109 capital expenditure account or any other account or fund
110 specifically exempted by the Legislature from transfer, except that
111 the use of the appropriations from the State Road Fund for the
112 office of the Secretary of the Department of Transportation is not
113 a use other than the purpose for which such funds were dedicated
114 and is permitted.

115 Appropriations otherwise classified shall be expended only
116 where the distribution of expenditures for different purposes cannot
117 well be determined in advance or it is necessary or desirable to

118 permit the spending unit the freedom to spend an appropriation for
119 more than one of the above classifications.

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

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

TITLE II – APPROPRIATIONS.

ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.

- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

1 **Section 1. Appropriations from general revenue.** – From the
 2 State Fund, General Revenue, there are hereby appropriated
 3 conditionally upon the fulfillment of the provisions set forth in
 4 Article 2, Chapter 11B the following amounts, as itemized, for
 5 expenditure during the fiscal year 2018.

LEGISLATIVE

I - Senate

Fund 0165 FY 2018 Org 2100

	General Revenue Fund	Appro- priation
1 Compensation of Members (R).....00300	\$	1,010,000
2 Compensation and Per Diem of Officers 3 and Employees (R)00500		4,011,332
4 Current Expenses 5 and Contingent Fund (R)02100		276,392
6 Repairs and Alterations (R)06400		50,000
7 Computer Supplies (R)10100		20,000
8 Computer Systems (R).....10200		60,000
9 Printing Blue Book (R)10300		125,000
10 Expenses of Members (R).....39900		370,000
11 BRIM Premium (R)91300		<u>29,482</u>
12 Total.....	\$	<u>5,952,206</u>

13 The appropriations for the Senate for the fiscal year 2017 are
14 to remain in full force and effect and are hereby reappropriated to
15 June 30, 2018. Any balances so reappropriated may be transferred
16 and credited to the fiscal year 2017 accounts.

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

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

30 The Clerk of the Senate, with the approval of the President, or
31 the President of the Senate shall have authority to employ such staff
32 personnel during any session of the Legislature as shall be needed
33 in addition to staff personnel authorized by the Senate resolution
34 adopted during any such session. The Clerk of the Senate, with the
35 approval of the President, or the President of the Senate shall have
36 authority to employ such staff personnel between sessions of the
37 Legislature as shall be needed, the compensation of all staff
38 personnel during and between sessions of the Legislature,
39 notwithstanding any such Senate resolution, to be fixed by the
40 President of the Senate. The Clerk is hereby authorized to draw his
41 or her requisitions upon the Auditor for the payment of all such
42 staff personnel for such services, payable out of the appropriation
43 for Compensation and Per Diem of Officers and Employees or
44 Current Expenses and Contingent Fund of the Senate.

45 For duties imposed by law and by the Senate, the Clerk of the
46 Senate shall be paid a monthly salary as provided by the Senate
47 resolution, unless increased between sessions under the authority
48 of the President, payable out of the appropriation for Compensation

49 and Per Diem of Officers and Employees or Current Expenses and
50 Contingent Fund of the Senate.

51 The distribution of the blue book shall be by the office of the
52 Clerk of the Senate and shall include 75 copies for each member of
53 the Legislature and two copies for each classified and approved
54 high school and junior high or middle school and one copy for each
55 elementary school within the state.

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

2 - *House of Delegates*

Fund 0170 FY 2018 Org 2200

1	Compensation of Members (R).....00300	\$ 3,000,000
2	Compensation and Per Diem of Officers 3 and Employees (R)00500	575,000
4	Current Expenses 5 and Contingent Fund (R)02100	3,929,031
6	Expenses of Members (R).....39900	1,350,000
7	BRIM Premium (R)91300	<u>50,000</u>
8	Total.....	\$ 8,904,031

9 The appropriations for the House of Delegates for the fiscal year
10 2017 are to remain in full force and effect and are hereby
11 reappropriated to June 30, 2018. Any balances so reappropriated
12 may be transferred and credited to the fiscal year 2017 accounts.

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

17 The Clerk of the House of Delegates, with the approval of the
18 Speaker, is authorized to draw his or her requisitions upon the
19 Auditor, payable out of the Current Expenses and Contingent Fund
20 of the House of Delegates, for any bills for supplies and services

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

27 The Speaker of the House of Delegates, upon approval of the
28 House committee on rules, shall have authority to employ such
29 staff personnel during and between sessions of the Legislature as
30 shall be needed, in addition to personnel designated in the House
31 resolution, and the compensation of all personnel shall be as fixed
32 in such House resolution for the session, or fixed by the Speaker,
33 with the approval of the House committee on rules, during and
34 between sessions of the Legislature, notwithstanding such House
35 resolution. The Clerk of the House of Delegates is hereby
36 authorized to draw requisitions upon the Auditor for such services,
37 payable out of the appropriation for the Compensation and Per
38 Diem of Officers and Employees or Current Expenses and
39 Contingent Fund of the House of Delegates.

40 For duties imposed by law and by the House of Delegates,
41 including salary allowed by law as keeper of the rolls, the Clerk of
42 the House of Delegates shall be paid a monthly salary as provided
43 in the House resolution unless increased between sessions under
44 the authority of the Speaker, with the approval of the House
45 committee on rules, and payable out of the appropriation for
46 Compensation and Per Diem of Officers and Employees or Current
47 Expenses and Contingent Fund of the House of Delegates.

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

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2018 Org 2300

1	Joint Committee on Government		
2	and Finance (R).....	10400	\$ 5,725,138
3	Legislative Printing (R).....	10500	760,000
4	Legislative Rule-Making		
5	Review Committee (R).....	10600	147,250
6	Legislative Computer System (R).....	10700	1,447,500
7	BRIM Premium (R)	91300	<u>60,569</u>
8	Total.....		\$ 8,140,457

9 The appropriations for the Joint Expenses for the fiscal year
10 2017 are to remain in full force and effect and are hereby
11 reappropriated to June 30, 2018. Any balances reappropriated may
12 be transferred and credited to the fiscal year 2017 accounts.

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

JUDICIAL

4 - Supreme Court –

General Judicial

Fund 0180 FY 2018 Org 2400

1	Personal Services and		
2	Employee Benefits (R)	00100\$	101,924,358
3	Children’s Protection Act (R)	09000	3,000,000
4	Current Expenses (R).....	13000	32,274,266
5	Repairs and Alterations (R)	06400	636,450
6	Equipment (R).....	07000	1,800,000
7	Judges’ Retirement System (R).....	11000	900,000
8	Buildings (R).....	25800	100,000
9	Other Assets (R).....	69000	500,000
10	BRIM Premium (R)	91300	<u>624,596</u>
11	Total.....		\$ 141,759,670

12 The appropriations to the Supreme Court of Appeals for the
 13 fiscal years 2016 and 2017 are to remain in full force and effect and
 14 are hereby reappropriated to June 30, 2018. Any balances so
 15 reappropriated may be transferred and credited to the fiscal year
 16 2017 accounts.

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

21 The appropriation for the Judges’ Retirement System (fund
 22 0180, appropriation 11000) is to be transferred to the Consolidated
 23 Public Retirement Board, in accordance with the law relating
 24 thereto, upon requisition of the Administrative Director of the
 25 Supreme Court of Appeals.

EXECUTIVE

5 - Governor’s Office

(WV Code Chapter 5)

Fund 0101 FY 2018 Org 0100

1	Personal Services and Employee Benefits00100	\$	3,120,203
2	Current Expenses (R).....13000		539,573
3	Repairs and Alterations.....06400		2,000
4	National Governors Association12300		60,700
5	Herbert Henderson		
6	Office of Minority Affairs13400		146,726
7	Southern Governors’ Association31400		0
8	BRIM Premium.....91300		<u>169,079</u>
9	Total.....	\$	4,038,281

10 Any unexpended balances remaining in the appropriations for
 11 Unclassified (fund 0101, appropriation 09900), Current Expenses
 12 (fund 0101, appropriation 13000), and JOBS Fund (fund 0101,
 13 appropriation 66500) at the close of the fiscal year 2017 are hereby
 14 reappropriated for expenditure during the fiscal year 2018.

15 Included in the above appropriation to Personal Services and
 16 Employee Benefits (fund 0101, appropriation 00100), is \$150,000
 17 for the Salary of the Governor.

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

6 - Governor's Office –

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2018 Org 0100

1	Personal Services and Employee Benefits00100	\$	351,089
2	Current Expenses (R).....13000		182,708
3	Repairs and Alterations.....06400		<u>5,000</u>
4	Total.....	\$	538,797

5 Any unexpended balance remaining in the appropriation for
 6 Current Expenses (fund 0102, appropriation 13000) at the close of
 7 the fiscal year 2017 is hereby reappropriated for expenditure during
 8 the fiscal year 2018, with the exception of fund 0102, fiscal year
 9 2017, appropriation 13000 (\$20,000) which shall expire June 30,
 10 2017.

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

7 - Governor's Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2018 Org 0100

1 Any unexpended balances remaining in the appropriations for
 2 Business and Economic Development Stimulus – Surplus (fund
 3 0105, appropriation 08400), Civil Contingent Fund – Total (fund
 4 0105, appropriation 11400), 2012 Natural Disasters – Surplus
 5 (fund 0105, appropriation 13500), Civil Contingent Fund – Total –
 6 Surplus (fund 0105, appropriation 23800), Civil Contingent Fund
 7 – Surplus (fund 0105, appropriation 26300), Business and
 8 Economic Development Stimulus (fund 0105, appropriation
 9 58600), Civil Contingent Fund (fund 0105, appropriation 61400),
 10 and Natural Disasters – Surplus (fund 0105, appropriation 76400)
 11 at the close of the fiscal year 2017 are hereby reappropriated for
 12 expenditure during the fiscal year.

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

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

8 - Auditor’s Office –

General Administration

(WV Code Chapter 12)

Fund 0116 FY 2018 Org 1200

1	Personal Services and Employee Benefits00100	\$ 2,660,738
2	Current Expenses (R).....13000	10,622
3	BRIM Premium.....91300	<u>11,287</u>
4	Total.....	\$ 2,682,647

5 Any unexpended balance remaining in the appropriation for
 6 Current Expenses (fund 0116, appropriation 13000) at the close of
 7 the fiscal year 2017 is hereby reappropriated for expenditure during
 8 the fiscal year 2018.

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

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2018 Org 1300

1	Personal Services and Employee Benefits00100	\$ 2,424,551
2	Unclassified.....09900	30,963
3	Current Expenses (R).....13000	177,271
4	Abandoned Property Program.....11800	96,600
5	Other Assets.....69000	5,000
6	BRIM Premium.....91300	<u>54,409</u>
7	Total.....	\$ 2,788,794

8 Any unexpended balances remaining in the appropriation for
 9 Current Expenses (fund 0126, appropriation 13000) at the close of
 10 the fiscal year 2017 are hereby reappropriated for expenditure
 11 during the fiscal year 2018.

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

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$ 5,144,066
2	Animal Identification Program03900	122,143
3	State Farm Museum05500	87,759
4	Current Expenses (R).....13000	135,155
5	Repairs and Alterations.....06400	0
6	Gypsy Moth Program (R)11900	880,820
7	Huntington Farmers Market.....12800	37,142
8	Black Fly Control.....13700	450,830

9	Donated Foods Program	36300	45,000
10	Predator Control (R)	47000	176,400
11	Logan Farmers Market.....	50100	41,277
12	Bee Research.....	69100	65,892
13	Charleston Farmers Market.....	74600	71,429
14	Microbiology Program.....	78500	97,454
15	Moorefield Agriculture Center	78600	912,312
16	Chesapeake Bay Watershed	83000	102,700
17	Livestock Care Standards Board.....	84300	8,820
18	BRIM Premium.....	91300	120,202
19	State FFA-FHA Camp		
20	and Conference Center	94101	588,000
21	Threat Preparedness	94200	69,524
22	WV Food Banks.....	96900	126,000
23	Senior's Farmers' Market		
24	Nutrition Coupon Program	97000	<u>55,840</u>
25	Total.....		\$ 9,338,765

26 Any unexpended balances remaining in the appropriations for
27 Unclassified – Surplus (fund 0131, appropriation 09700), Gypsy
28 Moth Program (fund 0131, appropriation 11900), Current
29 Expenses (fund 0131, appropriation 13000), Predator Control
30 (fund 0131, appropriation 47000), and Agricultural Disaster and
31 Mitigation Needs – Surplus (fund 0131, appropriation 85000) at
32 the close of the fiscal year 2017 are hereby reappropriated for
33 expenditure during the fiscal year 2018, with the exception of fund
34 0131, fiscal year 2017, appropriation 11900 (\$18,859), fund 0131,
35 fiscal year 2017, appropriation 13000 (\$19,343), and fund 0131,
36 fiscal year 2017, appropriation 47000 (\$3,600) which shall expire
37 on June 30, 2017.

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

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

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

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

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$	725,163
2	Unclassified (R)09900		77,808
3	Current Expenses (R)13000		290,830
4	Repairs and Alterations.....06400		0
5	Soil Conservation Projects (R).....12000		6,566,841
6	BRIM Premium.....91300		<u>30,213</u>
7	Total.....	\$	7,690,855

8 Any unexpended balances remaining in the appropriations for
 9 Unclassified (fund 0132, appropriation 09900), Soil Conservation
 10 Projects (fund 0132, appropriation 12000), and Current Expenses
 11 (fund 0132, appropriation 13000) at the close of the fiscal year
 12 2017 are hereby reappropriated for expenditure during the fiscal
 13 year 2018, with the exception of fund 0132, fiscal year 2017,
 14 appropriation 12000 (\$157,439) which shall expire on June 30,
 15 2017.

12 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 0135 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$	620,127
2	Unclassified.....09900		7,090

3	Current Expenses	13000		<u>67,699</u>
4	Total.....		\$	694,916

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

13 - Department of Agriculture –

Agricultural Awards Fund

(WV Code Chapter 19)

Fund 0136 FY 2018 Org 1400

1	Programs and Awards			
2	for 4-H Clubs and FFA/FHA	57700	\$	15,000
3	Commissioner’s Awards and Programs	73700		<u>38,165</u>
4	Total.....		\$	53,165

14 - Department of Agriculture –

West Virginia Agricultural Land Protection Authority

(WV Code Chapter 8A)

Fund 0607 FY 2018 Org 1400

1	Personal Services and Employee Benefits	00100	\$	92,908
2	Unclassified.....	09900		<u>950</u>
3	Total.....		\$	93,858

15 - Attorney General

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

Fund 0150 FY 2018 Org 1500

1	Personal Services and			
2	Employee Benefits (R)	00100	\$	2,281,145
3	Unclassified (R)	09900		24,478
4	Current Expenses (R)	13000		737,360
5	Repairs and Alterations.....	06400		1,000

6	Equipment.....	07000	1,000
7	Criminal Convictions and		
8	Habeas Corpus Appeals (R).....	26000	978,104
9	Better Government Bureau	74000	271,991
10	BRIM Premium.....	91300	<u>112,761</u>
11	Total.....		\$ 4,407,839

12 Any unexpended balances remaining in the above
13 appropriations for Personal Services and Employee Benefits (fund
14 0150, appropriation 00100), Unclassified (fund 0150,
15 appropriation 09900), Current Expenses (fund 0150, appropriation
16 13000), Criminal Convictions and Habeas Corpus Appeals (fund
17 0150, appropriation 26000), and Agency Client Revolving
18 Liquidity Pool (fund 0150, appropriation 36200) at the close of the
19 fiscal year 2017 are hereby reappropriated for expenditure during
20 the fiscal year 2018, with the exception of fund 0150, fiscal year
21 2017, appropriation 09900 (\$20,000), and fund 0150, fiscal year
22 2017, appropriation 26000 (\$69,575) which shall expire on June
23 30, 2017.

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

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

16 - Secretary of State

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2018 Org 1600

1	Personal Services and Employee Benefits00100	\$	117,213
2	Unclassified (R)09900		9,731
3	Current Expenses (R)13000		805,697
4	BRIM Premium.....91300		<u>21,695</u>
5	Total.....	\$	954,336

6 Any unexpended balances remaining in the appropriations for
7 Unclassified (fund 0155, appropriation 09900) and Current
8 Expenses (fund 0155, appropriation 13000) at the close of the fiscal
9 year 2017 are hereby reappropriated for expenditure during the
10 fiscal year 2018, with the exception of fund 0155, fiscal year 2017
11 appropriation 13000 (\$19,613) which shall expire on June 30,
12 2017.

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

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2018 Org 1601

1	Personal Services and Employee Benefits00100	\$	2,327
2	Unclassified.....09900		75
3	Current Expenses13000		<u>4,956</u>
4	Total.....	\$	7,358

DEPARTMENT OF ADMINISTRATION*18 - Department of Administration –**Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2018 Org 0201

1	Personal Services and Employee Benefits00100	\$	569,679
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2	Unclassified.....	09900	9,177
3	Current Expenses	13000	84,883
4	Repairs and Alterations.....	06400	100
5	Equipment.....	07000	1,000
6	Financial Advisor (R)	30400	27,546
7	Lease Rental Payments	51600	15,000,000
8	Design-Build Board	54000	4,000
9	Other Assets.....	69000	100
10	BRIM Premium.....	91300	<u>5,887</u>
11	Total.....		\$ 15,702,372

12 Any unexpended balance remaining in the appropriation for
 13 Financial Advisor (fund 0186, appropriation 30400) at the close of
 14 the fiscal year 2017 is hereby reappropriated for expenditure during
 15 the fiscal year 2018, with the exception of fund 0186, fiscal year
 16 2017, appropriation 30400 (\$73,000) which shall expire on June
 17 30, 2017.

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

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2018 Org 0205

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

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2018 Org 0209

1	Personal Services and Employee Benefits00100	\$	66,583
2	Unclassified.....09900		1,400
3	Current Expenses13000		68,083
4	Repairs and Alterations.....06400		0
5	Equipment07000		0
6	GAAP Project (R).....12500		591,072
7	Other Assets69000		0
8	BRIM Premium.....91300		<u>5,625</u>
9	Total.....	\$	732,763

10 Any unexpended balance remaining in the appropriation for
 11 GAAP Project (fund 0203, appropriation 12500) at the close of the
 12 fiscal year 2017 is hereby reappropriated for expenditure during the
 13 fiscal year 2018.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2018 Org 0211

1	Personal Services and Employee Benefits00100	\$	2,533,541
2	Unclassified.....09900		0
3	Current Expenses13000		725,024
4	Repairs and Alterations.....06400		500
5	Equipment07000		5,000
6	Fire Service Fee12600		14,000
7	Buildings (R).....25800		500
8	Preservation and Maintenance		
9	of Statues and Monuments		
10	on Capitol Grounds.....37100		68,000
11	Capital Outlay, Repairs and Equipment (R)58900		4,004,610
12	Other Assets69000		500
13	Land (R).....73000		500
14	BRIM Premium.....91300		<u>121,479</u>
15	Total.....	\$	7,473,654

16 Any unexpended balances remaining in the above
 17 appropriations for Buildings (fund 0230, appropriation 25800),
 18 Capital Outlay, Repairs and Equipment (fund 0230, appropriation

19 58900), Capital Outlay, Repairs and Equipment – Surplus (fund
 20 0230, appropriation 67700), and Land (fund 0230, appropriation
 21 73000) at the close of the fiscal year 2017 are hereby
 22 reappropriated for expenditure during the fiscal year 2018.

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

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

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2018 Org 0213

1	Personal Services and Employee Benefits00100	\$	984,561
2	Unclassified.....09900		144
3	Current Expenses13000		250
4	Repairs and Alterations.....06400		200
5	Equipment.....07000		0
6	Other Assets.....69000		0
7	BRIM Premium.....91300		<u>6,469</u>
8	Total.....	\$	991,624

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

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2018 Org 0215

1	Personal Services and Employee Benefits00100	\$	768,556
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2	Unclassified.....	09900	12,032
3	Current Expenses	13000	421,739
4	Repairs and Alterations.....	06400	0
5	Equipment.....	07000	5,000
6	Buildings (R).....	25800	100
7	Other Assets.....	69000	100
8	Total.....		\$ 1,207,527

9 Any unexpended balance remaining in the appropriation for
 10 Buildings (fund 0615, appropriation 25800) at the close of the
 11 fiscal year 2017 is hereby reappropriated for expenditure during the
 12 fiscal year 2018.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2018 Org 0217

1	Current Expenses	13000	\$ 44,639
2	To pay expenses for members of the commission on uniform		
3	state laws.		

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2018 Org 0219

1	Personal Services and Employee Benefits	00100	\$ 911,114
2	Unclassified.....	09900	1,000
3	Current Expenses	13000	121,561
4	Equipment.....	07000	50
5	BRIM Premium.....	91300	9,608
6	Total.....		\$ 1,043,333

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2018 Org 0220

2017]

HOUSE OF DELEGATES

3291

1	Personal Services and Employee Benefits00100	\$	569,502
2	Unclassified.....09900		2,200
3	Current Expenses13000		97,377
4	Repairs and Alterations.....06400		500
5	Other Assets69000		100
6	BRIM Premium.....91300		4,473
7	Total.....	\$	674,152

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2018 Org 0221

1	Personal Services and Employee Benefits00100	\$	1,334,314
2	Unclassified.....09900		314,700
3	Current Expenses13000		11,165
4	Public Defender Corporations.....35200		19,198,028
5	Appointed Counsel Fees (R).....78800		10,723,115
6	BRIM Premium.....91300		9,594
7	Total.....	\$	31,590,916

8 Any unexpended balance remaining in the above appropriation
 9 for Appointed Counsel Fees (fund 0226, appropriation 78800) at
 10 the close of the fiscal year 2017 is hereby reappropriated for
 11 expenditure during the fiscal year 2018.

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

28 - Committee for the Purchase of

Commodities and Services from the Handicapped

(WV Code Chapter 5A)

Fund 0233 FY 2018 Org 0224

1	Personal Services and Employee Benefits00100	\$	3,106
2	Current Expenses13000		868

3 Total..... \$ 3,974

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2018 Org 0225

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

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2018 Org 0228

1	Forensic Medical Examinations (R)	68300	\$	133,226
2	Federal Funds/Grant Match (R)	74900		<u>98,443</u>
3	Total.....		\$	231,669

4 Any unexpended balances remaining in the appropriations for
5 Forensic Medical Examinations (fund 0557, appropriation 68300)
6 and Federal Funds/Grant Match (fund 0557, appropriation 74900)
7 at the close of the fiscal year 2017 are hereby reappropriated for
8 expenditure during the fiscal year 2018.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2018 Org 0233

1	Personal Services and Employee Benefits	00100	\$	647,668
2	Unclassified.....	09900		1,000
3	Current Expenses	13000		137,926
4	Repairs and Alterations.....	06400		100
5	Equipment.....	07000		2,500
6	BRIM Premium.....	91300		<u>7,976</u>

7 Total..... \$ 797,170

DEPARTMENT OF COMMERCE

32 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2018 Org 0305

1	Personal Services and Employee Benefits00100	\$ 2,402,439
2	Unclassified.....09900	21,435
3	Current Expenses13000	334,903
4	Repairs and Alterations.....06400	80,000
5	Equipment (R).....07000	2,061
6	BRIM Premium.....91300	<u>92,293</u>
7	Total.....	\$ 2,933,131

8 Any unexpended balance remaining in the appropriation for
 9 Equipment (fund 0250, appropriation 07000) at the close of the
 10 fiscal year 2016 is hereby reappropriated for expenditure during the
 11 fiscal year 2017, with the exception of fund 0250, fiscal year 2016,
 12 appropriation 07000 (\$27,000) which shall expire on June 30,
 13 2016.

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

33 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2018 Org 0306

1	Personal Services and Employee Benefits00100	\$ 1,561,820
2	Unclassified.....09900	28,173
3	Current Expenses13000	15,776
4	Repairs and Alterations.....06400	968
5	Mineral Mapping System (R)20700	1,103,532
6	BRIM Premium.....91300	<u>22,766</u>
7	Total.....	\$ 2,733,035

8 Any unexpended balance remaining in the appropriation for
 9 Mineral Mapping System (fund 0253, appropriation 20700) at the
 10 close of the fiscal year 2017 is hereby reappropriated for
 11 expenditure during the fiscal year 2018, with the exception of fund
 12 0253, fiscal year 2017, appropriation 20700 (\$57,599) which shall
 13 expire on June 30, 2017.

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

34 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2018 Org 0307

1	Personal Services and Employee Benefits00100	\$ 4,210,888
2	Unclassified.....09900	108,687
3	Save Our State (SOS).....05050	0
4	Current Expenses13000	3,809,447
5	National Youth Science Camp.....13200	241,570
6	Local Economic	
7	Development Partnerships (R).....13300	792,000
8	ARC Assessment13600	152,585
9	Guaranteed Work Force Grant (R).....24200	969,633
10	Mainstreet Program.....79400	163,758
11	BRIM Premium.....91300	2,345
12	Hatfield McCoy Recreational Trail.....96000	<u>198,415</u>
13	Total.....	\$ 10,649,328

14 Any unexpended balances remaining in the appropriations for
 15 Unclassified – Surplus (fund 0256, appropriation 09700),
 16 Partnership Grants (fund 0256, appropriation 13100), Local
 17 Economic Development Partnerships (fund 0256, appropriation
 18 13300), Guaranteed Work Force Grant (fund 0256, appropriation
 19 24200), Industrial Park Assistance (fund 0256, appropriation
 20 48000), Small Business Development (fund 0256, appropriation
 21 70300), Local Economic Development Assistance (fund 0256,

22 appropriation 81900), and 4-H Camp Improvements (fund 0256,
 23 appropriation 94100) at the close of the fiscal year 2017 are hereby
 24 reappropriated for expenditure during the fiscal year 2018.

25 The above appropriation to Local Economic Development
 26 Partnerships (fund 0256, appropriation 13300) shall be used by the
 27 West Virginia Development Office for the award of funding
 28 assistance to county and regional economic development
 29 corporations or authorities participating in the Certified
 30 Development Community Program developed under the provisions
 31 of W.Va. Code §5B-2-14. The West Virginia Development Office
 32 shall award the funding assistance through a matching grant
 33 program, based upon a formula whereby funding assistance may
 34 not exceed \$34,000 per county served by an economic
 35 development or redevelopment corporation or authority.

35 - *Division of Natural Resources*

(WV Code Chapter 20)

Fund 0265 FY 2018 Org 0310

1	Personal Services and Employee Benefits00100	\$ 15,109,046
2	Unclassified.....09900	184,711
3	Current Expenses13000	166,201
4	Repairs and Alterations.....06400	100
5	Equipment.....07000	100
6	Buildings25800	100
7	Litter Control Conservation Officers56400	139,877
8	Upper Mud River Flood Control.....65400	159,762
9	Other Assets.....69000	100
10	Land (R).....73000	100
11	Law Enforcement.....80600	2,413,523
12	BRIM Premium.....91300	<u>23,470</u>
13	Total.....	\$ 18,197,090

14 Any unexpended balances remaining in the appropriations for
 15 Buildings (fund 0265, appropriation 25800), Land (fund 0265,
 16 appropriation 73000), and State Park Improvements – Surplus
 17 (fund 0265, appropriation 76300) at the close of the fiscal year

18 2017 are hereby reappropriated for expenditure during the fiscal
19 year 2018.

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

36 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2018 Org 0314

1	Personal Services and Employee Benefits00100	\$	9,205,577
2	Unclassified.....09900		120,000
3	Current Expenses13000		1,378,532
4	Coal Dust and Rock Dust Sampling27000		474,050
5	BRIM Premium.....91300		<u>75,110</u>
6	Total.....	\$	11,253,269

7 Included in the above appropriation for Current Expenses (fund
8 0277, appropriation 13000) is \$500,000 to be used for coal mine
9 training activities at an established mine training facility in
10 southern West Virginia.

37 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2018 Org 0319

1	Personal Services and Employee Benefits00100	\$	226,550
2	Unclassified.....09900		3,551
3	Current Expenses13000		<u>117,906</u>
4	Total.....	\$	348,007

38 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2018 Org 0323

2017]

HOUSE OF DELEGATES

3297

1	Personal Services and Employee Benefits00100	\$	51,998
2	Unclassified.....09900		599
3	Current Expenses13000		<u>7,069</u>
4	Total.....	\$	59,666

39 - Department of Commerce –

Office of the Secretary

(WV Code Chapter 19)

Fund 0606 FY 2018 Org 0327

1	Personal Services and Employee Benefits00100	\$	398,752
2	Unclassified.....09900		3,500
3	Current Expenses13000		<u>14,512</u>
4	Total.....	\$	416,764

40 - Division of Energy

(WV Code Chapter 5H)

Fund 0612 FY 2018 Org 0328

1	Personal Services and Employee Benefits00100	\$	194,457
2	Unclassified.....09900		15,204
3	Current Expenses13000		1,276,705
4	BRIM Premium.....91300		<u>3,604</u>
5	Total.....	\$	1,489,970

6 From the above appropriation for Current Expenses (fund 0612,
7 appropriation 13000) \$558,247 is for West Virginia University and
8 \$558,247 is for Southern West Virginia Community and Technical
9 College for the Mine Training and Energy Technologies Academy.

DEPARTMENT OF EDUCATION

41 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2018 Org 0402

1	Personal Services and Employee Benefits00100	\$	321,931
2	Current Expenses13000		<u>2,118,490</u>
3	Total.....	\$	2,440,421

42 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2018 Org 0402

1	Personal Services and Employee Benefits00100	\$	4,278,989
2	Technology System Specialist06200		0
3	Teachers' Retirement Savings Realized09500		34,638,000
4	Unclassified (R)09900		300,000
5	Current Expenses (R)13000		2,518,992
6	Equipment07000		5,000
7	Increased Enrollment14000		2,650,000
8	Safe Schools.....14300		4,911,959
9	Teacher Mentor.....15800		550,000
10	Buildings (R).....25800		1,000
11	Allowance for County Transfers.....26400		64,212
12	Technology Repair and Modernization.....29800		951,003
13	HVAC Technicians35500		495,507
14	Early Retirement Notification Incentive36600		300,000
15	MATH Program36800		336,532
16	Assessment Programs39600		1,339,588
17	21 st Century Fellows50700		0
18	English as a Second Language.....52800		96,000
19	Teacher Reimbursement57300		297,188
20	Hospitality Training60000		267,123
21	Hi-Y Youth in Government61600		100,000
22	High Acuity Special Needs (R).....63400		1,500,000
23	Foreign Student Education.....63600		150,000
24	Principals Mentorship64900		69,250
25	State Board of Education		
26	Administrative Costs68400		266,152

27	Other Assets	69000	1,000
28	IT Academy (R)	72100	500,000
29	Land (R)	73000	1,000
30	Early Literacy Program	75600	5,700,000
31	School Based Truancy Prevention (R).....	78101	0
32	Innovation in Education	78102	0
33	21 st Century Learners (R).....	88600	0
34	BRIM Premium.....	91300	320,429
35	21 st Century Assessment		
36	and Professional Development	93100	1,999,007
37	21 st Century Technology Infrastructure		
38	Network Tools and Support.....	93300	7,636,586
39	Regional Education Service Agencies	97200	0
40	Educational Program Allowance	99600	<u>516,250</u>
41	Total.....		\$ 72,760,767

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

44 Any unexpended balances remaining in the appropriations for
45 Unclassified (fund 0313, appropriation 09900), Current Expenses
46 (fund 0313, appropriation 13000), National Teacher Certification
47 (fund 0313, appropriation 16100), Buildings (fund 0313,
48 appropriation 25800), High Acuity Special Needs (fund 0313,
49 appropriation 63400), IT Academy (fund 0313, appropriation
50 72100), Land (fund 0313, appropriation 73000), School Based
51 Truancy Prevention (fund 0313, appropriation 78101), and 21st
52 Century Learners (fund 0313, appropriation 88600) at the close of
53 the fiscal year 2017 are hereby reappropriated for expenditure
54 during the fiscal year 2018.

55 The above appropriation for Technology System Specialists
56 (fund 0313, appropriation 06200), shall first be used for the
57 continuance of current pilot projects. The remaining balance, if
58 any, may be used to expand the pilot project for additional counties.

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

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

68 From the above appropriation for Educational Program
 69 Allowance (fund 0313, appropriation 99600), \$100,000 shall be
 70 expended for Webster County Board of Education for Hacker
 71 Valley; \$150,000 shall be for the Randolph County Board of
 72 Education for Pickens School; \$100,000 shall be for the Preston
 73 County Board of Education for the Aurora School; \$100,000 shall
 74 be for the Fayette County Board of Education for Meadow Bridge;
 75 and \$66,250 is for Project Based Learning in STEM fields.

43 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2018 Org 0402

1	Special Education – Counties	15900	\$ 7,271,757
2	Special Education – Institutions.....	16000	3,748,794
3	Education of Juveniles Held in Predispositional		
4	Juvenile Detention Centers	30200	591,646
5	Education of Institutionalized		
6	Juveniles and Adults (R).....	47200	<u>17,736,957</u>
7	Total.....		\$ 29,349,154

8 Any unexpended balance remaining in the appropriation for
 9 Education of Institutionalized Juveniles and Adults (fund 0314,
 10 appropriation 47200) at the close of the fiscal year 2017 is hereby
 11 reappropriated for expenditure during the fiscal year 2018.

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

*44 - State Board of Education –**State Aid to Schools*

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2018 Org 0402

1	Other Current Expenses	02200	\$ 149,939,320
2	Advanced Placement.....	05300	553,954
3	Professional Educators.....	15100	843,200,570
4	Service Personnel.....	15200	286,915,321
5	Fixed Charges	15300	100,484,631
6	Transportation	15400	70,276,078
7	Professional Student Support Services	65500	36,952,999
8	Improved Instructional Programs.....	15600	49,131,108
9	21 st Century Strategic		
10	Technology Learning Growth.....	93600	<u>20,756,981</u>
11	Basic Foundation Allowances.....		1,558,210,962
12	Less Local Share		(454,486,958)
13	Adjustments		<u>(2,441,341)</u>
14	Total Basic State Aid		1,101,282,663
15	Public Employees' Insurance Matching	01200	242,714,967
16	Teachers' Retirement System	01900	72,125,000
17	School Building Authority	45300	23,424,770
18	Retirement Systems – Unfunded Liability....	77500	<u>343,963,000</u>
19	Total.....		\$1,783,510,400

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

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2018 Org 0402

1	Personal Services and Employee Benefits	00100	\$ 1,275,473
2	Unclassified.....	09900	268,800
3	Current Expenses	13000	882,131
4	Wood Products –		
5	Forestry Vocational Program.....	14600	68,993

6	Albert Yanni Vocational Program	14700	131,951
7	Vocational Aid	14800	22,216,196
8	Adult Basic Education	14900	4,545,977
9	Program Modernization	30500	884,313
10	High School Equivalency		
11	Diploma Testing (R)	72600	778,815
12	FFA Grant Awards	83900	11,496
13	Pre-Engineering Academy Program	84000	<u>265,294</u>
14	Total		\$ 31,329,439

15 Any unexpended balances remaining in the appropriations for
 16 GED Testing (fund 0390, appropriation 33900) and High School
 17 Equivalency Diploma Testing (fund 0390, appropriation 72600) at
 18 the close of the fiscal year 2017 is hereby reappropriated for
 19 expenditure during the fiscal year 2018.

46 - State Board of Education –

Division of Education Performance Audits

(WV Code Chapters 18 and 18A)

Fund 0573 FY 2018 Org 0402

1	Personal Services and Employee Benefits00100	\$	867,482
2	Unclassified.....09900		10,000
3	Current Expenses		<u>294,316</u>
4	Total	\$	1,171,798

47 - State Board of Education –

West Virginia Schools for the Deaf and the Blind

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2018 Org 0403

1	Personal Services and Employee Benefits00100	\$	11,304,805
2	Unclassified.....09900		110,000
3	Current Expenses		1,988,129
4	Repairs and Alterations		85,000
5	Equipment		70,000

6	Buildings (R).....	25800	85,000
7	Capital Outlay and Maintenance (R)	75500	82,500
8	BRIM Premium.....	91300	<u>124,890</u>
9	Total.....		\$ 13,850,324

10 Any unexpended balances remaining in the appropriations for
 11 Buildings (fund 0320, appropriation 25800) and Capital Outlay and
 12 Maintenance (fund 0320, appropriation 75500) at the close of the
 13 fiscal year 2017 are hereby reappropriated for expenditure during
 14 the fiscal year 2018.

DEPARTMENT OF EDUCATION AND THE ARTS

48 - Department of Education and the Arts –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0294 FY 2018 Org 0431

1	Personal Services and Employee Benefits	00100	\$ 781,264
2	Unclassified.....	09900	35,000
3	Center for Professional Development (R).....	11500	1,490,833
4	Current Expenses	13000	6,562
5	WV Humanities Council.....	16800	250,000
6	Benedum Professional		
7	Development Collaborative (R).....	42700	429,116
8	Governor's Honors Academy (R)	47800	977,760
9	Educational Enhancements	69500	196,000
10	S.T.E.M. Education and Grant Program	71900	490,286
11	Energy Express	86100	382,935
12	BRIM Premium.....	91300	4,870
13	Special Olympic Games.....	96600	<u>25,000</u>
14	Total.....		\$ 5,069,626

15 Any unexpended balances remaining in the appropriations for
 16 Center for Professional Development (fund 0294, appropriation
 17 11500), Benedum Professional Development Collaborative (fund
 18 0294, appropriation 42700), Governor's Honors Academy (fund
 19 0294, appropriation 47800), and S.T.E.M. Education and Grant

20 Program (fund 0294, appropriation 71900) at the close of the fiscal
 21 year 2017 are hereby reappropriated for expenditure during the
 22 fiscal year 2018, with the exception of fund 0294, fiscal year 2017,
 23 appropriation 42700 (\$66,416) which shall expire on June 30,
 24 2017.

25 From the above appropriation for Educational Enhancements
 26 (fund 0294, appropriation 69500), \$73,500 shall be used for the
 27 Clay Center and \$122,500 for Reconnecting McDowell – Save the
 28 Children.

49 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2018 Org 0432

1	Personal Services and Employee Benefits00100	\$	3,776,418
2	Current Expenses	13000	542,510
3	Repairs and Alterations	06400	1,000
4	Equipment	07000	1
5	Unclassified.....	09900	28,483
6	Buildings (R).....	25800	1
7	Other Assets	69000	1
8	Land (R)	73000	1
9	Culture and History Programming.....	73200	231,573
10	Capital Outlay and Maintenance (R)	75500	19,600
11	Historical Highway Marker Program.....	84400	57,548
12	BRIM Premium.....	91300	<u>36,371</u>
13	Total.....		\$ 4,693,507

14 Any unexpended balances remaining in the appropriations for
 15 Unclassified (fund 0293, appropriation 09900), Buildings (fund
 16 0293, appropriation 25800), Capital Outlay, Repairs and
 17 Equipment (fund 0293, appropriation 58900), Capital
 18 Improvements – Surplus (fund 0293, appropriation 66100), Capital
 19 Outlay, Repairs and Equipment – Surplus (fund 0293,
 20 appropriation 67700), Land (fund 0293, appropriation 73000), and
 21 Capital Outlay and Maintenance (fund 0293, appropriation 75500)

22 at the close of the fiscal year 2017 are hereby reappropriated for
23 expenditure during the fiscal year 2018.

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

50 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2018 Org 0433

1	Personal Services and Employee Benefits00100	\$ 1,275,211
2	Current Expenses13000	137,674
3	Repairs and Alterations.....06400	6,500
4	Services to Blind & Handicapped.....18100	161,717
5	BRIM Premium.....91300	<u>16,734</u>
6	Total.....	\$ 1,597,836

51 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2018 Org 0439

1	Personal Services and Employee Benefits00100	\$ 3,245,141
2	Current Expenses13000	20,146
3	Mountain Stage40700	300,000
4	Capital Outlay and Maintenance.....75500	10,000
5	BRIM Premium.....91300	<u>45,283</u>
6	Total.....	\$ 3,620,570

7 Any unexpended balance remaining in the appropriation for
8 Capital Outlay and Maintenance (fund 0300, appropriation 75500)
9 at the close of the fiscal year 2017 is hereby reappropriated for
10 expenditure during the fiscal year 2018.

52 - *State Board of Rehabilitation –**Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 0310 FY 2018 Org 0932

1	Personal Services and Employee Benefits00100	\$ 10,488,256
2	Independent Living Services.....00900	429,418
3	Current Expenses13000	545,202
4	Workshop Development16300	1,817,427
5	Supported Employment Extended Services..20600	77,960
6	Ron Yost Personal Assistance Fund40700	333,828
7	Employment Attendant Care Program.....59800	131,575
8	BRIM Premium.....91300	<u>72,396</u>
9	Total.....	\$ 13,896,062

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION53 - *Environmental Quality Board*

(WV Code Chapter 20)

Fund 0270 FY 2018 Org 0311

1	Personal Services and Employee Benefits00100	\$ 70,636
2	Current Expenses13000	28,586
3	Repairs and Alterations.....06400	100
4	Equipment.....07000	300
5	Other Assets.....69000	400
6	BRIM Premium.....91300	<u>739</u>
7	Total.....	\$ 100,761

54 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	3,921,861
2	Water Resources		
3	Protection and Management06800		568,778
4	Current Expenses13000		95,737
5	Repairs and Alterations.....06400		4,950
6	Unclassified.....09900		25,049
7	Dam Safety.....60700		210,959
8	Equipment.....07000		0
9	West Virginia Stream Partners Program63700		77,396
10	Meth Lab Cleanup.....65600		200,496
11	Other Assets.....69000		1,000
12	WV Contributions to River Commissions77600		148,485
13	Office of Water Resources		
14	Non-Enforcement Activity85500		<u>915,636</u>
15	Total.....	\$	<u>6,170,347</u>

16 A portion of the appropriations for Current Expense (fund 0273,
17 appropriation 13000) and Dam Safety (fund 0273, appropriation
18 60700) may be transferred to the special revenue fund Dam Safety
19 Rehabilitation Revolving Fund (fund 3025) for the state deficient
20 dams rehabilitation assistance program.

55 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2018 Org 0325

1	Personal Services and Employee Benefits00100	\$	59,866
2	Current Expenses13000		12,183
3	Repairs and Alterations.....06400		50
4	Equipment.....07000		300
5	Other Assets.....69000		200
6	BRIM Premium.....91300		<u>2,153</u>
7	Total.....	\$	<u>74,752</u>

DEPARTMENT OF HEALTH AND HUMAN RESOURCES*56 - Department of Health and Human Resources –**Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2018 Org 0501

1	Personal Services and Employee Benefits00100	\$	373,601
2	Unclassified.....09900		8,014
3	Current Expenses13000		48,833
4	Women’s Commission (R)19100		0
5	Commission for the		
6	Deaf and Hard of Hearing.....70400		<u>215,479</u>
7	Total.....	\$	645,927

8 Any unexpended balance remaining in the appropriation for the
9 Women’s Commission (fund 0400, appropriation 19100) at the
10 close of the fiscal year 2017 is hereby reappropriated for
11 expenditure during the fiscal year 2018.

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

(WV Code Chapter 16)

Fund 0407 FY 2018 Org 0506

1	Personal Services and Employee Benefits00100	\$	12,048,586
2	Chief Medical Examiner04500		5,954,317
3	Unclassified.....09900		691,862
4	Current Expenses13000		4,640,355
5	State Aid for Local		
6	and Basic Public Health Services18400		12,645,160
7	Safe Drinking Water Program (R)18700		2,167,723
8	Women, Infants and Children21000		38,621
9	Early Intervention22300		8,134,060
10	Cancer Registry.....22500		195,868
11	CARDIAC Project37500		0

12	Statewide EMS Program Support (R).....	38300	2,298,605
13	Black Lung Clinics	46700	170,885
14	Center for End of Life	54500	0
15	Vaccine for Children	55100	332,942
16	Tuberculosis Control.....	55300	364,556
17	Maternal and Child Health Clinics, Clinicians		
18	Medical Contracts and Fees (R)	57500	6,327,015
19	Epidemiology Support	62600	1,492,573
20	Primary Care Support	62800	4,665,575
21	Sexual Assault Intervention and Prevention .	72300	125,000
22	Health Right Free Clinics.....	72700	2,750,000
23	Capital Outlay and Maintenance (R)	75500	100,000
24	Healthy Lifestyles	77800	0
25	Maternal Mortality Review	83400	46,563
26	Osteoporosis and Arthritis Prevention	84900	0
27	Diabetes Education and Prevention	87300	97,125
28	Tobacco Education Program (R).....	90600	0
29	BRIM Premium.....	91300	228,111
30	State Trauma and Emergency Care System.....	91800	<u>1,986,847</u>
31	Total.....		\$67,502,349

32 Any unexpended balances remaining in the appropriations for
33 Safe Drinking Water Program (fund 0407, appropriation 18700),
34 Statewide EMS Program Support (fund 0407, appropriation
35 38300), Maternal and Child Health Clinics, Clinicians and Medical
36 Contracts and Fees (fund 0407, appropriation 57500), Capital
37 Outlay and Maintenance (fund 0407, appropriation 75500),
38 Emergency Response Entities – Special Projects (fund 0407,
39 appropriation 82200), Assistance to Primary Health Care Centers
40 Community Health Foundation (fund 0407, appropriation 84500),
41 and Tobacco Education Program (fund 0407, appropriation 90600)
42 at the close of the fiscal year 2017 are hereby reappropriated for
43 expenditure during the fiscal year 2018; Provided that on June 30,
44 2017, the following reappropriated funds and amounts be
45 transferred to the Division of Human Services - Medical Services
46 Trust Fund, fund 5185: Fund 0407 appropriation 84500,
47 Assistance to Primary Health Care Centers Community Health
48 Foundation, \$2,473,236; fund 0407, appropriation 82200,
49 Emergency Response Entities – Special Projects, \$441,303; and

50 fund 0407, appropriation 75500, Capital Outlay and Maintenance,
51 \$6,000,000.

52 From the above appropriation for Current Expenses (fund 0407,
53 appropriation 13000), an amount not less than \$100,000 is for the
54 West Virginia Cancer Coalition; \$50,000 shall be expended for the
55 West Virginia Aids Coalition; \$100,000 is for Adolescent
56 Immunization Education; \$73,065 is for informal dispute
57 resolution relating to nursing home administrative appeals; and
58 \$50,000 is for Hospital Hospitality House of Huntington.

59 From the above appropriation for Maternal and Child Health
60 Clinics, Clinicians and Medical Contracts and Fees (fund 0407,
61 appropriation 57500) up to \$400,000 may be transferred to the
62 Breast and Cervical Cancer Diagnostic Treatment Fund (fund
63 5197) and \$11,000 is for the Marshall County Health Department
64 for dental services.

58 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2018 Org 0506

1	Personal Services and Employee Benefits00100	\$	1,554,852
2	Current Expenses		13000 12,463
3	Behavioral Health Program (R)		21900 64,415,611
4	Family Support Act.....		22100 251,226
5	Institutional Facilities Operations (R).....		33500 105,067,434
6	Substance Abuse Continuum of Care (R).....		35400 5,000,000
7	Capital Outlay and Maintenance (R)		75500 950,000
8	Renaissance Program		80400 165,996
9	BRIM Premium.....		91300 <u>1,211,307</u>
10	Total.....	\$	178,628,889

11 Any unexpended balances remaining in the appropriations for
12 Behavioral Health Program (fund 0525, appropriation 21900),
13 Institutional Facilities Operations (fund 0525, appropriation
14 33500), Substance Abuse Continuum of Care (fund 0525,
15 appropriation 35400), Capital Outlay (fund 0525, appropriation
16 51100), Behavioral Health Program – Surplus (fund 0525,

17 appropriation 63100), Institutional Facilities Operations – Surplus
18 (fund 0525, appropriation 63200), Substance Abuse Continuum of
19 Care – Surplus (fund 0525, appropriation 72200), and Capital
20 Outlay and Maintenance (fund 0525, appropriation 75500) at the
21 close of the fiscal year 2017 are hereby reappropriated for
22 expenditure during the fiscal year 2018.

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

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

34 From the above appropriation for Institutional Facilities
35 Operations (fund 0525, appropriation 33500), together with
36 available funds from the Division of Health – Hospital Services
37 Revenue Account (fund 5156, appropriation 33500), on July 1,
38 2017, the sum of \$160,000 shall be transferred to the Department
39 of Agriculture – Land Division – Farm Operating Fund (1412) as
40 advance payment for the purchase of food products; actual
41 payments for such purchases shall not be required until such credits
42 have been completely expended.

43 The above appropriation for Institutional Facilities Operations
44 (fund 0525, appropriation 33500) contains prior year salary
45 increases due to the Hartley court order in the amount of
46 \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for
47 Mildred Mitchel-Bateman Hospital.

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

52 Additional funds have been appropriated in fund 5156, fiscal
 53 year 2018, organization 0506, for the operation of the institutional
 54 facilities. The secretary of the Department of Health and Human
 55 Resources is authorized to utilize up to ten percent of the funds
 56 from the Institutional Facilities Operations appropriation to
 57 facilitate cost effective and cost saving services at the community
 58 level.

59 - Division of Health –

West Virginia Drinking Water Treatment

(WV Code Chapter 16)

Fund 0561 FY 2018 Org 0506

1	West Virginia Drinking Water Treatment		
2	Revolving Fund-Transfer.....	68900	\$ 647,500

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

60 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2018 Org 0510

1	Personal Services and Employee Benefits	00100	\$ 908,017
2	Unclassified.....	09900	4,024
3	Current Expenses	13000	191,766
4	BRIM Premium.....	91300	<u>10,056</u>
5	Total.....		\$ 1,113,863

61 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2018 Org 0511

1	Personal Services and Employee Benefits00100	\$ 43,080,824
2	Unclassified.....09900	5,688,944
3	Current Expenses13000	11,861,920
4	Child Care Development.....14400	12,541,247
5	Medical Services Contracts	
6	and Office of Managed Care.....18300	1,835,469
7	Medical Services18900	350,680,022
8	Social Services19500	142,485,812
9	Family Preservation Program19600	1,565,000
10	Family Resource Networks27400	1,762,464
11	Domestic Violence Legal Services Fund38400	400,000
12	James ‘Tiger’ Morton	
13	Catastrophic Illness Fund45500	101,005
14	I/DD Waiver.....46600	88,753,483
15	Child Protective Services Case Workers46800	22,446,545
16	OSCAR and RAPIDS51500	6,405,873
17	Title XIX Waiver for Seniors.....53300	13,593,620
18	WV Teaching Hospitals	
19	Tertiary/Safety Net54700	6,356,000
20	Child Welfare System60300	1,250,959
21	In-Home Family Education.....68800	1,000,000
22	WV Works Separate State Program.....69800	1,935,000
23	Child Support Enforcement70500	6,260,676
24	Medicaid Auditing70600	606,750
25	Temporary Assistance for Needy Families/	
26	Maintenance of Effort.....70700	22,969,096
27	Child Care – Maintenance of Effort Match ..70800	5,693,743
28	Child and Family Services73600	2,850,000
29	Grants for Licensed Domestic Violence	
30	Programs and Statewide Prevention75000	2,500,000
31	Capital Outlay and Maintenance (R)75500	11,875
32	Community Based Services	
33	and Pilot Programs for Youth75900	1,000,000
34	Medical Services Administrative Costs78900	35,609,925
35	Traumatic Brain Injury Waiver.....83500	800,000
36	Indigent Burials (R)85100	2,050,000
37	BRIM Premium.....91300	834,187

38	Rural Hospitals Under 150 Beds.....	94000	2,596,000
39	Children’s Trust Fund – Transfer.....	95100	<u>220,000</u>
40	Total.....		\$ 797,746,439

41 Any unexpended balances remaining in the appropriations for
 42 Capital Outlay and Maintenance (fund 0403, appropriation 75500)
 43 and Indigent Burials (fund 0403, appropriation 85100) at the close
 44 of the fiscal year 2017 are hereby reappropriated for expenditure
 45 during the fiscal year 2018.

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

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

57 Included in the above appropriation for Social Services (fund
 58 0403, appropriation 19500) is funding for continuing education
 59 requirements relating to the practice of social work.

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

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

67 The above appropriation for WV Works Separate State Program
 68 (fund 0403, appropriation 69800), shall be transferred to the WV
 69 Works Separate State College Program Fund (fund 5467), and the
 70 WV Works Separate State Two-Parent Program Fund (fund 5468)

71 as determined by the secretary of the Department of Health and
72 Human Resources.

73 From the above appropriation for Child Support Enforcement
74 (fund 0403, appropriation 70500) an amount not to exceed
75 \$300,000 may be transferred to a local banking depository to be
76 utilized to offset funds determined to be uncollectible.

77 From the above appropriation for the Grants for Licensed
78 Domestic Violence Programs and Statewide Prevention (fund
79 0403, appropriation 75000), 50% of the total shall be divided
80 equally and distributed among the fourteen (14) licensed programs
81 and the West Virginia Coalition Against Domestic Violence
82 (WVCADV). The balance remaining in the appropriation for
83 Grants for Licensed Domestic Violence Programs and Statewide
84 Prevention (fund 0403, appropriation 75000), shall be distributed
85 according to the formula established by the Family Protection
86 Services Board.

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

DEPARTMENT OF MILITARY AFFAIRS

AND PUBLIC SAFETY

62 - Department of Military Affairs and Public Safety –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0430 FY 2018 Org 0601

1 Personal Services and Employee Benefits00100	\$	711,738
2 Unclassified (R)		21,719
3 Current Expenses		66,492
4 Repairs and Alterations.....		6,000
5 Equipment.....		3,000
6 Fusion Center (R).....		437,665

7	Other Assets.....	69000	3,000
8	Directed Transfer	70000	32,000
9	BRIM Premium.....	91300	11,938
10	WV Fire and EMS Survivor Benefit (R)	93900	250,000
11	Homeland State Security		
12	Administrative Agency (R).....	95300	<u>385,850</u>
13	Total.....		\$ 1,929,402

14 Any unexpended balances remaining in the appropriations for
 15 Unclassified (fund 0430, appropriation 09900), Fusion Center
 16 (fund 0430, appropriation 46900), Substance Abuse Program –
 17 Surplus (fund 0430, appropriation 69600), Justice Reinvestment
 18 Training – Surplus (fund 0430, appropriation 69900), WV Fire and
 19 EMS Survivor Benefit (fund 0430, appropriation 93900), and
 20 Homeland State Security Administrative Agency (fund 0430,
 21 appropriation 95300), at the close of the fiscal year 2017 are hereby
 22 reappropriated for expenditure during the fiscal year 2018, with the
 23 exception of fund 0430, fiscal year 2017, appropriation 93900
 24 (\$50,000) which shall expire on June 30, 2017.

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

63 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2018 Org 0603

1	Unclassified.....	09900	\$ 11,839,780
2	College Education Fund.....	23200	0
3	Civil Air Patrol.....	23400	249,219
4	Mountaineer ChalleNGe Academy	70900	1,500,000
5	Armory Board Transfer.....	70015	0
6	Military Authority	74800	<u>0</u>
7	Total.....		\$ 13,588,999

8 Any unexpended balance remaining in the appropriations for
 9 Unclassified (fund 0433, appropriation 09900) and Military
 10 Authority (fund 0433, appropriation 74800) at the close of the
 11 fiscal year 2017 is hereby reappropriated for expenditure during the
 12 fiscal year 2018.

13 From the above appropriations an amount approved by the
 14 Adjutant General and the secretary of Military Affairs and Public
 15 Safety may be transferred to the State Armory Board for operation
 16 and maintenance of National Guard Armories.

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

19 From the above appropriation and other state and federal
 20 funding, the Adjutant General shall provide an amount not less than
 21 \$4,500,000 to the Mountaineer ChalleNGe Academy to meet
 22 anticipated program demand.

23 The above appropriation for Civil Air Patrol (fund 0433,
 24 appropriation 23400) shall be distributed equally to each of the
 25 twelve Civil Air Patrol Squadrons.

64 - Adjutant General –

Military Fund

(WV Code Chapter 15)

Fund 0605 FY 2018 Org 0603

1	Personal Services and Employee Benefits00100	\$	100,000
2	Current Expenses		<u>57,775</u>
3	Total.....	\$	157,775

65 - West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2018 Org 0605

1	Personal Services and Employee Benefits00100	\$	382,952
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2	Current Expenses	13000	194,559
3	Salaries of Members of		
4	West Virginia Parole Board.....	22700	593,029
5	BRIM Premium.....	91300	<u>5,747</u>
6	Total.....		\$ 1,176,287

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

66 - Division of Homeland Security and

Emergency Management

(WV Code Chapter 15)

Fund 0443 FY 2018 Org 0606

1	Personal Services and Employee Benefits	00100	\$ 537,175
2	Unclassified.....	09900	26,342
3	Current Expenses	13000	40,962
4	Repairs and Alterations.....	06400	600
5	Radiological Emergency Preparedness	55400	17,230
6	Federal Funds/Grant Match (R).....	74900	660,991
7	Mine and Industrial Accident Rapid		
8	Response Call Center.....	78100	454,189
9	Early Warning Flood System (R)	87700	469,506
10	BRIM Premium.....	91300	20,786
11	WVU Charleston Poison Control Hotline.....	94400	<u>712,942</u>
12	Total.....		\$ 2,940,723

13 Any unexpended balances remaining in the appropriations for
14 Federal Funds/Grant Match (fund 0443, appropriation 74900),
15 Early Warning Flood System (fund 0443, appropriation 87700),
16 and Disaster Mitigation (fund 0443, appropriation 95200) at the
17 close of the fiscal year 2017 are hereby reappropriated for
18 expenditure during the fiscal year 2018, with the exception of fund
19 0443, fiscal year 2017, appropriation 87700 (\$9,500) which shall
20 expire on June 30, 2017.

*67 - Division of Corrections –**Central Office*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0446 FY 2018 Org 0608

1	Personal Services and Employee Benefits00100	\$	581,526
2	Current Expenses	13000	<u>1,800</u>
3	Total	\$	583,326

*68 - Division of Corrections –**Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0450 FY 2018 Org 0608

1	Employee Benefits	01000	\$	1,258,136
2	Children's Protection Act (R)	09000		838,437
3	Unclassified (R)	09900		1,478,800
4	Current Expenses (R)	13000		20,151,011
5	Facilities Planning and Administration (R) ..	38600		1,166,627
6	Charleston Correctional Center	45600		2,609,672
7	Beckley Correctional Center	49000		1,790,364
8	Huntington Work Release Center	49500		990,100
9	Anthony Correctional Center	50400		4,940,533
10	Huttonsville Correctional Center	51400		19,966,539
11	Northern Correctional Center	53400		6,798,279
12	Inmate Medical Expenses (R)	53500		21,226,064
13	Pruntytown Correctional Center	54300		6,910,326
14	Corrections Academy	56900		1,416,819
15	Information Technology Services	59901		1,616,491
16	Martinsburg Correctional Center	66300		3,488,534
17	Parole Services	68600		4,981,198
18	Special Services	68700		6,122,439
19	Investigative Services	71600		3,001,604
20	Capital Outlay and Maintenance (R)	75500		2,000,000
21	Salem Correctional Center	77400		9,625,650

22	McDowell County Correctional Center	79000	1,949,983
23	Stevens Correctional Center.....	79100	6,474,500
24	Parkersburg Correctional Center.....	82800	2,417,670
25	St. Mary's Correctional Center	88100	12,075,450
26	Denmar Correctional Center	88200	4,264,286
27	Ohio County Correctional Center	88300	1,713,335
28	Mt. Olive Correctional Complex	88800	18,968,873
29	Lakin Correctional Center.....	89600	8,611,795
30	BRIM Premium.....	91300	<u>2,359,770</u>
31	Total.....		\$ 181,213,285

32 Any unexpended balances remaining in the appropriations for
33 Children's Protection Act (fund 0450, appropriation 09000),
34 Unclassified – Surplus (fund 0450, appropriation 09700), Current
35 Expenses (fund 0450, appropriation 13000), Facilities Planning
36 and Administration (fund 0450, appropriation 38600), Inmate
37 Medical Expenses (fund 0450, appropriation 53500), Capital
38 Improvements – Surplus (fund 0450, appropriation 66100), Capital
39 Outlay, Repairs and Equipment – Surplus (fund 0450,
40 appropriation 67700), Capital Outlay and Maintenance (fund 0450,
41 appropriation 75500), Security System Improvements – Surplus
42 (fund 0450, appropriation 75501), and Operating Expenses –
43 Surplus (fund 0450, appropriation 77900) at the close of the fiscal
44 year 2017 are hereby reappropriated for expenditure during the
45 fiscal year 2018, with the exception of fund 0450, fiscal year 2017,
46 appropriation 09000 (\$100,000) which shall expire on June 30,
47 2017.

48 The Commissioner of Corrections shall have the authority to
49 transfer between appropriations to the individual correctional units
50 above and may transfer funds from the individual correctional units
51 to Current Expenses (fund 0450, appropriation 13000) or Inmate
52 Medical Expenses (fund 0450, appropriation 53500).

53 From the above appropriation to Unclassified (fund 0450,
54 appropriation 09900), on July 1, 2017, the sum of \$300,000 shall
55 be transferred to the Department of Agriculture – Land Division –
56 Farm Operating Fund (1412) as advance payment for the purchase
57 of food products; actual payments for such purchases shall not be
58 required until such credits have been completely expended.

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

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

69 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2018 Org 0612

1	Personal Services and Employee Benefits00100	\$ 56,708,867
2	Children's Protection Act09000	948,101
3	Current Expenses13000	10,309,769
4	Repairs and Alterations.....06400	450,523
5	Barracks Lease Payments55600	237,898
6	Communications and Other Equipment (R)..55800	70,968
7	Trooper Retirement Fund.....60500	4,654,942
8	Handgun Administration Expense74700	67,692
9	Capital Outlay and Maintenance (R)75500	250,000
10	Retirement Systems – Unfunded Liability....77500	24,675,000
11	Automated Fingerprint	
12	Identification System.....89800	723,064
13	BRIM Premium.....91300	<u>5,368,150</u>
14	Total.....	\$ 104,464,974

15 Any unexpended balances remaining in the appropriations for
16 Communications and Other Equipment (fund 0453, appropriation
17 55800), and Capital Outlay and Maintenance (fund 0453,
18 appropriation 75500) at the close of the fiscal year 2017 are hereby
19 reappropriated for expenditure during the fiscal year 2018.

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

70 - *Fire Commission*

(WV Code Chapter 29)

Fund 0436 FY 2018 Org 0619

1 Current Expenses 13000 \$ 64,021

71 - *Division of Justice and Community Services*

(WV Code Chapter 15)

Fund 0546 FY 2018 Org 0620

1	Personal Services and Employee Benefits00100	\$	531,051
2	Current Expenses 13000		132,696
3	Repairs and Alterations.....06400		1,804
4	Child Advocacy Centers (R).....45800		1,701,671
5	Community Corrections (R)56100		6,907,760
6	Statistical Analysis Program59700		46,381
7	Sexual Assault		
8	Forensic Examination Commission.....71400		76,231
9	Qualitative Analysis and		
10	Training for Youth Services (R).....76200		332,619
11	Law Enforcement Professional Standards83800		154,471
12	BRIM Premium.....91300		<u>1,788</u>
13	Total.....	\$	9,886,472

14 Any unexpended balances remaining in the appropriations for
 15 Child Advocacy Centers (fund 0546, appropriation 45800),
 16 Community Corrections (fund 0546, appropriation 56100), and
 17 Qualitative Analysis and Training for Youth Services (fund 0546,
 18 appropriation 76200) 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 0546, fiscal year 2017, appropriation 56100
 21 (\$172,000), and fund 0546, fiscal year 2017, appropriation 76200
 22 (\$29,878) which shall expire on June 30, 2017.

23 From the above appropriation for Child Advocacy Centers
 24 (fund 0546, appropriation 45800), the division may retain an

25 amount not to exceed four percent of the appropriation for
26 administrative purposes.

72 - *Division of Juvenile Services*

(WV Code Chapter 49)

Fund 0570 FY 2018 Org 0621

1	Statewide Reporting Centers.....	26200	\$ 6,279,447
2	Robert L. Shell Juvenile Center	26700	1,956,950
3	Resident Medical Expenses (R)	53501	3,604,999
4	Central Office.....	70100	2,307,517
5	Capital Outlay and Maintenance (R)	75500	250,000
6	Gene Spadaro Juvenile Center	79300	2,128,385
7	BRIM Premium.....	91300	108,380
8	Kenneth Honey Rubenstein		
9	Juvenile Center (R)	98000	4,926,863
10	Vicki Douglas Juvenile Center	98100	1,870,388
11	Northern Regional Juvenile Center.....	98200	2,876,302
12	Lorrie Yeager Jr. Juvenile Center	98300	1,909,246
13	Sam Perdue Juvenile Center	98400	2,003,196
14	Tiger Morton Center	98500	2,114,663
15	Donald R. Kuhn Juvenile Center	98600	4,057,994
16	J.M. 'Chick' Buckbee Juvenile Center	98700	<u>2,017,395</u>
17	Total.....		\$ 38,411,725

18 Any unexpended balances remaining in the appropriations for
19 Resident Medical Expenses (fund 0570, appropriation 53501),
20 Capital Outlay and Maintenance (fund 0570, appropriation 75500),
21 and Kenneth Honey Rubenstein Juvenile Center (fund 0570,
22 appropriation 98000) at the close of the fiscal year 2017 are hereby
23 reappropriated for expenditure during the fiscal year 2018.

24 From the above appropriations, on July 1, 2017, the sum of
25 \$50,000 shall be transferred to the Department of Agriculture –
26 Land Division – Farm Operating Fund (1412) as advance payment
27 for the purchase of food products; actual payments for such
28 purchases shall not be required until such credits have been
29 completely expended.

30 The Director of Juvenile Services shall have the authority to
 31 transfer between appropriations to the individual juvenile centers
 32 above and may transfer funds from the individual juvenile centers
 33 to Resident Medical Expenses (fund 0570, appropriation 53501).

73 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2018 Org 0622

1	Personal Services and Employee Benefits00100	\$	2,601,257
2	Unclassified (R)09900		21,991
3	Current Expenses13000		139,232
4	Repairs and Alterations.....06400		8,500
5	Equipment (R).....07000		64,171
6	BRIM Premium.....91300		<u>11,426</u>
7	Total.....	\$	2,846,577

8 Any unexpended balances remaining in the appropriations for
 9 Equipment (fund 0585, appropriation 07000), and Unclassified
 10 (fund 0585, appropriation 09900) at the close of the fiscal year
 11 2017 are hereby reappropriated for expenditure during the fiscal
 12 year 2018.

DEPARTMENT OF REVENUE

74 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2018 Org 0701

1	Personal Services and Employee Benefits00100	\$	487,270
2	Unclassified.....09900		5,954
3	Current Expenses13000		80,633
4	Repairs and Alterations.....06400		1,262
5	Equipment.....07000		8,000
6	Other Assets.....69000		<u>500</u>
7	Total.....	\$	583,619

8 Any unexpended balance remaining in the appropriation for
 9 Unclassified – Total (fund 0465, appropriation 09600) at the close
 10 of the fiscal year 2017 is hereby reappropriated for expenditure
 11 during the fiscal year 2018.

75 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2018 Org 0702

1	Personal Services and Employee Benefits00100	\$ 15,773,677
2	Unclassified (R)09900	224,578
3	Current Expenses (R)13000	5,245,381
4	Repairs and Alterations06400	10,000
5	Equipment07000	50,000
6	Tax Technology Upgrade09400	2,700,000
7	Multi State Tax Commission65300	77,958
8	Other Assets69000	10,000
9	BRIM Premium91300	<u>14,560</u>
10	Total.....	\$ 24,106,154

11 Any unexpended balances remaining in the appropriations for
 12 Personal Services and Employee Benefits (fund 0470,
 13 appropriation 00100), Unclassified (fund 0470, appropriation
 14 09900), Current Expenses (fund 0470, appropriation 13000), and
 15 GIS Development Project (fund 0470, appropriation 56200) at the
 16 close of the fiscal year 2017 are hereby reappropriated for
 17 expenditure during the fiscal year 2018.

76 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2018 Org 0703

1	Personal Services and Employee Benefits00100	\$ 631,045
2	Unclassified (R)09900	<u>129</u>
3	Total.....	\$ 631,174

4 Any unexpended balance remaining in the appropriation for
 5 Unclassified (fund 0595, appropriation 09900) at the close of the
 6 fiscal year 2017 is hereby reappropriated for expenditure during the
 7 fiscal year 2018.

77 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2018 Org 0709

1	Personal Services and Employee Benefits00100	\$	414,391
2	Current Expenses (R).....13000		92,542
3	Unclassified.....09900		5,255
4	BRIM Premium.....91300		<u>2,862</u>
5	Total.....	\$	515,050

6 Any unexpended balance remaining in the appropriation for
 7 Current Expenses (fund 0593, appropriation 13000) at the close of
 8 the fiscal year 2017 is hereby reappropriated for expenditure during
 9 the fiscal year 2018.

78 - Division of Professional and Occupational Licenses –

State Athletic Commission

(WV Code Chapter 29)

Fund 0523 FY 2018 Org 0933

1	Personal Services and Employee Benefits00100	\$	7,200
2	Current Expenses13000		<u>27,634</u>
3	Total.....	\$	34,834

DEPARTMENT OF TRANSPORTATION

79 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2018 Org 0804

1	Personal Services and Employee Benefits00100	\$	304,238
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2	Current Expenses	13000	287,332
3	Other Assets (R).....	69000	1,303,277
4	BRIM Premium.....	91300	<u>188,356</u>
5	Total.....		\$ 2,083,203

6 Any unexpended balances remaining in the appropriations for
7 Unclassified (fund 0506, appropriation 09900) and Other Assets
8 (fund 0506, appropriation 69000) at the close of the fiscal year
9 2016 are hereby reappropriated for expenditure during the fiscal
10 year 2017, with the exception of fund 0506, fiscal year 2016,
11 appropriation 69000 (\$25,000) which shall expire on June 30,
12 2016.

80 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2018 Org 0805

1	Equipment (R).....	07000	\$ 417,194
2	Current Expenses (R).....	13000	<u>1,757,998</u>
3	Total.....		\$ 2,175,192

4 Any unexpended balances remaining in the appropriations for
5 Equipment (fund 0510, appropriation 07000), Current Expenses
6 (fund 0510, appropriation 13000), Buildings (fund 0510,
7 appropriation 25800), and Other Assets (fund 0510, appropriation
8 69000) at the close of the fiscal year 2017 are hereby
9 reappropriated for expenditure during the fiscal year 2018, with the
10 exception of fund 0510, fiscal year 2017, appropriation 07000
11 (\$22,203), fund 0510, fiscal year 2017, appropriation 25800
12 (\$5,281), and fund 0510, fiscal year 2017, appropriation 69000
13 (\$5,000) which shall expire on June 30, 2017.

81 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2018 Org 0807

1	Personal Services and Employee Benefits	00100	\$ 168,368
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2	Current Expenses (R).....	13000	711,614
3	Repairs and Alterations.....	06400	100
4	Civil Air Patrol.....	23400	0
5	BRIM Premium.....	91300	<u>4,148</u>
6	Total.....		\$ 884,230

7 Any unexpended balance remaining in the appropriations for
8 Unclassified (fund 0582, appropriation 09900) and Current
9 Expenses (fund 0582, appropriation 13000) at the close of the fiscal
10 year 2016 are hereby reappropriated for expenditure during the
11 fiscal year 2017, with the exception of fund 0582, fiscal year 2016,
12 appropriation 13000 (\$73,169) which shall expire on June 30,
13 2016.

DEPARTMENT OF VETERANS' ASSISTANCE

82 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2018 Org 0613

1	Personal Services and Employee Benefits	00100	\$ 1,807,393
2	Unclassified.....	09900	20,000
3	Current Expenses	13000	137,189
4	Repairs and Alterations.....	06400	5,000
5	Veterans' Field Offices	22800	248,345
6	Veterans' Nursing Home (R).....	28600	5,527,826
7	Veterans' Toll Free Assistance Line.....	32800	2,015
8	Veterans' Reeducation Assistance (R).....	32900	29,502
9	Veterans' Grant Program (R).....	34200	30,741
10	Veterans' Grave Markers.....	47300	10,254
11	Veterans' Transportation	48500	625,000
12	Veterans Outreach Programs	61700	160,001
13	Memorial Day Patriotic Exercise.....	69700	20,000
14	Veterans Cemetery.....	80800	375,428
15	BRIM Premium.....	91300	<u>23,860</u>
16	Total.....		\$ 9,022,554

17 Any unexpended balances remaining in the appropriations for
18 Veterans' Nursing Home (fund 0456, appropriation 28600),

19 Veterans’ Reeducation Assistance (fund 0456, appropriation
 20 32900), Veterans’ Grant Program (fund 0456, appropriation
 21 34200), Veterans’ Bonus – Surplus (fund 0456, appropriation
 22 34400), and Educational Opportunities for Children of Deceased
 23 Veterans (fund 0456, appropriation 85400) at the close of the fiscal
 24 year 2017 are hereby reappropriated for expenditure during the
 25 fiscal year 2018, with the exception of fund 0456, fiscal year 2017,
 26 appropriation 28600 (\$8,794), fund 0456, fiscal year 2017,
 27 appropriation 32900 (\$1,702), and fund 0456, fiscal year 2017,
 28 appropriation 34200 (\$29,000) which shall expire on June 30,
 29 2017.

83 - *Department of Veterans’ Assistance –*

Veterans’ Home

(WV Code Chapter 9A)

Fund 0460 FY 2018 Org 0618

1	Personal Services and Employee Benefits00100	\$	1,093,492
2	Current Expenses	13000	<u>44,576</u>
3	Total.....	\$	1,138,068

BUREAU OF SENIOR SERVICES

84 - *Bureau of Senior Services*

(WV Code Chapter 29)

Fund 0420 FY 2018 Org 0508

1	Transfer to Division of Human Services		
2	for Health Care and Title XIX Waiver		
3	for Senior Citizens	53900	\$ 11,368,797

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

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

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

85 - 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	\$ 726,624
3	Transit Training Partnership	78300	35,217
4	Community College		
5	Workforce Development (R)	87800	806,048
6	College Transition Program	88700	285,718
7	West Virginia Advance		
8	Workforce Development (R)	89300	3,200,720
9	Technical Program Development (R)	89400	<u>1,849,250</u>
10	Total		\$ 6,903,577

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.

86 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2018 Org 0444

1 Mountwest Community
 2 and Technical College48700 \$ 5,346,752

87 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2018 Org 0445

1 New River Community
 2 and Technical College35800 \$ 5,279,168

88 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2018 Org 0446

1 Pierpont Community
 2 and Technical College93000 \$ 7,030,858

89 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2018 Org 0447

1 Blue Ridge Community
 2 and Technical College88500 \$ 4,870,907

90 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2018 Org 0464

1 West Virginia University – Parkersburg.....47100 \$ 9,140,900

91 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2018 Org 0487

1 Southern West Virginia Community
 2 and Technical College44600 \$ 7,672,107

92 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2018 Org 0489

1 West Virginia Northern Community
 2 and Technical College44700 \$ 6,622,521

93 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2018 Org 0492

1 Eastern West Virginia Community
 2 and Technical College41200 \$ 1,761,888

94 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2018 Org 0493

1 BridgeValley Community
 2 and Technical College71700 \$ 7,200,888

HIGHER EDUCATION POLICY COMMISSION

95 - *Higher Education Policy Commission –*

Administration –

Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2018 Org 0441

1	Personal Services and Employee Benefits00100	\$ 2,486,430
2	Current Expenses13000	13,568
3	Higher Education Grant Program16400	39,019,864
4	Tuition Contract Program (R)16500	1,249,555
5	Underwood-Smith Scholarship	
6	Program-Student Awards.....16700	328,349
7	Facilities Planning and Administration (R) ..38600	1,760,234
8	PROMISE Scholarship – Transfer80000	18,500,000
9	HEAPS Grant Program (R).....86700	5,007,764
10	BRIM Premium.....91300	<u>16,965</u>
11	Total.....	\$ 68,382,729

12 Any unexpended balances remaining in the appropriations for
 13 Unclassified – Surplus (fund 0589, appropriation 09700), Tuition
 14 Contract Program (fund 0589, appropriation 16500), Capital
 15 Improvements – Surplus (fund 0589, appropriation 66100), Capital
 16 Outlay and Maintenance (fund 0589, appropriation 75500), and
 17 HEAPS Grant Program (fund 0589, appropriation 86700) at the
 18 close of the fiscal year 2017 are hereby reappropriated for
 19 expenditure during the fiscal year 2018, with the exception of fund
 20 0589, fiscal year 2017, appropriation 16500 (\$24,991) which shall
 21 expire on June 30, 2017.

22 The above appropriation for Facilities Planning and
 23 Administration (fund 0589, appropriation 38600) is for operational

24 expenses of the West Virginia Education, Research and
25 Technology Park between construction and full occupancy.

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

30 The above appropriation for Underwood-Smith Scholarship
31 Program-Student Awards (fund 0589, appropriation 16700) shall
32 be transferred to the Underwood-Smith Teacher Scholarship and
33 Loan Assistance Fund (fund 4922, org 0441) established by W.Va.
34 Code §18C-4-1.

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

96 - West Virginia University –

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2018 Org 0463

1	WVU School of Health Science –		
2	Eastern Division.....	05600	\$ 2,063,557
3	WVU – School of Health Sciences	17400	14,239,818
4	WVU – School of Health Sciences –		
5	Charleston Division	17500	2,122,336
6	Rural Health Outreach Programs	37700	156,133
7	West Virginia University School of Medicine		
8	BRIM Subsidy	46000	<u>1,203,087</u>
9	Total.....		\$ 19,784,931

10 The above appropriation for Rural Health Outreach Programs
11 (fund 0343, appropriation 37700) includes rural health activities

12 and programs; rural residency development and education; and
 13 rural outreach activities.

14 The above appropriation for West Virginia University School
 15 of Medicine BRIM Subsidy (fund 0343, appropriation 46000) shall
 16 be paid to the Board of Risk and Insurance Management as a
 17 general revenue subsidy against the ‘Total Premium Billed’ to the
 18 institution as part of the full cost of their malpractice insurance
 19 coverage.

97 - *West Virginia University –*

General Administrative Fund

(WV Code Chapter 18B)

Fund 0344 FY 2018 Org 0463

1	West Virginia University	45900	\$ 84,837,900
2	Jackson’s Mill	46100	219,808
3	West Virginia University		
4	Institute of Technology	47900	7,330,893
5	State Priorities – Brownfield		
6	Professional Development	53100	309,747
7	West Virginia University – Potomac State ...	99400	<u>3,598,985</u>
8	Total		\$ 96,297,333

98 - *Marshall University –*

School of Medicine

(WV Code Chapter 18B)

Fund 0347 FY 2018 Org 0471

1	Marshall Medical School	17300	\$ 11,177,634
2	Rural Health Outreach Programs (R)	37700	153,831
3	Forensic Lab	37701	221,582
4	Center for Rural Health	37702	146,994
5	Marshall University Medical School		
6	BRIM Subsidy	44900	<u>872,612</u>
7	Total		\$ 12,572,653

8 Any unexpended balance remaining in the appropriation for
 9 Rural Health Outreach Program (fund 0347, appropriation 37700)
 10 at the close of the fiscal year 2017 is hereby reappropriated for
 11 expenditure during the fiscal year 2018, with the exception of fund
 12 0347, fiscal year 2017, appropriation 37700 (\$3,352) which shall
 13 expire on June 30, 2017.

14 The above appropriation for Rural Health Outreach Programs
 15 (fund 0347, appropriation 37700) includes rural health activities
 16 and programs; rural residency development and education; and
 17 rural outreach activities.

18 The above appropriation for Marshall University Medical
 19 School BRIM Subsidy (fund 0347, appropriation 44900) shall be
 20 paid to the Board of Risk and Insurance Management as a general
 21 revenue subsidy against the ‘Total Premium Billed’ to the
 22 institution as part of the full cost of their malpractice insurance
 23 coverage.

99 - *Marshall University* –

General Administration Fund

(WV Code Chapter 18B)

Fund 0348 FY 2018 Org 0471

1	Marshall University	44800	\$ 38,882,683
2	Luke Lee Listening Language		
3	and Learning Lab	44801	93,682
4	Vista E-Learning (R).....	51900	228,604
5	State Priorities – Brownfield		
6	Professional Development (R).....	53100	306,866
7	Marshall University Graduate College		
8	Writing Project (R)	80700	19,032
9	WV Autism Training Center (R)	93200	<u>1,647,655</u>
10	Total.....		\$ 41,178,522

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 the fiscal
 17 year 2017 are hereby reappropriated for expenditure during the
 18 fiscal 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.

100 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2018 Org 0476

1	West Virginia		
2	School of Osteopathic Medicine.....	17200	\$ 6,526,309
3	Rural Health Outreach Programs (R).....	37700	161,620
4	West Virginia School of Osteopathic Medicine		
5	BRIM Subsidy	40300	156,299
6	Rural Health Initiative –		
7	Medical Schools Support.....	58100	<u>388,769</u>
8	Total.....		\$ 7,232,997

9 Any unexpended balance remaining in the appropriation for
 10 Rural Health Outreach Programs (fund 0336, appropriation 37700)
 11 at the close of fiscal year 2017 is hereby reappropriated for
 12 expenditure during the fiscal year 2018, with the exception of fund
 13 0336, fiscal year 2017, appropriation 37700 (\$3,367) which shall
 14 expire on June 30, 2017.

15 The above appropriation for Rural Health Outreach Programs
 16 (fund 0336, appropriation 37700) includes rural health activities
 17 and programs; rural residency development and education; and
 18 rural outreach activities.

19 The above appropriation for West Virginia School of
 20 Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation
 21 40300) shall be paid to the Board of Risk and Insurance

22 Management as a general revenue subsidy against the ‘Total
23 Premium Billed’ to the institution as part of the full cost of their
24 malpractice insurance coverage.

101 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2018 Org 0482

1 Bluefield State College40800 \$ 5,411,388

102 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2018 Org 0483

1 Concord University41000 \$ 8,327,612

103 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2018 Org 0484

1 Fairmont State University41400 \$ 14,666,658

104 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2018 Org 0485

1 Glenville State College42800 \$ 5,655,741

105 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2018 Org 0486

1 Shepherd University43200 \$ 9,169,914

106 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2018 Org 0488

1 West Liberty University.....43900 \$ 7,638,116

107 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2018 Org 0490

1	West Virginia State University	44100	\$	9,702,948
2	West Virginia State University			
3	Land Grant Match.....	95600		<u>1,571,549</u>
4	Total.....		\$	<u>11,274,497</u>

5	Total TITLE II, Section 1 – General Revenue			
6	(Including claims against the state)		\$	<u>4,102,700,000</u>

1 **Sec. 2. Appropriations from state road fund.** — From the
2 state road fund there are hereby appropriated conditionally upon
3 the fulfillment of the provisions set forth in Article 2, Chapter 11B
4 of the Code the following amounts, as itemized, for expenditure
5 during the fiscal year 2018.

DEPARTMENT OF TRANSPORTATION

108 - Division of Motor Vehicles

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

Fund 9007 FY 2018 Org 0802

			State Road Fund	Appro- priation
1	Personal Services and Employee Benefits	00100	\$	23,278,949
2	Current Expenses	13000		16,192,150
3	Repairs and Alterations.....	06400		144,000

4	Equipment.....	07000	1,080,000
5	Buildings.....	25800	10,000
6	Other Assets.....	69000	2,600,000
7	BRIM Premium.....	91300	<u>73,630</u>
8	Total.....		\$ 43,378,729

109 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2018 Org 0803

1	Debt Service.....	04000	\$ 24,000,000
2	Maintenance.....	23700	359,278,000
3	Nonfederal Improvements	23701	194,700,000
4	Inventory Revolving	27500	4,000,000
5	Equipment Revolving	27600	15,000,000
6	General Operations	27700	45,995,000
7	Interstate Construction	27800	100,000,000
8	Other Federal Aid Programs	27900	362,000,000
9	Appalachian Programs	28000	120,000,000
10	Highway Litter Control.....	28200	1,727,000
11	Courtesy Patrol.....	28201	<u>5,000,000</u>
12	Total.....		\$1,231,700,000

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

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

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

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

110 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2018 Org 0808

1	Personal Services and Employee Benefits00100	\$	1,585,201
2	Current Expenses	13000	338,278
3	Repairs and Alterations.....	06400	3,000
4	Equipment.....	07000	15,500
5	BRIM Premium.....	91300	<u>10,000</u>
6	Total.....	\$	1,951,979

7 Total TITLE II, Section 2 – State Road Fund
 8 (Including claims against the state) \$1,277,833,443

1 **Sec. 3. Appropriations from other funds.** — From the funds
 2 designated there are hereby appropriated conditionally upon the
 3 fulfillment of the provisions set forth in Article 2, Chapter 11B of
 4 the Code the following amounts, as itemized, for expenditure
 5 during the fiscal year 2018.

LEGISLATIVE

111 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2018 Org 2300

	Appropriation	Other Funds
1 Personal Services and Employee Benefits00100	\$ 498,020	
2 Current Expenses	13000	133,903
3 Repairs and Alterations.....06400		1,000
4 Economic Loss Claim Payment Fund.....33400		2,360,125
5 Other Assets.....69000		<u>3,700</u>
6 Total.....	\$ 2,996,748	

JUDICIAL

112 - Supreme Court –

Family Court Fund

(WV Code Chapter 51)

Fund 1763 FY 2018 Org 2400

1 Current Expenses	13000	\$ 1,600,000
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113 - Supreme Court –

Adult Drug Court Participation Fund

(WV Code Chapter 62)

Fund __ FY 2018 Org 2400

1 Current Expenses	13000	\$ 10,000
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114 - Supreme Court –

Court Advanced Technology Subscription Fund

(WV Code Chapter 51)

Fund __ FY 2018 Org 2400

1 Current Expenses	13000	\$ 10,000
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EXECUTIVE

115 - Governor's Office –

Minority Affairs Fund

(WV Code Chapter 5)

Fund 1058 FY 2018 Org 0100

1	Personal Services and Employee Benefits00100	\$	172,800
2	Current Expenses13000		503,200
3	Martin Luther King, Jr.		
4	Holiday Celebration.....03100		<u>8,926</u>
5	Total.....	\$	684,926

116 - Auditor's Office –

Land Operating Fund

(WV Code Chapters 11A, 12 and 36)

Fund 1206 FY 2018 Org 1200

1	Personal Services and Employee Benefits00100	\$	749,297
2	Unclassified.....09900		15,139
3	Current Expenses13000		715,291
4	Repairs and Alterations.....06400		2,600
5	Equipment.....07000		426,741
6	Cost of Delinquent Land Sales.....76800		<u>1,341,168</u>
7	Total.....	\$	3,250,236

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

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

*117 - Auditor's Office –**Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2018 Org 1200

1	Personal Services and Employee Benefits00100	\$	588,283
2	Current Expenses13000		282,030
3	Repairs and Alterations.....06400		6,000
4	Equipment.....07000		10,805
5	Other Assets.....69000		50,000
6	Statutory Revenue Distribution.....74100		<u>2,000,000</u>
7	Total.....	\$	2,937,118

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

*118 - Auditor's Office –**Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2018 Org 1200

1	Personal Services and Employee Benefits00100	\$	1,882,510
2	Unclassified.....09900		31,866
3	Current Expenses13000		1,463,830
4	Repairs and Alterations.....06400		12,400
5	Equipment.....07000		94,700
6	Other Assets.....69000		<u>773,326</u>
7	Total.....	\$	4,258,632

*119 - Auditor's Office –**Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2018 Org 1200

1	Current Expenses	13000	\$	160,000
2	Other Assets	69000		<u>100,000</u>
3	Total.....		\$	260,000

4 Fifty percent of the deposits made into this fund shall be
 5 transferred to the Treasurer’s Office – Technology Support and
 6 Acquisition Fund (fund 1329, org 1300) for expenditure for the
 7 purposes described in W.Va. Code §12-3-10c.

120 - Auditor’s Office –

Purchasing Card Administration Fund

(WV Code Chapter 12)

Fund 1234 FY 2018 Org 1200

1	Personal Services and Employee Benefits	00100	\$	2,667,397
2	Current Expenses	13000		2,303,622
3	Repairs and Alterations.....	06400		5,500
4	Equipment.....	07000		650,000
5	Other Assets.....	69000		308,886
6	Statutory Revenue Distribution.....	74100		<u>4,000,000</u>
7	Total.....		\$	9,935,405

8 There is hereby appropriated from this fund, in addition to the
 9 above appropriations if needed, the amount necessary to meet the
 10 transfer and revenue distribution requirements to the Purchasing
 11 Improvement Fund (fund 2264), the Hatfield-McCoy Regional
 12 Recreation Authority, and the State Park Operating Fund (fund
 13 3265) per W.Va. Code §12-3-10d.

121 - Auditor’s Office –

Chief Inspector’s Fund

(WV Code Chapter 6)

Fund 1235 FY 2018 Org 1200

1	Personal Services and Employee Benefits00100	\$	3,405,512
2	Current Expenses13000		765,915
3	Equipment07000		<u>50,000</u>
4	Total.....	\$	4,221,427

122 - Auditor's Office –

Volunteer Fire Department Workers'

Compensation Premium Subsidy Fund

(WV Code Chapters 12 and 33)

Fund 1239 FY 2018 Org 1200

1	Volunteer Fire Department		
2	Workers' Compensation Subsidy83200	\$	2,500,000

123 - Treasurer's Office

College Prepaid Tuition and Savings Program

Administrative Account

(WV Code Chapter 18)

Fund 1301 FY 2018 Org 1300

1	Personal Services and Employee Benefits00100	\$	774,769
2	Unclassified.....09900		14,000
3	Current Expenses13000		<u>619,862</u>
4	Total.....	\$	1,408,631

124 - Department of Agriculture –

Agriculture Fees Fund

(WV Code Chapter 19)

Fund 1401 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$	2,244,245
2	Unclassified.....09900		37,425
3	Current Expenses13000		1,356,184
4	Repairs and Alterations.....06400		58,500
5	Equipment07000		36,209
6	Other Assets69000		<u>10,000</u>
7	Total.....	\$	3,742,563

125 - Department of Agriculture –

West Virginia Rural Rehabilitation Program

(WV Code Chapter 19)

Fund 1408 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$	73,807
2	Unclassified.....09900		10,476
3	Current Expenses13000		<u>963,404</u>
4	Total.....	\$	1,047,687

126 - Department of Agriculture –

General John McCausland Memorial Farm Fund

(WV Code Chapter 19)

Fund 1409 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$	67,000
2	Unclassified.....09900		2,100
3	Current Expenses13000		89,500
4	Repairs and Alterations.....06400		36,400
5	Equipment07000		<u>15,000</u>
6	Total.....	\$	210,000

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

127 - Department of Agriculture –

Farm Operating Fund

(WV Code Chapter 19)

Fund 1412 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$	309,248
2	Unclassified.....09900		15,173
3	Current Expenses13000		1,167,464
4	Repairs and Alterations.....06400		238,722
5	Equipment.....07000		249,393
6	Other Assets.....69000		<u>20,000</u>
7	Total.....	\$	2,000,000

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

(WV Code Chapter 19)

Fund 1446 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$	958,864
2	Unclassified.....09900		45,807
3	Current Expenses13000		3,410,542
4	Repairs and Alterations.....06400		128,500
5	Equipment.....07000		10,000
6	Other Assets.....69000		<u>27,000</u>
7	Total.....	\$	4,580,713

*129 - Department of Agriculture –**Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2018 Org 1400

1	Current Expenses13000	\$	100,000
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*130 - Department of Agriculture –**West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 19)

Fund 1481 FY 2018 Org 1400

1	Current Expenses	13000	\$	100
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*131 - Department of Agriculture –**Veterans and Warriors to Agriculture Fund*

(WV Code Chapter 19)

Fund 1483 FY 2018 Org 1400

1	Current Expenses	13000	\$	7,500
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*132 - Department of Agriculture –**State FFA-FHA Camp and Conference Center*

(WV Code Chapters 18 and 18A)

Fund 1484 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100		\$	1,169,194
2	Unclassified.....09900			17,000
3	Current Expenses	13000		707,223
4	Repairs and Alterations.....06400			57,500
5	Equipment.....07000			1,000
6	Buildings.....25800			1,000
7	Other Assets.....69000			10,000
8	Land.....73000			<u>1,000</u>
9	Total.....		\$	1,963,917

*133 - Attorney General –**Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2018 Org 1500

1	Personal Services and Employee Benefits00100		\$	356,900
2	Current Expenses	13000		148,803
3	Repairs and Alterations.....06400			1,000

4	Equipment.....	07000		<u>1,000</u>
5	Total.....		\$	507,703

134 - Attorney General –

Preneed Burial Contract Regulation Fund

(WV Code Chapter 47)

Fund 1513 FY 2018 Org 1500

1	Personal Services and Employee Benefits	00100	\$	210,226
2	Current Expenses	13000		54,615
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		<u>1,000</u>
5	Total.....		\$	266,841

135 - Attorney General –

Preneed Funeral Guarantee Fund

(WV Code Chapter 47)

Fund 1514 FY 2018 Org 1500

1	Current Expenses	13000	\$	901,135
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136 - Secretary of State –

Service Fees and Collection Account

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2018 Org 1600

1	Personal Services and Employee Benefits	00100	\$	791,051
2	Unclassified.....	09900		4,524
3	Current Expenses	13000		<u>8,036</u>
4	Total.....		\$	803,611

137 - Secretary of State –

General Administrative Fees Account

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2018 Org 1600

1	Personal Services and Employee Benefits00100	\$ 2,769,898
2	Unclassified.....09900	25,529
3	Current Expenses13000	796,716
4	Technology Improvements59900	<u>750,000</u>
5	Total.....	\$ 4,342,143

DEPARTMENT OF ADMINISTRATION

138 - Department of Administration –

Office of the Secretary –

Tobacco Settlement Fund

(WV Code Chapter 4)

Fund 2041 FY 2018 Org 0201

1	Tobacco Settlement Securitization	
2	Trustee Pass Thru65000	\$ 80,000,000

139 - Department of Administration –

Office of the Secretary –

Employee Pension and Health Care Benefit Fund

(WV Code Chapter 18)

Fund 2044 FY 2018 Org 0201

1	Current Expenses13000	\$ 34,638,000
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2 The above appropriation for Current Expenses (fund 2044,
3 appropriation 13000) shall be transferred to the Consolidated
4 Public Retirement Board – West Virginia Teachers’ Retirement
5 System Employers Accumulation Fund (fund 2601).

140 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2018 Org 0210

1	Personal Services and Employee Benefits00100	\$ 21,378,322
2	Unclassified.....09900	382,354
3	Current Expenses13000	13,378,766
4	Repairs and Alterations.....06400	1,000
5	Equipment.....07000	2,050,000
6	Other Assets.....69000	<u>1,045,000</u>
7	Total.....	\$ 38,235,442

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

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

*141 - Division of Purchasing –**Vendor Fee Fund*

(WV Code Chapter 5A)

Fund 2263 FY 2018 Org 0213

1	Personal Services and Employee Benefits00100	\$ 655,208
2	Unclassified.....09900	2,382
3	Current Expenses13000	238,115
4	Repairs and Alterations.....06400	5,000
5	Equipment.....07000	2,500
6	Other Assets.....69000	2,500
7	BRIM Premium.....91300	<u>810</u>
8	Total.....	\$ 906,515

*142 - Division of Purchasing –**Purchasing Improvement Fund*

(WV Code Chapter 5A)

Fund 2264 FY 2018 Org 0213

1	Personal Services and Employee Benefits00100	\$	540,889
2	Unclassified.....09900		5,562
3	Current Expenses13000		393,066
4	Repairs and Alterations.....06400		500
5	Equipment.....07000		500
6	Other Assets.....69000		500
7	BRIM Premium.....91300		850
8	Total.....	\$	941,867

*143 - Travel Management –**Fleet Management Office Fund*

(WV Code Chapter 5A)

Fund 2301 FY 2018 Org 0215

1	Personal Services and Employee Benefits00100	\$	722,586
2	Unclassified.....09900		4,000
3	Current Expenses13000		8,130,614
4	Repairs and Alterations.....06400		12,000
5	Equipment.....07000		800,000
6	Other Assets.....69000		2,000
7	Total.....	\$	9,671,200

*144 - Travel Management –**Aviation Fund*

(WV Code Chapter 5A)

Fund 2302 FY 2018 Org 0215

1	Unclassified.....09900	\$	1,000
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2	Current Expenses	13000	149,700
3	Repairs and Alterations	06400	400,237
4	Equipment	07000	1,000
5	Buildings	25800	100
6	Other Assets	69000	100
7	Land	73000	<u>100</u>
8	Total		\$ 552,237

145 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2018 Org 0222

1	Personal Services and Employee Benefits00100	\$ 3,942,590
2	Unclassified.....09900	51,418
3	Current Expenses	13000 1,062,813
4	Repairs and Alterations.....06400	5,000
5	Equipment	07000 20,000
6	Other Assets	69000 <u>60,000</u>
7	Total	\$ 5,141,821

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

146 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2018 Org 0228

1	Personal Services and Employee Benefits00100	\$ 249,242
2	Unclassified.....09900	4,023
3	Current Expenses	13000 297,528
4	Repairs and Alterations.....06400	600
5	Equipment	07000 500
6	Other Assets	69000 <u>500</u>
7	Total	\$ 552,393

*147 - Office of Technology –**Chief Technology Officer Administration Fund*

(WV Code Chapter 5A)

Fund 2531 FY 2018 Org 0231

1	Personal Services and Employee Benefits00100	\$	399,911
2	Unclassified.....09900		6,949
3	Current Expenses13000		227,116
4	Repairs and Alterations.....06400		1,000
5	Equipment.....07000		50,000
6	Other Assets.....69000		<u>10,000</u>
7	Total.....	\$	694,976

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

DEPARTMENT OF COMMERCE*148 - Division of Forestry*

(WV Code Chapter 19)

Fund 3081 FY 2018 Org 0305

1	Personal Services and Employee Benefits00100	\$	1,464,328
2	Current Expenses13000		282,202
3	Repairs and Alterations.....06400		<u>53,000</u>
4	Total.....	\$	1,799,530

*149 - Division of Forestry –**Timbering Operations Enforcement Fund*

(WV Code Chapter 19)

Fund 3082 FY 2018 Org 0305

1	Personal Services and Employee Benefits00100	\$	224,433
2	Current Expenses13000		87,036

3	Repairs and Alterations.....06400		<u>11,250</u>
4	Total.....	\$	322,719

150 - Division of Forestry –

Severance Tax Operations

(WV Code Chapter 11)

Fund 3084 FY 2018 Org 0305

1	Personal Services and Employee Benefits00100	\$	859,626
2	Current Expenses13000		<u>435,339</u>
3	Total.....	\$	1,294,965

151 - Geological and Economic Survey –

Geological and Analytical Services Fund

(WV Code Chapter 29)

Fund 3100 FY 2018 Org 0306

1	Personal Services and Employee Benefits00100	\$	37,966
2	Unclassified.....09900		2,182
3	Current Expenses13000		141,631
4	Repairs and Alterations.....06400		50,000
5	Equipment.....07000		20,000
6	Other Assets.....69000		<u>10,000</u>
7	Total.....	\$	261,779

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

152 - West Virginia Development Office –

Department of Commerce –

Marketing and Communications Operating Fund

(WV Code Chapter 5B)

Fund 3002 FY 2018 Org 0307

1	Personal Services and Employee Benefits00100	\$	1,528,219
2	Unclassified.....09900		30,000
3	Current Expenses13000		<u>1,482,760</u>
4	Total.....	\$	3,040,979

153 - West Virginia Development Office –

Office of Coalfield Community Development

(WV Code Chapter 5B)

Fund 3162 FY 2018 Org 0307

1	Personal Services and Employee Benefits00100	\$	430,724
2	Unclassified.....09900		8,300
3	Current Expenses13000		<u>399,191</u>
4	Total.....	\$	838,215

154 - Division of Labor –

Contractor Licensing Board Fund

(WV Code Chapter 21)

Fund 3187 FY 2018 Org 0308

1	Personal Services and Employee Benefits00100	\$	3,019,374
2	Unclassified.....09900		21,589
3	Current Expenses13000		597,995
4	Repairs and Alterations.....06400		15,000
5	Buildings25800		5,000
6	BRIM Premium.....91300		<u>8,500</u>
7	Total.....	\$	3,667,458

155 - Division of Labor –

Elevator Safety Fund

(WV Code Chapter 21)

Fund 3188 FY 2018 Org 0308

1	Personal Services and Employee Benefits00100	\$	376,772
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2	Unclassified.....	09900	2,261
3	Current Expenses	13000	44,112
4	Repairs and Alterations.....	06400	2,000
5	Buildings	25800	1,000
6	BRIM Premium.....	91300	8,500
7	Total.....		\$ 434,645

156 - Division of Labor –

Crane Operator Certification Fund

(WV Code Chapter 21)

Fund 3191 FY 2018 Org 0308

1	Personal Services and Employee Benefits	00100	\$ 184,380
2	Unclassified.....	09900	1,380
3	Current Expenses	13000	49,765
4	Repairs and Alterations.....	06400	1,500
5	Buildings	25800	1,000
6	BRIM Premium.....	91300	8,500
7	Total.....		\$ 246,525

157 - Division of Labor –

Amusement Rides and Amusement Attraction Safety Fund

(WV Code Chapter 21)

Fund 3192 FY 2018 Org 0308

1	Personal Services and Employee Benefits	00100	\$ 179,316
2	Unclassified.....	09900	1,281
3	Current Expenses	13000	44,520
4	Repairs and Alterations.....	06400	2,000
5	Buildings	25800	1,000
6	BRIM Premium.....	91300	8,500
7	Total.....		\$ 236,617

158 - Division of Labor –

State Manufactured Housing Administration Fund

(WV Code Chapter 21)

Fund 3195 FY 2018 Org 0308

1	Personal Services and Employee Benefits00100	\$	283,768
2	Unclassified.....09900		1,847
3	Current Expenses13000		43,700
4	Repairs and Alterations.....06400		1,000
5	Buildings25800		1,000
6	BRIM Premium.....91300		<u>3,404</u>
7	Total.....	\$	334,719

*159 - Division of Labor –**Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2018 Org 0308

1	Personal Services and Employee Benefits00100	\$	424,965
2	Current Expenses13000		227,000
3	Repairs and Alterations.....06400		28,000
4	Equipment.....07000		15,000
5	BRIM Premium.....91300		<u>8,500</u>
6	Total.....	\$	703,465

*160 - Division of Labor –**Steam Boiler Fund*

(WV Code Chapter 21)

Fund FY 2018 Org 0308

1	Unclassified.....09900	\$	10,000
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*161 - Division of Labor –**Psychophysiological Examiners Fund*

(WV Code Chapter 21)

Fund __ FY 2018 Org 0308

1 Unclassified.....09900 \$ 10,000

162 - Division of Labor –

Plumbing Work Fund

(WV Code Chapter 21)

Fund __ FY 2018 Org 0308

1 Unclassified.....09900 \$ 10,000

163 - Division of Labor –

HVAC Fund

(WV Code Chapter 21)

Fund __ FY 2018 Org 0308

1 Unclassified.....09900 \$ 10,000

164 - Division of Labor –

Bedding and Upholstery Fund

(WV Code Chapter 21)

Fund __ FY 2018 Org 0308

1 Unclassified.....09900 \$ 10,000

165 - Division of Natural Resources –

License Fund – Wildlife Resources

(WV Code Chapter 20)

Fund 3200 FY 2018 Org 0310

1 Wildlife Resources.....02300 \$ 5,551,895

2 Administration15500 1,387,974

3	Capital Improvements		
4	and Land Purchase (R).....	24800	1,387,973
5	Law Enforcement.....	80600	<u>5,551,895</u>
6	Total.....		\$ 13,879,737

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

10 Any unexpended balance remaining in the appropriation for
11 Capital Improvements and Land Purchase (fund 3200,
12 appropriation 24800) at the close of the fiscal year 2017 is hereby
13 reappropriated for expenditure during the fiscal year 2018.

166 - Division of Natural Resources –

Natural Resources Game Fish and Aquatic Life Fund

(WV Code Chapter 22)

Fund 3202 FY 2018 Org 0310

1	Current Expenses	13000	\$ 125,000
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167 - Division of Natural Resources –

Nongame Fund

(WV Code Chapter 20)

Fund 3203 FY 2018 Org 0310

1	Personal Services and Employee Benefits	00100	\$ 678,109
2	Current Expenses	13000	201,930
3	Equipment.....	07000	<u>106,615</u>
4	Total.....		\$ 986,654

168 - Division of Natural Resources –

Planning and Development Division

(WV Code Chapter 20)

Fund 3205 FY 2018 Org 0310

1	Personal Services and Employee Benefits00100	\$	289,167
2	Current Expenses13000		157,864
3	Repairs and Alterations06400		15,016
4	Equipment07000		8,300
5	Buildings25800		8,300
6	Other Assets69000		2,000,000
7	Land73000		<u>31,700</u>
8	Total.....	\$	2,510,347

169 - Division of Natural Resources –

Whitewater Study and Improvement Fund

(WV Code Chapter 20)

Fund 3253 FY 2018 Org 0310

1	Personal Services and Employee Benefits00100	\$	62,704
2	Current Expenses13000		64,778
3	Equipment07000		1,297
4	Buildings25800		<u>6,969</u>
5	Total.....	\$	135,748

170 - Division of Natural Resources –

Whitewater Advertising and Promotion Fund

(WV Code Chapter 20)

Fund 3256 FY 2018 Org 0310

1	Unclassified.....09900	\$	200
2	Current Expenses13000		<u>19,800</u>
3	Total.....	\$	20,000

171 - Division of Miners' Health, Safety and Training –

Special Health, Safety and Training Fund

(WV Code Chapter 22A)

Fund 3355 FY 2018 Org 0314

1	Personal Services and Employee Benefits00100	\$	471,606
2	WV Mining Extension Service02600		150,000
3	Unclassified.....09900		40,985
4	Current Expenses13000		1,954,557
5	Buildings25800		481,358
6	Land73000		<u>1,000,000</u>
7	Total.....	\$	4,098,506

*172 - Department of Commerce –**Office of the Secretary –**Broadband Enhancement Fund*Fund 3013 FY 2018 Org 0327

1	Current Expenses13000	\$	1,887,000
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*173 - Division of Energy –**Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2018 Org 0328

1	Energy Assistance – Total64700	\$	62,000
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DEPARTMENT OF EDUCATION*174 - State Board of Education –**Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2018 Org 0402

1	Personal Services and Employee Benefits00100	\$	134,000
2	Unclassified.....09900		1,000
3	Current Expenses13000		<u>265,000</u>

4 Total..... \$ 400,000

175 - State Board of Education –

School Construction Fund

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2018 Org 0402

1 SBA Construction Grants24000 \$ 37,217,000

176 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2018 Org 0402

1 Personal Services and Employee Benefits00100 \$ 1,085,152

2 Current Expenses13000 246,880

3 Repairs and Alterations06400 13,150

4 Equipment07000 26,000

5 Total..... \$ 1,371,182

6 The above appropriations are for the administrative expenses of
7 the School Building Authority and shall be paid from the interest
8 earnings on debt service reserve accounts maintained on behalf of
9 said authority.

DEPARTMENT OF EDUCATION AND THE ARTS

177 - Office of the Secretary –

Lottery Education Fund Interest Earnings –

Control Account

(WV Code Chapter 29)

Fund 3508 FY 2018 Org 0431

1 Any unexpended balance remaining in the appropriation for
2 Educational Enhancements (fund 3508, appropriation 69500) at the

3 close of the fiscal year 2017 is hereby reappropriated for
4 expenditure during the fiscal year 2018.

178 - Division of Culture and History –

Public Records and Preservation Revenue Account

(WV Code Chapter 5A)

Fund 3542 FY 2018 Org 0432

1	Personal Services and Employee Benefits00100	\$	211,418
2	Current Expenses13000		862,241
3	Equipment07000		75,000
4	Buildings25800		1,000
5	Other Assets69000		52,328
6	Land73000		<u>1,000</u>
7	Total.....	\$	1,202,987

179 - State Board of Rehabilitation –

Division of Rehabilitation Services –

West Virginia Rehabilitation Center Special Account

(WV Code Chapter 18)

Fund 8664 FY 2018 Org 0932

1	Personal Services and Employee Benefits00100	\$	119,738
2	Current Expenses13000		2,180,122
3	Repairs and Alterations06400		85,500
4	Equipment07000		220,000
5	Buildings25800		150,000
6	Other Assets69000		<u>150,000</u>
7	Total.....	\$	2,905,360

DEPARTMENT OF ENVIRONMENTAL PROTECTION

180 - Solid Waste Management Board

(WV Code Chapter 22C)

Fund 3288 FY 2018 Org 0312

1	Personal Services and Employee Benefits00100	\$	802,209
2	Current Expenses13000		2,061,057
3	Repairs and Alterations.....06400		1,000
4	Equipment07000		5,000
5	Other Assets69000		<u>4,403</u>
6	Total.....	\$	2,873,669

181 - Division of Environmental Protection –

Hazardous Waste Management Fund

(WV Code Chapter 22)

Fund 3023 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	692,784
2	Current Expenses13000		195,569
3	Repairs and Alterations.....06400		500
4	Equipment07000		1,505
5	Unclassified.....09900		3,072
6	Other Assets69000		<u>2,000</u>
7	Total.....	\$	895,430

182 - Division of Environmental Protection –

Air Pollution Education and Environment Fund

(WV Code Chapter 22)

Fund 3024 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	935,324
2	Current Expenses13000		1,238,610
3	Repairs and Alterations.....06400		13,000
4	Equipment07000		53,105
5	Unclassified.....09900		2,900
6	Other Assets69000		<u>20,000</u>
7	Total.....	\$	2,262,939

*183 - Division of Environmental Protection –**Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	1,350,829
2	Current Expenses13000		16,402,506
3	Repairs and Alterations.....06400		79,950
4	Equipment.....07000		130,192
5	Other Assets.....69000		<u>32,000</u>
6	Total.....	\$	17,995,477

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

(WV Code Chapter 22)

Fund 3322 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	143,906
2	Current Expenses13000		<u>356,094</u>
3	Total.....	\$	500,000

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

(WV Code Chapter 22)

Fund 3323 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	3,321,164
2	Current Expenses13000		1,257,758
3	Repairs and Alterations.....06400		20,600
4	Equipment.....07000		8,000
5	Unclassified.....09900		44,700
6	Other Assets.....69000		<u>15,000</u>
7	Total.....	\$	4,667,222

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

(WV Code Chapter 22)

Fund 3324 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	4,035,449
2	Current Expenses13000		2,300,097
3	Repairs and Alterations.....06400		60,260
4	Equipment.....07000		85,134
5	Unclassified.....09900		920
6	Other Assets.....69000		<u>57,500</u>
7	Total.....	\$	6,539,360

*187 - Division of Environmental Protection –
Underground Storage Tank*

Administrative Fund

(WV Code Chapter 22)

Fund 3325 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	466,543
2	Current Expenses13000		318,420
3	Repairs and Alterations.....06400		5,350
4	Equipment.....07000		3,610
5	Unclassified.....09900		7,520
6	Other Assets.....69000		<u>3,500</u>
7	Total.....	\$	804,943

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

(WV Code Chapter 22)

Fund 3331 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	643,319
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2	Current Expenses	13000	422,386
3	Repairs and Alterations	06400	7,014
4	Equipment	07000	9,000
5	Unclassified.....	09900	10,616
6	Other Assets	69000	<u>11,700</u>
7	Total.....		\$ 1,104,035

189 - Division of Environmental Protection –

Solid Waste Reclamation and

Environmental Response Fund

(WV Code Chapter 22)

Fund 3332 FY 2018 Org 0313

1	Personal Services and Employee Benefits	00100	\$ 793,967
2	Current Expenses	13000	3,605,237
3	Repairs and Alterations.....	06400	25,000
4	Equipment.....	07000	31,500
5	Unclassified.....	09900	22,900
6	Other Assets	69000	<u>1,000</u>
7	Total.....		\$ 4,479,604

190 - Division of Environmental Protection –

Solid Waste Enforcement Fund

(WV Code Chapter 22)

Fund 3333 FY 2018 Org 0313

1	Personal Services and Employee Benefits	00100	\$ 3,041,424
2	Current Expenses	13000	1,020,229
3	Repairs and Alterations.....	06400	30,930
4	Equipment.....	07000	23,356
5	Unclassified.....	09900	37,145
6	Other Assets	69000	<u>25,554</u>
7	Total.....		\$ 4,178,638

*191 - Division of Environmental Protection –**Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	5,667,421
2	Current Expenses13000		1,518,704
3	Repairs and Alterations.....06400		84,045
4	Equipment.....07000		115,356
5	Unclassified.....09900		5,580
6	Other Assets.....69000		<u>52,951</u>
7	Total.....	\$	<u>7,444,057</u>

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

(WV Code Chapter 22)

Fund 3340 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$	295,444
2	Current Expenses13000		216,288
3	Repairs and Alterations.....06400		1,000
4	Equipment.....07000		6,500
5	Unclassified.....09900		1,120
6	Other Assets.....69000		<u>179,000</u>
7	Total.....	\$	<u>699,352</u>

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

(WV Code Chapter 22)

Fund 3349 FY 2018 Org 0313

1	Current Expenses13000	\$	9,298,205
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*194 - Division of Environmental Protection –**Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2018 Org 0313

1	Current Expenses	13000	\$	60,000
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*195 - Division of Environmental Protection –**Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100		\$	646,395
2	Current Expenses	13000		2,735,112
3	Repairs and Alterations.....06400			800
4	Equipment.....07000			500
5	Unclassified.....09900			400
6	Other Assets.....69000			<u>2,500</u>
7	Total.....		\$	3,385,707

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

(WV Code Chapter 22)

Fund 3490 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100		\$	1,228,345
2	Current Expenses	13000		638,729
3	Repairs and Alterations.....06400			30,112
4	Equipment.....07000			23,725
5	Unclassified.....09900			1,180
6	Other Assets.....69000			<u>15,500</u>
7	Total.....		\$	1,937,591

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

(WV Code Chapter 22C)

Fund 3371 FY 2018 Org 0315

1	Personal Services and Employee Benefits00100	\$	157,224
2	Current Expenses	13000	161,225
3	Repairs and Alterations.....06400		1,000
4	Equipment.....07000		9,481
5	Other Assets.....69000		<u>1,500</u>
6	Total.....	\$	330,430

DEPARTMENT OF HEALTH AND HUMAN RESOURCES*198 - Division of Health –**The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2018 Org 0506

1	Personal Services and Employee Benefits00100	\$	876,771
2	Unclassified.....09900		15,500
3	Current Expenses	13000	<u>1,257,788</u>
4	Total.....	\$	2,150,059

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

(WV Code Chapter 16)

Fund 5156 FY 2018 Org 0506

1	Institutional Facilities Operations	33500	\$ 56,708,911
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2	Medical Services Trust Fund – Transfer.....51200	<u>27,800,000</u>
3	Total.....	\$ 84,508,911

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

8 Additional funds have been appropriated in fund 0525, fiscal
9 year 2018, organization 0506, for the operation of the institutional
10 facilities. The Secretary of the Department of Health and Human
11 Resources is authorized to utilize up to ten percent of the funds
12 from the appropriation for Institutional Facilities Operations to
13 facilitate cost effective and cost saving services at the community
14 level.

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

20 From the above appropriation to Institutional Facilities
21 Operations, together with available funds from the Consolidated
22 Medical Services Fund (fund 0525, appropriation 33500) on July
23 1, 2017, the sum of \$160,000 shall be transferred to the Department
24 of Agriculture – Land Division – Farm Operating Fund (1412) as
25 advance payment for the purchase of food products; actual
26 payments for such purchases shall not be required until such credits
27 have been completely expended.

200 - Division of Health –

Laboratory Services Fund

(WV Code Chapter 16)

Fund 5163 FY 2018 Org 0506

1	Personal Services and Employee Benefits....00100	\$ 862,657
2	Unclassified.....09900	18,114

3	Current Expenses	13000		<u>930,716</u>
4	Total.....		\$	1,811,487

201 - Division of Health –

The Health Facility Licensing Account

(WV Code Chapter 16)

Fund 5172 FY 2018 Org 0506

1	Personal Services and Employee Benefits00100		\$	605,950
2	Unclassified.....09900			7,113
3	Current Expenses	13000		<u>98,247</u>
4	Total.....		\$	711,310

202 - Division of Health –

Hepatitis B Vaccine

(WV Code Chapter 16)

Fund 5183 FY 2018 Org 0506

1	Current Expenses	13000	\$	13,800
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203 - Division of Health –

Lead Abatement Account

(WV Code Chapter 16)

Fund 5204 FY 2018 Org 0506

1	Personal Services and Employee Benefits00100		\$	19,100
2	Unclassified.....09900			373
3	Current Expenses	13000		<u>17,875</u>
4	Total.....		\$	37,348

204 - Division of Health –

West Virginia Birth-to-Three Fund

(WV Code Chapter 16)

Fund 5214 FY 2018 Org 0506

1	Personal Services and Employee Benefits00100	\$	707,545
2	Unclassified.....09900		223,999
3	Current Expenses13000		<u>27,993,549</u>
4	Total.....	\$	28,925,093

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

(WV Code Chapter 16)

Fund 5218 FY 2018 Org 0506

1	Current Expenses13000	\$	7,579
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*206 - West Virginia Health Care Authority –**Health Care Cost Review Fund*

(WV Code Chapter 16)

Fund 5375 FY 2018 Org 0507

1	Personal Services and Employee Benefits00100	\$	3,033,821
2	Hospital Assistance02500		600,000
3	Unclassified.....09900		67,000
4	Current Expenses13000		2,837,945
5	Repairs and Alterations.....06400		25,000
6	Equipment.....07000		50,000
7	Buildings25800		25,000
8	Other Assets.....69000		<u>100,000</u>
9	Total.....	\$	6,738,766

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

14 The Health Care Authority is authorized to transfer up to
 15 \$1,500,000 from fund 5375 to the West Virginia Health
 16 Information Network Account (fund 5380) as authorized per
 17 W.Va. Code §16-29G-4.

207 - West Virginia Health Care Authority –

Certificate of Need Program Fund

(WV Code Chapter 16)

Fund 5377 FY 2018 Org 0507

1	Personal Services and Employee Benefits00100	\$	805,113
2	Current Expenses13000		<u>774,967</u>
3	Total.....	\$	1,580,080

208 - West Virginia Health Care Authority –

West Virginia Health Information Network Account

(WV Code Chapter 16)

Fund 5380 FY 2018 Org 0507

1	Personal Services and Employee Benefits00100	\$	729,000
2	Unclassified.....09900		20,000
3	Current Expenses13000		1,251,000
4	Technology Infrastructure Network.....35100		<u>3,500,000</u>
5	Total.....	\$	5,500,000

209 - Division of Human Services –

Health Care Provider Tax –

Medicaid State Share Fund

(WV Code Chapter 11)

Fund 5090 FY 2018 Org 0511

1	Medical Services.....18900	\$	198,381,008
2	Medical Services Administrative Costs78900		<u>418,992</u>

3 Total..... \$ 198,800,000

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

210 - Division of Human Services –

Child Support Enforcement Fund

(WV Code Chapter 48A)

Fund 5094 FY 2018 Org 0511

1	Personal Services and Employee Benefits00100	\$ 24,809,509
2	Unclassified.....09900	380,000
3	Current Expenses13000	<u>12,810,491</u>
4	Total.....	\$ 38,000,000

211 - Division of Human Services –

Medical Services Trust Fund

(WV Code Chapter 9)

Fund 5185 FY 2018 Org 0511

1	Medical Services.....18900	\$ 134,510,937
2	Medical Services Administrative Costs78900	<u>548,723</u>
3	Total.....	\$ 135,059,660

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

11 remainder of all moneys deposited in the fund shall be transferred
12 to the Division of Human Services accounts.

212 - Division of Human Services –

James ‘Tiger’ Morton Catastrophic Illness Fund

(WV Code Chapter 16)

Fund 5454 FY 2018 Org 0511

1	Unclassified.....	09900	\$	7,000
2	Current Expenses	13000		<u>693,000</u>
3	Total.....		\$	700,000

213 - Division of Human Services –

Domestic Violence Legal Services Fund

(WV Code Chapter 48)

Fund 5455 FY 2018 Org 0511

1	Current Expenses	13000	\$	900,000
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214 - Division of Human Services –

West Virginia Works Separate State College Program Fund

(WV Code Chapter 9)

Fund 5467 FY 2018 Org 0511

1	Current Expenses	13000	\$	1,000,000
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215 - Division of Human Services –

West Virginia Works Separate State Two-Parent Program Fund

(WV Code Chapter 9)

Fund 5468 FY 2018 Org 0511

1	Current Expenses	13000	\$	2,000,000
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*216 - Division of Human Services –**Marriage Education Fund*

(WV Code Chapter 9)

Fund 5490 FY 2018 Org 0511

1	Personal Services and Employee Benefits00100	\$	10,000
2	Current Expenses	13000	<u>25,000</u>
3	Total.....	\$	35,000

DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY*217 - Department of Military Affairs and Public Safety –**Office of the Secretary –**Law-Enforcement, Safety and Emergency Worker**Funeral Expense Payment Fund*

(WV Code Chapter 15)

Fund 6003 FY 2018 Org 0601

1	Current Expenses	13000	\$	32,000
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*218 - State Armory Board –**General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2018 Org 0603

1	Personal Services and Employee Benefits00100	\$	1,643,528
2	Current Expenses	13000	650,000
3	Repairs and Alterations.....06400		485,652
4	Equipment.....07000		300,000
5	Buildings.....25800		770,820
6	Other Assets.....69000		100,000

7	Land	73000	<u>50,000</u>
8	Total.....		\$ 4,000,000

9 From the above appropriations, the Adjutant General may
 10 receive and expend funds to conduct operations and activities to
 11 include functions of the Military Authority. The Adjutant General
 12 may transfer funds between appropriations, except no funds may
 13 be transferred to Personal Services and Employee Benefits (fund
 14 6057, appropriation 00100).

219 - Division of Homeland Security and

Emergency Management –

West Virginia Interoperable Radio Project

(WV Code Chapter 24)

Fund 6295 FY 2018 Org 0606

1	Current Expenses	13000	\$ 2,000,000
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2 Any unexpended balance remaining in the appropriation for
 3 Unclassified – Total (fund 6295, appropriation 09600) at the close
 4 of fiscal year 2017 is hereby reappropriated for expenditure during
 5 the fiscal year 2018.

220 - Division of Homeland Security and

Emergency Management –

Statewide Interoperable Radio Network Account

(WV Code Chapter 24)

Fund FY 2018 Org 0606

1	Unclassified.....	09900	\$ 10,000
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221 - West Virginia Division of Corrections –

Parolee Supervision Fees

(WV Code Chapter 62)

Fund 6362 FY 2018 Org 0608

1	Personal Services and Employee Benefits00100	\$	1,013,793
2	Unclassified.....09900		9,804
3	Current Expenses13000		758,480
4	Equipment.....07000		30,000
5	Other Assets.....69000		<u>40,129</u>
6	Total.....	\$	1,852,206

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

(WV Code Chapter 17C)

Fund 6501 FY 2018 Org 0612

1	Personal Services and Employee Benefits00100	\$	1,786,923
2	Current Expenses13000		1,488,211
3	Repairs and Alterations.....06400		204,500
4	Equipment.....07000		3,770,751
5	Buildings.....25800		534,000
6	Other Assets.....69000		5,000
7	BRIM Premium.....91300		<u>302,432</u>
8	Total.....	\$	8,091,817

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

*223 - West Virginia State Police –**Drunk Driving Prevention Fund*

(WV Code Chapter 15)

Fund 6513 FY 2018 Org 0612

1	Current Expenses13000	\$	1,327,000
2	Equipment.....07000		3,491,895

3	BRIM Premium.....	91300	<u>154,452</u>
4	Total.....		\$ 4,973,347

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

224 - West Virginia State Police –

Surplus Real Property Proceeds Fund

(WV Code Chapter 15)

Fund 6516 FY 2018 Org 0612

1	Buildings.....	25800	\$ 443,980
2	Land.....	73000	1,000
3	BRIM Premium.....	91300	<u>77,222</u>
4	Total.....		\$ 522,202

225 - West Virginia State Police –

Surplus Transfer Account

(WV Code Chapter 15)

Fund 6519 FY 2018 Org 0612

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

226 - West Virginia State Police –

Central Abuse Registry Fund

(WV Code Chapter 15)

Fund 6527 FY 2018 Org 0612

1	Personal Services and Employee Benefits00100	\$	236,881
2	Current Expenses13000		51,443
3	Repairs and Alterations06400		500
4	Equipment07000		300,500
5	Other Assets69000		300,500
6	BRIM Premium91300		<u>18,524</u>
7	Total.....	\$	908,348

*227 - West Virginia State Police –**Bail Bond Enforcer Account*

(WV Code Chapter 15)

Fund 6532 FY 2018 Org 0612

1	Current Expenses13000	\$	8,300
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*228 - West Virginia State Police –**State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2018 Org 0612

1	Current Expenses13000	\$	160,000
2	Repairs and Alterations06400		<u>40,000</u>
3	Total.....	\$	200,000

229 - Regional Jail and Correctional Facility Authority

(WV Code Chapter 31)

Fund 6675 FY 2018 Org 0615

1	Personal Services and Employee Benefits00100	\$	1,971,039
2	Debt Service04000		9,000,000
3	Current Expenses13000		495,852
4	Repairs and Alterations06400		4,000
5	Equipment07000		<u>1,743</u>

6 Total..... \$ 11,472,634

230 - Fire Commission –

Fire Marshal Fees

(WV Code Chapter 29)

Fund 6152 FY 2018 Org 0619

1	Personal Services and Employee Benefits00100	\$ 3,033,683
2	Unclassified.....09900	3,800
3	Current Expenses13000	1,249,550
4	Repairs and Alterations.....06400	58,500
5	Equipment.....07000	140,800
6	Other Assets.....69000	12,000
7	BRIM Premium.....91300	<u>50,000</u>
8	Total.....	\$ 4,548,333

231 - Division of Justice and Community Services –

WV Community Corrections Fund

(WV Code Chapter 62)

Fund 6386 FY 2018 Org 0620

1	Personal Services and Employee Benefits00100	\$ 152,000
2	Unclassified.....09900	750
3	Current Expenses13000	1,846,250
4	Repairs and Alterations.....06400	<u>1,000</u>
5	Total.....	\$ 2,000,000

232 - Division of Justice and Community Services –

Court Security Fund

(WV Code Chapter 51)

Fund 6804 FY 2018 Org 0620

1	Personal Services and Employee Benefits00100	\$ 21,865
2	Current Expenses13000	<u>1,478,135</u>

3 Total..... \$ 1,500,000

DEPARTMENT OF REVENUE

233 - Division of Financial Institutions

(WV Code Chapter 31A)

Fund 3041 FY 2018 Org 0303

1	Personal Services and Employee Benefits00100	\$ 2,503,751
2	Unclassified.....09900	1,000
3	Current Expenses13000	695,225
4	Repairs and Alterations.....06400	100
5	Equipment.....07000	14,000
6	Other Assets.....69000	<u>15,000</u>
7	Total.....	\$ 3,229,076

234 - Office of the Secretary –

Revenue Shortfall Reserve Fund

(WV Code Chapter 11B)

Fund 7005 FY 2018 Org 0701

- 1 Medical Services Trust Fund51200 \$ 90,000,000
- 2 The above appropriation for Medical Services Trust Fund –
- 3 Transfer (appropriation 51200) shall be transferred to the Medical
- 4 Services Trust Fund (fund 5185).

235 - Office of the Secretary –

State Debt Reduction Fund

(WV Code Chapter 29)

Fund 7007 FY 2018 Org 0701

1 Directed Transfer70000 \$ 20,000,000

2 The above appropriation for Directed Transfer shall be
 3 transferred to the Consolidated Public Retirement Board – West
 4 Virginia Public Employees Retirement System Employers
 5 Accumulation Fund (fund 2510).

236 - Tax Division –

Cemetery Company Account

(WV Code Chapter 35)

Fund 7071 FY 2018 Org 0702

1	Personal Services and Employee Benefits00100	\$	23,459
2	Current Expenses13000		<u>7,717</u>
3	Total.....	\$	31,176

237 - Tax Division –

Special Audit and Investigative Unit

(WV Code Chapter 11)

Fund 7073 FY 2018 Org 0702

1	Personal Services and Employee Benefits00100	\$	655,203
2	Unclassified.....09900		9,500
3	Current Expenses13000		273,297
4	Repairs and Alterations06400		7,000
5	Equipment07000		<u>5,000</u>
6	Total.....	\$	950,000

238 - Tax Division –

Wine Tax Administration Fund

(WV Code Chapter 60)

Fund 7087 FY 2018 Org 0702

1	Personal Services and Employee Benefits00100	\$	254,162
2	Current Expenses13000		<u>5,406</u>
3	Total.....	\$	259,568

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

(WV Code Chapter 47)

Fund 7092 FY 2018 Org 0702

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

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

(WV Code Chapter 11)

Fund 7099 FY 2018 Org 0702

1	Personal Services and Employee Benefits	00100	\$	1,508,968
2	Unclassified.....	09900		10,000
3	Current Expenses	13000		784,563
4	Repairs and Alterations	06400		1,000
5	Equipment	07000		<u>5,000</u>
6	Total		\$	2,309,531

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

(WV Code Chapter 11B)

Fund 7400 FY 2018 Org 0703

1	Public Employees Insurance			
2	Reserve Fund – Transfer.....	90300	\$	6,800,000

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

242 - State Budget Office –

Public Employee Insurance Agency Financial Stability Fund

(WV Code Chapter 11B)

Fund 7401 FY 2018 Org 0703

1	Retiree Premium Offset	80101	\$ 5,000,000
2	PEIA Reserve.....	80102	<u>10,000,000</u>
3	Total.....		\$ 15,000,000

4 The above appropriation shall be transferred to special revenue
 5 funds to be utilized by the West Virginia Public Employees
 6 Insurance Agency for the purposes of permitting the PEIA Finance
 7 Board to offset \$5 million in retiree premium increases.
 8 Additionally, \$10 million will be put into a reserve fund to stabilize
 9 and preserve the future solvency of PEIA. Such amount shall not
 10 be included in the calculation of the plan year aggregate premium
 11 cost-sharing percentages between employers and employees.

243 - Insurance Commissioner –

Examination Revolving Fund

(WV Code Chapter 33)

Fund 7150 FY 2018 Org 0704

1	Personal Services and Employee Benefits	00100	\$ 721,117
2	Current Expenses	13000	1,357,201
3	Repairs and Alterations.....	06400	3,000
4	Equipment.....	07000	81,374
5	Buildings.....	25800	8,289
6	Other Assets.....	69000	<u>11,426</u>
7	Total.....		\$ 2,182,407

244 - Insurance Commissioner –

Consumer Advocate

(WV Code Chapter 33)

Fund 7151 FY 2018 Org 0704

1	Personal Services and Employee Benefits00100	\$	552,228
2	Current Expenses13000		202,152
3	Repairs and Alterations06400		5,000
4	Equipment07000		34,225
5	Buildings25800		4,865
6	Other Assets69000		<u>19,460</u>
7	Total.....	\$	817,930

245 - Insurance Commissioner –

Insurance Commission Fund

(WV Code Chapter 33)

Fund 7152 FY 2018 Org 0704

1	Personal Services and Employee Benefits00100	\$	23,039,727
2	Current Expenses13000		8,797,758
3	Repairs and Alterations06400		68,614
4	Equipment07000		1,728,240
5	Buildings25800		25,000
6	Other Assets69000		<u>340,661</u>
7	Total.....	\$	34,000,000

246 - Insurance Commissioner –

Workers' Compensation Old Fund

(WV Code Chapter 23)

Fund 7162 FY 2018 Org 0704

1	Employee Benefits01000	\$	50,000
2	Current Expenses13000		<u>250,500,000</u>
3	Total.....	\$	250,550,000

247 - Insurance Commissioner –

Workers' Compensation Uninsured Employers' Fund

(WV Code Chapter 23)

Fund 7163 FY 2018 Org 0704

1 Current Expenses 13000 \$ 15,000,000

248 - Insurance Commissioner –

Self-Insured Employer Guaranty Risk Pool

(WV Code Chapter 23)

Fund 7164 FY 2018 Org 0704

1 Current Expenses 13000 \$ 9,000,000

249 - Insurance Commissioner –

Self-Insured Employer Security Risk Pool

(WV Code Chapter 23)

Fund 7165 FY 2018 Org 0704

1 Current Expenses 13000 \$ 14,000,000

250 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2018 Org 0706

1	Personal Services and Employee Benefits00100	\$	247,523
2	Current Expenses 13000		144,844
3	Equipment07000		<u>100</u>
4	Total.....	\$	392,467

251 - Racing Commission –

Relief Fund

(WV Code Chapter 19)

Fund 7300 FY 2018 Org 0707

1 Medical Expenses – Total.....24500 \$ 57,000

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

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

252 - Racing Commission –

Administration and Promotion Account

(WV Code Chapter 19)

Fund 7304 FY 2018 Org 0707

1	Personal Services and Employee Benefits00100	\$	256,665
2	Current Expenses	13000	93,335
3	Other Assets	69000	<u>5,000</u>
4	Total.....	\$	355,000

253 - Racing Commission –

General Administration

(WV Code Chapter 19)

Fund 7305 FY 2018 Org 0707

1	Personal Services and Employee Benefits00100	\$	2,271,339
2	Current Expenses	13000	566,248
3	Repairs and Alterations.....	06400	7,000
4	Other Assets	69000	<u>50,000</u>
5	Total.....	\$	2,894,587

254 - Racing Commission –

Administration, Promotion, Education, Capital Improvement

and Greyhound Adoption Programs

to include Spaying and Neutering Account

(WV Code Chapter 19)

Fund 7307 FY 2018 Org 0707

1	Personal Services and Employee Benefits00100	\$	864,474
2	Current Expenses	13000	214,406
3	Other Assets	69000	<u>200,000</u>
4	Total	\$	1,278,880

255 - Alcohol Beverage Control Administration –

Wine License Special Fund

(WV Code Chapter 60)

Fund 7351 FY 2018 Org 0708

1	Personal Services and Employee Benefits00100	\$	122,339
2	Current Expenses	13000	69,186
3	Repairs and Alterations	06400	7,263
4	Equipment	07000	10,000
5	Buildings	25800	100,000
6	Other Assets	69000	<u>100</u>
7	Total	\$	308,888

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

256 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2018 Org 0708

1	Personal Services and Employee Benefits00100	\$	5,413,237
2	Current Expenses13000		2,890,577
3	Repairs and Alterations.....06400		91,000
4	Equipment.....07000		108,000
5	Buildings.....25800		375,100
6	Purchase of Supplies for Resale.....41900		72,500,000
7	Transfer Liquor Profits and Taxes42500		16,000,000
8	Other Assets.....69000		125,100
9	Land73000		<u>100</u>
10	Total.....	\$	97,503,114

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

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

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

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

257 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2018 Org 0933

1	Current Expenses13000	\$	30,000
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DEPARTMENT OF TRANSPORTATION

258 - Division of Motor Vehicles –

Dealer Recovery Fund

(WV Code Chapter 17)

Fund 8220 FY 2018 Org 0802

1 Current Expenses 13000 \$ 189,000

259 - Division of Motor Vehicles –

Motor Vehicle Fees Fund

(WV Code Chapter 17B)

Fund 8223 FY 2018 Org 0802

1	Personal Services and Employee Benefits00100	\$	3,362,799
2	Current Expenses 13000		4,374,083
3	Repairs and Alterations.....06400		16,000
4	Equipment.....07000		75,000
5	Other Assets.....69000		10,000
6	BRIM Premium.....91300		<u>73,629</u>
7	Total.....	\$	7,911,511

260 - Division of Highways –

A. James Manchin Fund

(WV Code Chapter 22)

Fund 8319 FY 2018 Org 0803

1 Current Expenses 13000 \$ 1,650,000

DEPARTMENT OF VETERANS' ASSISTANCE

261 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2018 Org 0613

1	Personal Services and Employee Benefits00100	\$	94,210
2	Current Expenses 13000		2,255,997
3	Repairs and Alterations.....06400		10,000
4	Equipment.....07000		10,000
5	Other Assets.....69000		<u>10,000</u>
6	Total.....	\$	2,380,207

262 - *Department of Veterans' Assistance –*

WV Veterans' Home –

Special Revenue Operating Fund

(WV Code Chapter 9A)

Fund 6754 FY 2018 Org 0618

1	Current Expenses	13000	\$	700,000
2	Repairs and Alterations.....	06400		<u>50,000</u>
3	Total.....		\$	750,000

BUREAU OF SENIOR SERVICES

263 - *Bureau of Senior Services –*

Community Based Service Fund

(WV Code Chapter 22)

Fund 5409 FY 2018 Org 0508

1	Personal Services and Employee Benefits	00100	\$	151,290
2	Current Expenses	13000		<u>10,348,710</u>
3	Total.....		\$	10,500,000

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

HIGHER EDUCATION POLICY COMMISSION

264 - *Higher Education Policy Commission –*

System –

Tuition Fee Capital Improvement Fund

(Capital Improvement and Bond Retirement Fund)

Control Account

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2018 Org 0442

1	Debt Service.....	04000	\$ 27,716,974
2	General Capital Expenditures	30600	5,000,000
3	Facilities Planning and Administration.....	38600	<u>421,082</u>
4	Total.....		\$ 33,138,056

5 The total amount of these appropriations shall be paid from the
6 Special Capital Improvement Fund created in W.Va. Code §18B-
7 10-8. Projects are to be paid on a cash basis and made available on
8 July 1.

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

265 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2018 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay (fund 4906, appropriation 51100) at the close of the
3 fiscal year 2017 is hereby reappropriated for expenditure during the
4 fiscal year 2018.

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

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

266 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2018 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Improvements – Total (fund 4908, appropriation 95800) at
3 the close of fiscal year 2017 is hereby reappropriated for
4 expenditure during the fiscal year 2018.

5 The total amount of this appropriation shall be paid from the
6 sale of the 2009 Series A Community and Technical College
7 Capital Improvement Revenue Bonds and anticipated interest
8 earnings.

267 - West Virginia University –

West Virginia University Health Sciences Center

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2018 Org 0463

1	Personal Services and Employee Benefits00100	\$ 10,274,340
2	Current Expenses 13000	4,524,300
3	Repairs and Alterations06400	425,000
4	Equipment07000	512,000
5	Buildings25800	150,000
6	Other Assets69000	<u>50,000</u>
7	Total.....	\$ 15,935,640

MISCELLANEOUS BOARDS AND COMMISSIONS

268 - Board of Barbers and Cosmetologists –

Barbers and Beauticians Special Fund

(WV Code Chapters 16 and 30)

Fund 5425 FY 2018 Org 0505

1	Personal Services and Employee Benefits00100	\$ 504,497
2	Current Expenses 13000	<u>239,969</u>

3 Total..... \$ 744,466

4 The total amount of these appropriations shall be paid from a
 5 special revenue fund out of collections made by the Board of
 6 Barbers and Cosmetologists as provided by law.

269 - Hospital Finance Authority –

Hospital Finance Authority Fund

(WV Code Chapter 16)

Fund 5475 FY 2018 Org 0509

1	Personal Services and Employee Benefits00100	\$	85,981
2	Unclassified.....09900		1,450
3	Current Expenses13000		<u>57,740</u>
4	Total.....	\$	145,171

5 The total amount of these appropriations shall be paid from the
 6 special revenue fund out of fees and collections as provided by
 7 Article 29A, Chapter 16 of the Code.

270 - WV State Board of Examiners for Licensed Practical Nurses –

Licensed Practical Nurses

(WV Code Chapter 30)

Fund 8517 FY 2018 Org 0906

1	Personal Services and Employee Benefits00100	\$	430,324
2	Current Expenses13000		<u>53,133</u>
3	Total.....	\$	483,457

271 - WV Board of Examiners for Registered Professional Nurses –

Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2018 Org 0907

1	Personal Services and Employee Benefits00100	\$ 1,081,694
2	Current Expenses13000	295,339
3	Repairs and Alterations06400	3,000
4	Equipment07000	19,500
5	Other Assets69000	4,500
6	Directed Transfer70000	<u>0</u>
7	Total.....	\$ 1,404,033

272 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2018 Org 0926

1	Personal Services and Employee Benefits00100	\$ 11,807,314
2	Unclassified.....09900	147,643
3	Current Expenses13000	2,594,398
4	Repairs and Alterations06400	55,000
5	Equipment07000	160,000
6	PSC Weight Enforcement34500	4,370,453
7	Debt Payment/Capital Outlay52000	350,000
8	BRIM Premium.....91300	<u>150,040</u>
9	Total.....	\$ 19,634,848

10 The total amount of these appropriations shall be paid from a
 11 special revenue fund out of collections for special license fees from
 12 public service corporations as provided by law.

13 The Public Service Commission is authorized to transfer up to
 14 \$500,000 from this fund to meet the expected deficiencies in the
 15 Motor Carrier Division (fund 8625, org 0926) due to the
 16 amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled
 17 House Bill Number 2715, Regular Session, 1997.

273 - Public Service Commission –

Gas Pipeline Division –

Public Service Commission Pipeline Safety Fund

(WV Code Chapter 24B)

Fund 8624 FY 2018 Org 0926

1	Personal Services and Employee Benefits00100	\$	284,198
2	Unclassified.....09900		3,851
3	Current Expenses13000		93,115
4	Repairs and Alterations.....06400		<u>4,000</u>
5	Total.....	\$	385,164

6 The total amount of these appropriations shall be paid from a
7 special revenue fund out of receipts collected for or by the Public
8 Service Commission pursuant to and in the exercise of regulatory
9 authority over pipeline companies as provided by law.

274 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8625 FY 2018 Org 0926

1	Personal Services and Employee Benefits00100	\$	2,243,526
2	Unclassified.....09900		29,233
3	Current Expenses13000		577,557
4	Repairs and Alterations.....06400		23,000
5	Equipment.....07000		<u>50,000</u>
6	Total.....	\$	2,923,316

7 The total amount of these appropriations shall be paid from a
8 special revenue fund out of receipts collected for or by the Public
9 Service Commission pursuant to and in the exercise of regulatory
10 authority over motor carriers as provided by law.

275 - Public Service Commission –

Consumer Advocate Fund

(WV Code Chapter 24)

Fund 8627 FY 2018 Org 0926

1	Personal Services and Employee Benefits00100	\$	743,372
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2	Current Expenses	13000	276,472
3	Equipment	07000	9,872
4	BRIM Premium.....	91300	<u>4,660</u>
5	Total.....		\$ 1,034,376

6 The total amount of these appropriations shall be supported by
 7 cash from a special revenue fund out of collections made by the
 8 Public Service Commission.

276 - Real Estate Commission –

Real Estate License Fund

(WV Code Chapter 30)

Fund 8635 FY 2018 Org 0927

1	Personal Services and Employee Benefits00100	\$	582,413
2	Current Expenses	13000	285,622
3	Repairs and Alterations.....	06400	5,000
4	Equipment	07000	<u>10,000</u>
5	Total.....	\$	883,035

6 The total amount of these appropriations shall be paid out of
 7 collections of license fees as provided by law.

277 - WV Board of Examiners for Speech-Language

Pathology and Audiology –

Speech-Language Pathology and Audiology Operating Fund

(WV Code Chapter 30)

Fund 8646 FY 2018 Org 0930

1	Personal Services and Employee Benefits00100	\$	73,190
2	Current Expenses	13000	<u>65,623</u>
3	Total.....	\$	138,813

278 - WV Board of Respiratory Care –

Board of Respiratory Care Fund

(WV Code Chapter 30)

Fund 8676 FY 2018 Org 0935

1	Personal Services and Employee Benefits00100	\$	79,643
2	Current Expenses		13000
3	Repairs and Alterations.....06400		<u>400</u>
4	Total.....	\$	131,090

279 - *WV Board of Licensed Dietitians* –*Dietitians Licensure Board Fund*

(WV Code Chapter 30)

Fund 8680 FY 2018 Org 0936

1	Personal Services and Employee Benefits00100	\$	15,950
2	Current Expenses		13000
3	Total.....	\$	<u>17,050</u>
			33,000

280 - *Massage Therapy Licensure Board* –*Massage Therapist Board Fund*

(WV Code Chapter 30)

Fund 8671 FY 2018 Org 0938

1	Personal Services and Employee Benefits00100	\$	104,418
2	Current Expenses		13000
3	Total.....	\$	<u>22,648</u>
			127,066

281 - *Board of Medicine* –*Medical Licensing Board Fund*

(WV Code Chapter 30)

Fund 9070 FY 2018 Org 0945

1	Personal Services and Employee Benefits00100	\$	1,187,752
2	Current Expenses		13000
			988,789

3	Repairs and Alterations.....06400	<u>20,000</u>
4	Total.....	\$ 2,196,541

282 - *West Virginia Enterprise Resource Planning Board –*

Enterprise Resource Planning System Fund

(WV Code Chapter 12)

Fund 9080 FY 2018 Org 0947

1	Personal Services and Employee Benefits00100	\$ 6,713,066
2	Unclassified.....09900	232,000
3	Current Expenses13000	20,140,134
4	Repairs and Alterations.....06400	300
5	Equipment.....07000	213,000
6	Buildings25800	2,000
7	Other Assets69000	<u>199,500</u>
8	Total.....	\$ 27,500,000

283 - *Board of Treasury Investments –*

Board of Treasury Investments Fee Fund

(WV Code Chapter 12)

Fund 9152 FY 2018 Org 0950

1	Personal Services and Employee Benefits00100	\$ 782,889
2	Unclassified.....09900	14,850
3	Current Expenses13000	650,714
4	BRIM Premium.....91300	36,547
5	Fees of Custodians, Fund Advisors and Fund Managers.....93800	<u>3,500,000</u>
7	Total.....	\$ 4,985,000

8 There is hereby appropriated from this fund, in addition to the
9 above appropriation if needed, an amount of funds necessary for
10 the Board of Treasury Investments to pay the fees and expenses of
11 custodians, fund advisors and fund managers for the consolidated
12 fund of the State as provided in Article 6C, Chapter 12 of the Code.

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

15 Total TITLE II, Section 3 – Other Funds

16 (Including claims against the state) \$1,629,216,710

1 **Sec. 4. Appropriations from lottery net profits.** — Net profits
2 of the lottery are to be deposited by the Director of the Lottery to
3 the following accounts in the amounts indicated. The Director of
4 the Lottery shall prorate each deposit of net profits in the
5 proportion the appropriation for each account bears to the total of
6 the appropriations for all accounts.

7 After first satisfying the requirements for Fund 2252, Fund
8 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the
9 Director of the Lottery shall make available from the remaining net
10 profits of the lottery any amounts needed to pay debt service for
11 which an appropriation is made for Fund 9065, Fund 4297, Fund
12 3390, and Fund 3514 and is authorized to transfer any such
13 amounts to Fund 9065, Fund 4297, Fund 3390, and Fund 3514 for
14 that purpose. Upon receipt of reimbursement of amounts so
15 transferred, the Director of the Lottery shall deposit the
16 reimbursement amounts to the following accounts as required by
17 this section.

284 - Education, Arts, Sciences and Tourism –

Debt Service Fund

(WV Code Chapter 5)

Fund 2252 FY 2018 Org 0211

	Appropriation	Lottery Funds
1 Debt Service – Total	31000	\$ 10,000,000

285 - West Virginia Development Office –

West Virginia Tourism Office (WV Code Chapter 5B)

Fund 3067 FY 2018 Org 0304

1	Tourism – Telemarketing Center	46300	\$	82,080
2	Tourism – Advertising (R)	61800		1,822,407
3	Tourism – Operations (R)	66200		<u>3,951,872</u>
4	Total		\$	5,856,359

5 Any unexpended balances remaining in the appropriations for
6 Tourism – Advertising (fund 3067, appropriation 61800), and
7 Tourism – Operations (fund 3067, appropriation 66200) at the
8 close of the fiscal year 2017 are hereby reappropriated for
9 expenditure during the fiscal year 2018.

286 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2018 Org 0310

1	Personal Services and Employee Benefits	00100	\$	2,090,941
2	Current Expenses	13000		23,000
3	Pricketts Fort State Park	32400		106,560
4	Non-Game Wildlife (R)	52700		365,540
5	State Parks and Recreation Advertising (R)	61900		<u>494,578</u>
6	Total		\$	3,080,619

7 Any unexpended balances remaining in the appropriations for
8 Unclassified (fund 3267, appropriation 09900), Capital Outlay –
9 Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund
10 3267, appropriation 52700), and State Parks and Recreation
11 Advertising (fund 3267, appropriation 61900) at the close of the
12 fiscal year 2017 are hereby reappropriated for expenditure during
13 the fiscal year 2018.

287 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2018 Org 0402

1	FBI Checks	37200	\$	108,860
2	Vocational Education			
3	Equipment Replacement	39300		800,000

4	Assessment Program (R).....	39600	2,946,059
5	21 st Century Technology Infrastructure		
6	Network Tools and Support (R)	93300	<u>13,868,262</u>
7	Total.....		\$ 17,723,181

8 Any unexpended balances remaining in the appropriations for
9 Unclassified (fund 3951, appropriation 09900), Current Expenses
10 (fund 3951, appropriation 13000), Assessment Program (fund
11 3951, appropriation 39600), and 21st Century Technology
12 Infrastructure Network Tools and Support (fund 3951,
13 appropriation 93300) at the close of the fiscal year 2017 are hereby
14 reappropriated for expenditure during the fiscal year 2018.

288 - State Department of Education –

School Building Authority –

Debt Service Fund

(WV Code Chapter 18)

Fund 3963 FY 2018 Org 0402

1	Debt Service – Total	31000	\$ 6,414,437
2	Directed Transfer	70000	<u>11,585,563</u>
3	Total.....		\$ 18,000,000

4 The School Building Authority shall have the authority to
5 transfer between the above appropriations in accordance with
6 W.Va. Code §29-22-18.

289 - Department of Education and the Arts –

Office of the Secretary –

Control Account –

Lottery Education Fund

(WV Code Chapter 5F)

Fund 3508 FY 2018 Org 0431

1	Unclassified (R)	09900	\$	9,483
2	Current Expenses	13000		110,617
3	Commission for National			
4	and Community Service	19300		348,254
5	Statewide STEM 21 st Century Academy	89700		130,000
6	Literacy Project (R).....	89900		<u>350,000</u>
7	Total.....		\$	948,354

8 Any unexpended balances remaining in the appropriations for
9 Unclassified (fund 3508, appropriation 09900), Governor's Honors
10 Academy (fund 3508, appropriation 47800), Arts Programs (fund
11 3508, appropriation 50000), and Literacy Project (fund 3508,
12 appropriation 89900) at the close of fiscal year 2017 are hereby
13 reappropriated for expenditure during the fiscal year 2018.

290 - Division of Culture and History –

Lottery Education Fund

(WV Code Chapter 29)

Fund 3534 FY 2018 Org 0432

1	Huntington Symphony	02700	\$	59,058
2	Preservation WV (R).....	09200		466,921
3	Fairs and Festivals (R)	12200		1,346,814
4	Archeological Curation/Capital			
5	Improvements (R).....	24600		30,074
6	Historic Preservation Grants (R).....	31100		294,742
7	West Virginia Public Theater.....	31200		120,019
8	Greenbrier Valley Theater	42300		99,543
9	Theater Arts of West Virginia.....	46400		90,000
10	Marshall Artists Series	51800		36,005
11	Grants for Competitive Arts Program (R).....	62400		580,800
12	West Virginia State Fair.....	65700		31,241
13	Save the Music	68000		24,000
14	Contemporary American Theater Festival....	81100		57,281
15	Independence Hall	81200		27,277
16	Mountain State Forest Festival	86400		38,187
17	WV Symphony.....	90700		59,058

18	Wheeling Symphony.....	90800	59,058
19	Appalachian Children's Chorus.....	91600	<u>54,554</u>
20	Total.....		\$ 3,474,632

21 From the above appropriation for Preservation West Virginia
 22 (fund 3534, appropriation 09200) funding shall be provided to the
 23 African-American Heritage Family Tree Museum (Fayette)
 24 \$2,673, Aracoma Story (Logan) \$29,703, Arts Monongahela
 25 (Monongalia) \$11,881, Barbour County Arts and Humanities
 26 Council \$891, Beckley Main Street (Raleigh) \$2,970, Buffalo
 27 Creek Memorial (Logan) \$2,970, Carnegie Hall (Greenbrier)
 28 \$46,899, Ceredo Historical Society (Wayne) \$1,166, Ceredo
 29 Kenova Railroad Museum (Wayne) \$1,166, Ceredo Museum
 30 (Wayne) \$720, Children's Theatre of Charleston (Kanawha)
 31 \$3,127, Chuck Mathena Center (Mercer) \$62,532, Collis P.
 32 Huntington Railroad Historical Society (Cabell) \$5,940, Country
 33 Music Hall of Fame and Museum (Marion) \$4,158, First Stage
 34 Children's Theater Company \$1,166, Flannigan Murrell House
 35 (Summers) \$3,780, Fort Ashby Fort (Mineral) \$891, Fort New
 36 Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970,
 37 General Adam Stephen Memorial Foundation (Berkeley)
 38 \$11,005, Grafton Mother's Day Shrine Committee (Taylor)
 39 \$5,049, Hardy County Tour and Crafts Association \$11,881,
 40 Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum
 41 & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette)
 42 \$3,267, Historic Middleway Conservancy (Jefferson) \$594,
 43 Jefferson County Black History Preservation Society \$2,970,
 44 Jefferson County Historical Landmark Commission \$4,752,
 45 Maddie Carroll House (Cabell) \$4,455, Marshall County
 46 Historical Society \$5,049, McCoy Theater (Hardy) \$11,881,
 47 Morgantown Theater Company (Monongalia) \$11,881,
 48 Mountaineer Boys' State (Lewis) \$5,940, Nicholas Old Main
 49 Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum
 50 (Berkeley) \$5,940, Old Opera House Theater Company
 51 (Jefferson) \$8,910, Parkersburg Arts Center (Wood) \$11,881,
 52 Pocahontas Historic Opera House \$3,564, Raleigh County All
 53 Wars Museum \$5,940, Rhododendron Girl's State (Ohio) \$5,940,
 54 Roane County 4-H and FFA Youth Livestock Program \$2,970,
 55 Scottish Heritage Society/N. Central WV (Harrison) \$2,970,

56 Society for the Preservation of McGrew House (Preston) \$2,079,
57 Southern West Virginia Veterans' Museum \$3,393, Summers
58 County Historic Landmark Commission \$2,970, Those Who
59 Served War Museum (Mercer) \$2,376, Three Rivers Avian Center
60 (Summers) \$5,310, Tug Valley Arts Council (Mingo) \$2,970,
61 Tug Valley Chamber of Commerce Coal House (Mingo) \$1,188,
62 Tunnelton Historical Society (Preston) \$1,188, Veterans
63 Committee for Civic Improvement of Huntington (Wayne)
64 \$2,970, West Virginia Museum of Glass (Lewis) \$3,713, West
65 Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp
66 Horseshoe (Tucker) \$59,405, Youth Museum of Southern West
67 Virginia (Raleigh) \$7,128, Z.D. Ramsdell House (Wayne) \$720.

68 From the above appropriation for Fairs and Festivals (fund
69 3534, appropriation 12200) funding shall be provided to A
70 Princeton 4th (Mercer) \$1,800, African-American Cultural
71 Heritage Festival (Jefferson) \$2,970, Alderson 4th of July
72 Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas)
73 \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683,
74 American Civil War (Grant) \$3,127, American Legion Post 8
75 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle
76 Show (Lewis) \$891, Annual Birch River Days (Nicholas) \$1,296,
77 Annual Don Redman Heritage Concert & Awards (Jefferson)
78 \$938, Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique
79 Market Fair (Lewis) \$1,188, Apollo Theater-Summer Program
80 (Berkeley) \$1,188, Apple Butter Festival (Morgan) \$3,564,
81 Arkansaw Homemaker's Heritage Weekend (Hardy) \$2,079,
82 Armed Forces Day-South Charleston (Kanawha) \$1,782,
83 Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens
84 Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970,
85 Autumn Harvest Fest (Monroe) \$2,448, Barbour County Fair
86 \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Bass Festival
87 (Pleasants) \$1,099, Battelle District Fair (Monongalia) \$2,970,
88 Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant
89 Memorial Committee (Mason) \$2,970, Belle Town Fair
90 (Kanawha) \$2,673, Belleville Homecoming (Wood) \$11,881,
91 Bergoo Down Home Days (Webster) \$1,485, Berkeley County
92 Youth Fair \$10,990, Black Bear 4K Mountain Bike Race
93 (Kanawha) \$684, Black Heritage Festival (Harrison) \$3,564,

94 Black Walnut Festival (Roane) \$5,940, Blast from the Past
95 (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Boone
96 County Fair \$5,940, Boone County Labor Day Celebration
97 \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Brandonville
98 Heritage Day (Preston) \$1,048, Braxton County Fair \$6,832,
99 Braxton County Monster Fest / West Virginia Autumn Festival
100 \$1,485, Brooke County Fair \$2,079, Bruceton Mills Good
101 Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston)
102 \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo
103 October Fest (Putnam) \$3,240, Burlington Apple Harvest Festival
104 (Mineral) \$17,821, Burlington Pumpkin Harvest Festival
105 (Raleigh) \$2,970, Burnsville Harvest Festival (Braxton) \$1,407,
106 Cabell County Fair \$5,940, Calhoun County Wood Festival
107 \$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485,
108 Cape Coalwood Festival Association (McDowell) \$1,485, Capon
109 Bridge Founders Day Festival (Hampshire) \$1,188, Capon
110 Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming
111 (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684,
112 Celebration in the Park (Wood) \$2,376, Celebration of America
113 (Monongalia) \$3,564, Ceredo Freedom Festival (Wayne) \$700,
114 Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville
115 Fire Department 4th of July (Logan) \$1,782, Charles Town
116 Christmas Festival (Jefferson) \$2,970, Charles Town Heritage
117 Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas)
118 \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July
119 Festivities (Hancock) \$2,970, Chief Logan State Park-Civil War
120 Celebration (Logan) \$4,752, Chilifest West Virginia State Chili
121 Championship (Cabell) \$1,563, Christmas In Our Town (Marion)
122 \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376,
123 Christmas in the Park (Brooke) \$2,970, Christmas in the Park
124 (Logan) \$14,851, City of Dunbar Critter Dinner (Kanawha)
125 \$5,940, City of Logan Polar Express (Logan) \$4,456, City of New
126 Martinsville Festival of Memories (Wetzel) \$6,534, Clay County
127 Golden Delicious Apple Festival \$4,158, Clay District Fair
128 (Monongalia) \$1,080, Coal Field Jamboree (Logan) \$20,792,
129 Coalton Days Fair (Randolph) \$4,158, Country Roads Festival
130 (Fayette) \$1,188, Cowen Railroad Festival (Webster) \$2,079,
131 Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton
132 (Mercer) \$2,160, Culturefest World Music & Arts Festival

133 (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079,
134 Doddridge County Fair \$4,158, Dorcas Ice Cream Social (Grant)
135 \$3,564, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion
136 Festival (McDowell) \$891, Elkins Randolph County 4th of July
137 Car Show (Randolph) \$1,188, Fairview 4th of July Celebration
138 (Marion) \$684, Farm Safety Day (Preston) \$1,188, Farmer's Day
139 Festival (Monroe) \$2,330, Farmers' Day Parade (Wyoming)
140 \$720, Fenwick Mountain Old Time Community Festival
141 (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$11,881,
142 Flatwoods Days (Braxton) \$700, Flemington Day Fair and
143 Festival (Taylor) \$2,079, Follansbee Community Days (Brooke)
144 \$4,900, Fort Gay Mountain Heritage Days (Wayne) \$2,970, Fort
145 Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio)
146 \$1,563, Fort New Salem Spirit of Christmas Festival (Harrison)
147 \$2,432, Frankford Autumnfest (Greenbrier) \$2,970, Franklin
148 Fishing Derby (Pendleton) \$4,456, Freshwater Folk Festival
149 (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe Hospital
150 (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Frontier
151 Fest/Canaan Valley (Taylor) \$2,970, Fund for the Arts-Wine &
152 All that Jazz Festival (Kanawha) \$1,485, Gassaway Days
153 Celebration (Braxton) \$2,970, Gilbert Elementary Fall Blast
154 (Mingo) \$2,188, Gilbert Kiwanis Harvest Festival (Mingo)
155 \$2,376, Gilbert Spring Fling (Mingo) \$3,595, Gilmer County
156 Farm Show \$2,376, Grant County Arts Council \$1,188, Grape
157 Stomping Wine Festival (Nicholas) \$1,188, Great Greenbrier
158 River Race (Pocahontas) \$5,940, Greater Quinwood Days
159 (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,940,
160 Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil
161 War Celebration Days (Hampshire) \$684, Hampshire County 4th
162 of July Celebration \$11,881, Hampshire County Fair \$5,002,
163 Hampshire Heritage Days (Hampshire) \$2,376, Hancock County
164 Oldtime Fair \$2,970, Hardy County Commission - 4th of July
165 \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo)
166 \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike
167 Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln)
168 \$2,970, Heritage Craft Festival (Monroe) \$1,044, Heritage Days
169 Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop
170 Festival of Lights (McDowell) \$1,188, Hinton Railroad Days
171 (Summers) \$4,347, Holly River Festival (Webster) \$891,

172 Hometown Mountain Heritage Festival (Fayette) \$2,432,
173 Hundred 4th of July (Wetzel) \$4,307, Hundred American Legion
174 Earl Kiger Post Bluegrass Festival (Wetzel) \$1,188, Hurricane 4th
175 of July Celebration (Putnam) \$2,970, Iaeger Town Fair
176 (McDowell) \$891, Irish Heritage Festival of West Virginia
177 (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian
178 Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County
179 Fair \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and
180 Crafts Fair (Lewis) \$684, Jefferson County Fair Association
181 \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire)
182 \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie
183 Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown
184 Community Fair (Harrison) \$1,485, Junior Heifer Preview Show
185 (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July
186 Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford
187 (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377,
188 Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala
189 (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970,
190 Kingwood Downtown Street Fair and Heritage Days (Preston)
191 \$1,188, L.Z. Rainelle West Virginia Veterans Reunion
192 (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry
193 Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo)
194 \$5,940, Larry Joe Harless Community Center Spring Middle
195 School Event (Mingo) \$2,970, Last Blast of Summer (McDowell)
196 \$2,970, Lewis County Fair Association \$2,079, Lewisburg
197 Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival
198 \$4,752, Lincoln County Winterfest \$2,970, Lindsie Veterans'
199 Day Parade \$720, Little Levels Heritage Festival (Pocahontas)
200 \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main
201 Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg
202 Chocolate Fest and Book Fair (Berkeley) \$2,813, Mannington
203 District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph)
204 \$684, Marion County FFA Farm Fest \$1,485, Marmet Labor Day
205 Celebration (Kanawha) \$3,078, Marshall County Antique Power
206 Show \$1,485, Marshall County Fair \$4,456, Mason County Fair
207 \$2,970, Mason Dixon Festival (Monongalia) \$4,158, Matewan
208 Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia Fair
209 (Mingo) \$15,932, McARTS-McDowell County \$11,881,
210 McDowell County Fair \$1,485, McGrew House History Day

211 (Preston) \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow
212 Bridge Hometown Festival (Fayette) \$743, Meadow River Days
213 Festival (Greenbrier) \$1,782, Mercer Bluestone Valley Fair
214 (Mercer) \$1,188, Mercer County Fair \$1,188, Mercer County
215 Heritage Festival \$3,474, Mid Ohio Valley Antique Engine
216 Festival (Wood) \$1,782, Milton Christmas in the Park (Cabell)
217 \$1,485, Milton 4th of July Celebration (Cabell) \$1,485, Mineral
218 County Fair \$1,040, Mineral County Veterans Day Parade \$891,
219 Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion)
220 \$3,752, Moon Over Mountwood Fishing Festival (Wood) \$1,782,
221 Morgan County Fair-History Wagon \$891, Moundsville Bass
222 Festival (Marshall) \$2,376, Moundsville July 4th Celebration
223 (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour)
224 \$1,485, Mountain Fest (Monongalia) \$11,881, Mountain Festival
225 (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival
226 (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485,
227 Mountain State Apple Harvest Festival (Berkeley) \$4,456,
228 Mountain State Arts & Crafts Fair Cedar Lakes (Jackson)
229 \$26,732, Mountaineer Hot Air Balloon Festival (Monongalia)
230 \$2,376, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-
231 Cultural Festival of West Virginia (Kanawha) \$11,881, Music and
232 Barbecue - Banks District VFD (Upshur) \$1,278, New
233 Cumberland Christmas Parade (Hancock) \$1,782, New
234 Cumberland 4th of July (Hancock) \$2,970, New River Bridge Day
235 Festival (Fayette) \$23,762, Newburg Volunteer Fireman's Field
236 Day (Preston) \$684, Nicholas County Fair \$2,970, Nicholas
237 County Potato Festival \$2,079, Oak Leaf Festival (Fayette)
238 \$6,253, Oceana Heritage Festival (Wyoming) \$3,564, Oglebay
239 City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival
240 (Ohio) \$5,940, Ohio County Country Fair \$5,346, Ohio River
241 Fest (Jackson) \$4,320, Ohio Valley Beef Association (Wood)
242 \$1,485, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old
243 Central City Fair (Cabell) \$2,970, Old Century City Fair
244 (Barbour) \$1,250, Old Tyme Christmas (Jefferson) \$1,425,
245 Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg
246 Homecoming (Wood) \$8,754, Patty Fest (Monongalia) \$1,188,
247 Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee
248 (Fayette) \$2,970, Pendleton County 4-H Weekend \$1,188,
249 Pendleton County Committee for Arts \$8,910, Pendleton County

250 Fair \$6,253, Pennsboro Country Road Festival (Ritchie) \$1,188,
251 Petersburg 4th of July Celebration (Grant) \$11,881, Petersburg
252 HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street
253 Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$891, Pine
254 Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July
255 Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564,
256 Pleasants County Agriculture Youth Fair \$2,970, Poca Heritage
257 Days (Putnam) \$1,782, Pocahontas County Pioneer Days \$4,158,
258 Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall
259 Festival (Kanawha) \$1,485, Princeton Autumnfest (Mercer)
260 \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County
261 Fair \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall
262 Festival (Greenbrier) \$3,127, Rand Community Center Festival
263 (Kanawha) \$1,485, Randolph County Community Arts Council
264 \$1,782, Randolph County Fair \$4,158, Randolph County Ramp
265 and Rails \$1,188, Ranson Christmas Festival (Jefferson) \$2,970,
266 Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival
267 (Greenbrier) \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie
268 County Fair and Exposition \$2,970, Ritchie County Pioneer Days
269 \$684, River City Festival (Preston) \$684, Roane County
270 Agriculture Field Day \$1,782, Rock the Park (Kanawha) \$3,240,
271 Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage Days
272 (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier)
273 \$2,970, Rowlesburg Labor Day Festival (Preston) \$684, Rupert
274 Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival
275 (Harrison) \$1,485, Salem Apple Butter Festival (Harrison)
276 \$2,376, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the
277 River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782,
278 South Charleston Summerfest (Kanawha) \$5,940, Southern
279 Wayne County Fall Festival \$684, Spirit of Grafton Celebration
280 (Taylor) \$5,940, Springfield Peach Festival (Hampshire) \$738,
281 St. Albans City of Lights - December (Kanawha) \$2,970,
282 Sternwheel Festival (Wood) \$1,782, Stoco Reunion (Raleigh)
283 \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis)
284 \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200,
285 Storytelling Festival (Lewis) \$400, Strawberry Festival (Upshur)
286 \$17,821, Sylvester Big Coal River Festival \$1,944, Tacy Fair
287 (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor
288 County Fair \$3,267, Terra Alta VFD 4th of July Celebration

289 (Preston) \$684, The Gathering at Sweet Creek (Wood) \$1,782,
290 Three Rivers Coal Festival (Marion) \$4,604, Thunder on the
291 Tygart - Mothers' Day Celebration (Taylor) \$8,910, Town of
292 Delbarton 4th of July Celebration (Mingo) \$1,782, Town of
293 Fayetteville Heritage Festival (Fayette) \$4,456, Town of Matoaka
294 Hog Roast (Mercer) \$684, Town of Rivesville 4th of July Festival
295 (Marion) \$3,127, Town of Winfield - Putnam County
296 Homecoming \$3,240, St. Albans Train Fest (Kanawha) \$6,120,
297 Treasure Mountain Festival (Pendleton) \$14,851, Tri-County Fair
298 (Grant) \$22,548, Tucker County Arts Festival and Celebration
299 \$10,692, Tucker County Fair \$2,821, Tucker County Health Fair
300 \$1,188, Tunnelton Depot Days (Preston) \$684, Tunnelton
301 Volunteer Fire Department Festival (Preston) \$684, Turkey
302 Festival (Hardy) \$1,782, Tyler County Fair \$3,088, Tyler County
303 4th of July \$400, Tyler County OctoberFest \$720, Union
304 Community Irish Festival (Barbour) \$648, Uniquely West
305 Virginia Festival (Morgan) \$1,188, Upper Kanawha Valley
306 Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian
307 Festival (Ohio) \$7,128, Upshur County Youth Livestock Show
308 \$1,440, Valley District Fair (Preston) \$2,079, Veterans Welcome
309 Home Celebration (Cabell) \$938, Vietnam Veterans of America
310 # 949 Christmas Party (Cabell) \$684, Volcano Days at
311 Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival
312 (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970,
313 Wayne County Fair \$2,970, Wayne County Fall Festival \$2,970,
314 Webster County Fair \$3,600, Webster County Wood Chopping
315 Festival \$8,910, Webster Wild Water Weekend \$1,188, Weirton
316 July 4th Celebration (Hancock) \$11,881, Welcome Home Family
317 Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke)
318 \$4,456, Wellsburg Apple Festival of Brooke County \$2,970, West
319 Virginia Blackberry Festival (Harrison) \$2,970, West Virginia
320 Chestnut Festival (Preston) \$684, West Virginia Coal Festival
321 (Boone) \$5,940, West Virginia Coal Show (Mercer) \$1,563,
322 West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia
323 Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the
324 Railroad Museum (Mercer) \$1,800, West Virginia Fair and
325 Exposition (Wood) \$4,812, West Virginia Fireman's Rodeo
326 (Fayette) \$1,485, West Virginia Oil and Gas Festival (Tyler)
327 \$6,534, West Virginia Peach Festival (Hampshire) \$3,240, West

328 Virginia Polled Hereford Association (Braxton) \$891, West
 329 Virginia Poultry Festival (Hardy) \$2,970, West Virginia Pumpkin
 330 Festival (Cabell) \$5,940, West Virginia State Folk Festival
 331 (Gilmer) \$2,970, West Virginia Water Festival - City of Hinton
 332 (Summers) \$9,144, Weston VFD 4th of July Firemen Festival
 333 (Lewis) \$1,188, Wetzel County Autumnfest \$3,267, Wetzel
 334 County Town and Country Days \$10,098, Wheeling Celtic
 335 Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752,
 336 Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage
 337 Raceboat Regatta (Ohio) \$11,881, Whipple Community Action
 338 (Fayette) \$1,485, Wileyville Homecoming (Wetzel) \$2,376,
 339 Wine Festival and Mountain Music Event (Harrison) \$2,970,
 340 Winter Festival of the Waters (Berkeley) \$2,970, Wirt County
 341 Fair \$1,485, Wirt County Pioneer Days \$1,188, Wyoming
 342 County Civil War Days \$1,296, Youth Stockman Beef Expo
 343 (Lewis) \$1,188.

344 Any unexpended balances remaining in the appropriations for
 345 Preservation West Virginia (fund 3534, appropriation 09200),
 346 Fairs and Festivals (fund 3534, appropriation 12200),
 347 Archeological Curation/Capital Improvements (fund 3534,
 348 appropriation 24600), Historic Preservation Grants (fund 3534,
 349 appropriation 31100), Grants for Competitive Arts Program (fund
 350 3534, appropriation 62400), and Project ACCESS (fund 3534,
 351 appropriation 86500) at the close of the fiscal year 2017 are hereby
 352 reappropriated for expenditure during the fiscal year 2018.

353 Any Fairs & Festivals awards shall be funded in addition to, and
 354 not in lieu of, individual grant allocations derived from the Arts
 355 Council and the Cultural Grant Program allocations.

291 - Library Commission –

Lottery Education Fund

(WV Code Chapter 10)

Fund 3559 FY 2018 Org 0433

1	Books and Films	17900	\$	360,784
2	Services to Libraries	18000		550,000

3	Grants to Public Libraries	18200	9,439,571
4	Digital Resources	30900	219,992
5	Infomine Network.....	88400	<u>852,729</u>
6	Total.....		\$ 11,423,076

7 Any unexpended balance remaining in the appropriation for
 8 Libraries – Special Projects (fund 3559, appropriation 62500) at
 9 the close of fiscal year 2017 is hereby reappropriated for
 10 expenditure during the fiscal year 2018.

292 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2018 Org 0508

1	Personal Services and Employee Benefits00100	\$	193,505
2	Current Expenses	13000	332,095
3	Repairs and Alterations.....	06400	1,000
4	Local Programs Service Delivery Costs	20000	2,435,250
5	Silver Haired Legislature	20200	18,500
6	Transfer to Division of Human Services		
7	for Health Care and Title XIX Waiver		
8	for Senior Citizens	53900	19,723,029
9	Roger Tompkins Alzheimer’s Respite Care.....	64300	2,296,601
10	WV Alzheimer’s Hotline	72400	45,000
11	Regional Aged and Disabled		
12	Resource Center.....	76700	425,000
13	Senior Services Medicaid Transfer	87100	8,670,000
14	Legislative Initiatives for the Elderly.....	90400	9,671,239
15	Long Term Care Ombudsman.....	90500	297,226
16	BRIM Premium.....	91300	7,152
17	In-Home Services and		
18	Nutrition for Senior Citizens	91700	<u>4,320,941</u>
19	Total.....		\$ 48,436,538

20 Any unexpended balance remaining in the appropriation for
 21 Senior Citizen Centers and Programs (fund 5405, appropriation

22 46200) at the close of the fiscal year 2017 is hereby reappropriated
 23 for expenditure during the fiscal year 2018.

24 Included in the above appropriation for Current Expenses (fund
 25 5405, appropriation 13000), is funding to support an in-home direct
 26 care workforce registry.

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

293 - Higher Education Policy Commission –

Lottery Education –

Higher Education Policy Commission –

Control Account

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2018 Org 0441

1	RHI Program and Site Support (R).....03600	\$ 1,912,491
2	RHI Program and Site Support –	
3	RHEP Program Administration03700	146,653
4	RHI Program and Site Support – Grad Med	
5	Ed and Fiscal Oversight (R)03800	87,110
6	Minority Doctoral Fellowship (R) 16600	129,604
7	Health Sciences Scholarship (R)..... 17600	220,690
8	Vice Chancellor for Health Sciences –	
9	Rural Health Residency Program (R)60100	62,725
10	WV Engineering, Science, and	
11	Technology Scholarship Program.....86800	<u>452,831</u>
12	Total.....	\$ 3,012,104

13 Any unexpended balances remaining in the appropriations for
 14 RHI Program and Site Support (fund 4925, appropriation 03600),
 15 RHI Program and Site Support – Grad Med Ed and Fiscal Oversight

16 (fund 4925, appropriation 03800), Minority Doctoral Fellowship
 17 (fund 4925, appropriation 16600), Health Sciences Scholarship
 18 (fund 4925, appropriation 17600), and Vice Chancellor for Health
 19 Sciences – Rural Health Residency Program (fund 4925,
 20 appropriation 60100) at the close of fiscal year 2017 are hereby
 21 reappropriated for expenditure during the fiscal year 2018.

22 The above appropriation for WV Engineering, Science, and
 23 Technology Scholarship Program (appropriation 86800) shall be
 24 transferred to the West Virginia Engineering, Science and
 25 Technology Scholarship Fund (fund 4928, org 0441) established
 26 by W.Va. Code §18C-6-1.

294 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2018 Org 0442

1 Debt Service – Total31000 \$ 5,000,000

2 Any unexpended balance remaining in the appropriation for
 3 Capital Outlay and Improvements – Total (fund 4908,
 4 appropriation 84700) at the close of fiscal year 2017 is hereby
 5 reappropriated for expenditure during the fiscal year 2018.

295 - Higher Education Policy Commission –

Lottery Education –

West Virginia University – School of Medicine

(WV Code Chapter 18B)

Fund 4185 FY 2018 Org 0463

1 WVU Health Sciences –
 2 RHI Program and Site Support (R).....03500 \$ 1,107,466
 3 MA Public Health Program and
 4 Health Science Technology (R).....62300 52,387

5	Health Sciences Career Opportunities		
6	Program (R)	86900	319,587
7	HSTA Program (R)	87000	1,630,169
8	Center for Excellence in Disabilities (R)	96700	<u>292,554</u>
9	Total		\$ 3,402,163

10 Any unexpended balances remaining in the appropriations for
 11 WVU Health Sciences – RHI Program and Site Support (fund
 12 4185, appropriation 03500), MA Public Health Program and
 13 Health Science Technology (fund 4185, appropriation 62300),
 14 Health Sciences Career Opportunities Program (fund 4185,
 15 appropriation 86900), HSTA Program (fund 4185, appropriation
 16 87000), and Center for Excellence in Disabilities (fund 4185,
 17 appropriation 96700) at the close of fiscal year 2017 are hereby
 18 reappropriated for expenditure during the fiscal year 2018.

296 - Higher Education Policy Commission –

Lottery Education –

Marshall University – School of Medicine

(WV Code Chapter 18B)

Fund 4896 FY 2018 Org 0471

1	Marshall Medical School –		
2	RHI Program and Site Support (R)	03300	\$ 396,249
3	Vice Chancellor for Health Sciences –		
4	Rural Health Residency Program (R)	60100	<u>163,858</u>
5	Total		<u>\$ 560,107</u>

6 Any unexpended balances remaining in the appropriations for
 7 Marshall Medical School – RHI Program and Site Support (fund
 8 4896, appropriation 03300) and Vice Chancellor for Health
 9 Sciences – Rural Health Residency Program (fund 4896,
 10 appropriation 60100) at the close of fiscal year 2017 are hereby
 11 reappropriated for expenditure during the fiscal year 2018.

12 Total TITLE II, Section 4 – Lottery Revenue..... \$ 130,917,133

1 **Sec. 5. Appropriations from state excess lottery revenue**
 2 **fund.** — In accordance with W.Va. Code §29-22-18a, §29-22A-
 3 10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following
 4 appropriations shall be deposited and disbursed by the Director of
 5 the Lottery to the following accounts in this section in the amounts
 6 indicated.

7 After first funding the appropriations required by W.Va. Code
 8 §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-
 9 25-22b, the Director of the Lottery shall provide funding from the
 10 State Excess Lottery Revenue Fund for the remaining
 11 appropriations in this section to the extent that funds are available.
 12 In the event that revenues to the State Excess Lottery Revenue
 13 Fund are sufficient to meet all the appropriations required made
 14 pursuant to this section, then the Director of the Lottery shall then
 15 provide the funds available for fund 5365, appropriation 18900.

297 - Lottery Commission –

Refundable Credit

Fund 7207 FY 2018 Org 0705

	Excess Lottery Funds	Appro- priation
1 Directed Transfer	70000	\$ 10,000,000

2 The above appropriation shall be transferred to the General
 3 Revenue Fund to provide reimbursement for the refundable credit
 4 allowable under W.Va. Code §11-21-21. The amount of the
 5 required transfer shall be determined solely by the State Tax
 6 Commissioner and shall be completed by the Director of the
 7 Lottery upon the commissioner’s request.

298 - Lottery Commission –

General Purpose Account

Fund 7206 FY 2018 Org 0705

1 General Revenue Fund – Transfer70011 \$ 65,000,000

2 The above appropriation shall be transferred to the General
3 Revenue Fund as determined by the Director of the Lottery in
4 accordance with W.Va. Code §29-22-18a.

299 - Higher Education Policy Commission –

Education Improvement Fund

Fund 4295 FY 2018 Org 0441

1 PROMISE Scholarship – Transfer80000 \$ 29,000,000

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

5 The Legislature has explicitly set a finite amount of available
6 appropriations and directed the administrators of the Program to
7 provide for the award of scholarships within the limits of available
8 appropriations.

300 - Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2018 Org 0944

1 Debt Service – Total31000 \$ 19,000,000

2 Pursuant to W.Va. Code §29-22-18a, subsection (f), excess
3 lottery revenues are authorized to be transferred to the lottery fund
4 as reimbursement of amounts transferred to the economic
5 development project fund pursuant to section four of this title and
6 W.Va. Code §29-22-18, subsection (f).

301 - Economic Development Authority –

Cacapon and Beech Fork State Parks –

Lottery Revenue Debt Service

Fund 9067 FY 2018 Org 0944

1 Debt Service.....04000 \$ 3,000,000

302 - Department of Education –

School Building Authority

Fund 3514 FY 2018 Org 0402

1 Debt Service – Total31000 \$ 19,000,000

303 - West Virginia Infrastructure Council –

West Virginia Infrastructure Transfer Fund

Fund 3390 FY 2018 Org 0316

1 Directed Transfer70000 \$ 46,000,000

2 The above appropriation shall be allocated pursuant to W.Va.
3 Code §29-22-18d and §31-15-9.

304 - Higher Education Policy Commission –

Higher Education Improvement Fund

Fund 4297 FY 2018 Org 0441

1 Directed Transfer70000 \$ 15,000,000

2 The above appropriation shall be transferred to fund 4903, org
3 0442 as authorized by Senate Concurrent Resolution No. 41.

305 - Division of Natural Resources -

State Park Improvement Fund

Fund 3277 FY 2018 Org 0310

1	Current Expenses (R).....	13000	\$ 2,438,300
2	Repairs and Alterations (R)	06400	2,161,200
3	Equipment (R).....	07000	200,000
4	Buildings (R).....	25800	100,000

5	Other Assets (R).....	69000	<u>100,500</u>
6	Total.....		\$ 5,000,000

7 Any unexpended balances remaining in the above
 8 appropriations for Repairs and Alterations (fund 3277,
 9 appropriation 06400), Equipment (fund 3277, appropriation
 10 07000), Unclassified – Total (fund 3277, appropriation 09600),
 11 Unclassified (fund 3277, appropriation 09900), Current Expenses
 12 (fund 3277, appropriation 13000), Buildings (fund 3277,
 13 appropriation 25800), and Other Assets (fund 3277, appropriation
 14 69000) at the close of the fiscal year 2017 are hereby
 15 reappropriated for expenditure during the fiscal year 2018.

306 - Racing Commission –

Fund 7308 FY 2018 Org 0707

1	Special Breeders Compensation		
2	(WVC §29-22-18a, subsection (I))	21800	\$ 2,000,000

307 - Lottery Commission –

Distributions to Statutory Funds and Purposes

Fund 7213 FY 2018 Org 0705

1	Parking Garage Fund – Transfer.....	70001	\$ 500,000
2	2004 Capitol Complex		
3	Parking Garage Fund – Transfer.....	70002	254,147
4	Capitol Dome and		
5	Improvements Fund – Transfer	70003	2,155,201
6	Capitol Renovation and		
7	Improvement Fund – Transfer	70004	2,795,627
8	Development Office		
9	Promotion Fund – Transfer.....	70005	1,524,887
10	Research Challenge Fund – Transfer	70006	2,033,184
11	Tourism Promotion Fund – Transfer	70007	5,659,115
12	Cultural Facilities and Capitol Resources Matching		
13	Grant Program Fund – Transfer.....	70008	1,433,371
14	Workers' Compensation Debt		
15	Reduction Fund – Transfer	70009	2,750,000

16	State Debt Reduction Fund – Transfer.....	70010	20,000,000
17	General Revenue Fund – Transfer	70011	9,763,472
18	West Virginia Racing Commission Racetrack		
19	Video Lottery Account	70012	4,066,363
20	Historic Resort Hotel Fund	70013	34,200
21	Licensed Racetrack Regular Purse Fund	70014	<u>6,111,678</u>
22	Total.....		\$ 59,081,245

308 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2018 Org 0100

1 Any unexpended balance remaining in the appropriation for
2 Publication of Papers and Transition Expenses – Lottery Surplus
3 (fund 1046, appropriation 06600) at the close of the fiscal year
4 2017 is hereby reappropriated for expenditure during the fiscal year
5 2018.

309 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2018 Org 0307

1 Any unexpended balances remaining in the appropriations for
2 Unclassified – Total (fund 3170, appropriation 09600),
3 Recreational Grants or Economic Development Loans (fund 3170,
4 appropriation 25300), and Connectivity Research and
5 Development – Lottery Surplus (fund 3170, appropriation 92300)
6 at the close of the fiscal year 2017 are hereby reappropriated for
7 expenditure during the fiscal year 2018.

310 - Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 4932 FY 2018 Org 0441

1 Any unexpended balance remaining in the appropriation for
2 Advanced Technology Centers (fund 4932, appropriation 02800)
3 at the close of the fiscal year 2017 is hereby reappropriated for
4 expenditure during the fiscal year 2018.

311 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2018 Org 0511

1 Medical Services.....18900 \$ 45,506,170

312 - Division of Corrections –

Correctional Units

(WV Code Chapters 25, 28, 49 and 62)

Fund 6283 FY 2018 Org 0608

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay and Maintenance (fund 6283, appropriation 75500)
3 at the close of the fiscal year 2017 is hereby reappropriated for
4 expenditure during the fiscal year 2018.

5 Total TITLE II, Section 5 – Excess Lottery Funds. \$ 317,587,415

1 **Sec. 6. Appropriations of federal funds.** — In accordance
2 with Article 11, Chapter 4 of the Code from federal funds there are
3 hereby appropriated conditionally upon the fulfillment of the
4 provisions set forth in Article 2, Chapter 11B of the Code the
5 following amounts, as itemized, for expenditure during the fiscal
6 year 2018.

LEGISLATIVE

313 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2018 Org 2300

	Appropriation	Federal Funds
1 Economic Loss Claim Payment Fund.....	33400	\$ 2,360,125

JUDICIAL*314 - Supreme Court*Fund 8867 FY 2018 Org 2400

1 Personal Services and Employee Benefits	00100	\$ 2,008,000
2 Current Expenses	13000	<u>1,992,000</u>
3 Total.....		\$ 4,000,000

EXECUTIVE*315 - Governor's Office*

(WV Code Chapter 5)

Fund 8742 FY 2018 Org 0100

1 Current Expenses – Total.....	13000	\$ 225,000
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316 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2018 Org 1400

1 Personal Services and Employee Benefits	00100	\$ 1,563,760
2 Unclassified.....	09900	50,534
3 Current Expenses	13000	3,828,661
4 Repairs and Alterations.....	06400	650,000
5 Equipment.....	07000	910,500
6 Other Assets.....	69000	<u>50,000</u>
7 Total.....		\$ 7,053,455

*317 - Department of Agriculture –**Meat Inspection Fund*

(WV Code Chapter 19)

Fund 8737 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$	610,830
2	Unclassified.....09900		8,755
3	Current Expenses13000		136,012
4	Repairs and Alterations.....06400		5,500
5	Equipment.....07000		<u>114,478</u>
6	Total.....	\$	875,575

*318 - Department of Agriculture –**State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$	97,250
2	Current Expenses13000		<u>14,099,974</u>
3	Total.....	\$	14,197,224

*319 - Department of Agriculture –**Land Protection Authority*Fund 8896 FY 2018 Org 1400

1	Personal Services and Employee Benefits00100	\$	46,526
2	Unclassified.....09900		5,004
3	Current Expenses13000		<u>448,920</u>
4	Total.....	\$	500,450

*320 - Secretary of State –**State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2018 Org 1600

1	Personal Services and Employee Benefits00100	\$	210,240
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2	Unclassified.....	09900	7,484
3	Current Expenses	13000	415,727
4	Repairs and Alterations.....	06400	15,000
5	Other Assets.....	69000	<u>100,000</u>
6	Total.....		\$ 748,451

DEPARTMENT OF COMMERCE

321 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2018 Org 0305

1	Personal Services and Employee Benefits	00100	\$ 1,578,347
2	Unclassified.....	09900	51,050
3	Current Expenses	13000	5,232,560
4	Repairs and Alterations.....	06400	155,795
5	Equipment.....	07000	100,000
6	Other Assets.....	69000	<u>1,808,300</u>
7	Total.....		\$ 8,926,052

322 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2018 Org 0306

1	Personal Services and Employee Benefits	00100	\$ 54,432
2	Unclassified.....	09900	2,803
3	Current Expenses	13000	195,639
4	Repairs and Alterations.....	06400	5,000
5	Equipment.....	07000	7,500
6	Other Assets.....	69000	<u>15,000</u>
7	Total.....		\$ 280,374

323 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 8705 FY 2018 Org 0307

1	Personal Services and Employee Benefits00100	\$	745,981
2	Unclassified.....09900		50,000
3	Current Expenses13000		<u>4,504,019</u>
4	Total.....	\$	5,300,000

324 - West Virginia Development Office –

Office of Economic Opportunity

(WV Code Chapter 5)

Fund 8901 FY 2018 Org 0307

1	Personal Services and Employee Benefits00100	\$	497,289
2	Repairs and Alterations.....06400		250
3	Equipment.....07000		6,000
4	Unclassified.....09900		106,795
5	Current Expenses13000		<u>10,069,166</u>
6	Total.....	\$	10,679,500

325 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2018 Org 0308

1	Personal Services and Employee Benefits00100	\$	384,072
2	Unclassified.....09900		5,572
3	Current Expenses13000		167,098
4	Repairs and Alterations.....06400		<u>500</u>
5	Total.....	\$	557,242

326 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2018 Org 0310

1	Personal Services and Employee Benefits00100	\$	7,912,218
2	Unclassified.....09900		107,693
3	Current Expenses13000		5,556,594
4	Repairs and Alterations.....06400		289,400

5	Equipment	07000	1,815,182
6	Buildings	25800	951,000
7	Other Assets	69000	4,951,000
8	Land	73000	<u>6,001,000</u>
9	Total		\$ 27,584,087

327 - Division of Miners' Health,

Safety and Training

(WV Code Chapter 22)

Fund 8709 FY 2018 Org 0314

1	Personal Services and Employee Benefits	00100	\$ 613,177
2	Current Expenses	13000	<u>150,000</u>
3	Total		\$ 763,177

328 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2018 Org 0323

1	Unclassified.....	09900	\$ 5,127
2	Current Expenses	13000	507,530
3	Reed Act 2002 –		
4	Unemployment Compensation	62200	2,850,000
5	Reed Act 2002 – Employment Services	63000	<u>1,650,000</u>
6	Total		\$ 5,012,657

7 Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of
8 the Social Security Act, as amended, and the provisions of W.Va.
9 Code §21A-9-9, the above appropriation to Unclassified and
10 Current Expenses shall be used by WorkForce West Virginia for
11 the specific purpose of administration of the state's unemployment
12 insurance program or job service activities, subject to each and
13 every restriction, limitation or obligation imposed on the use of the
14 funds by those federal and state statutes.

329 - Division of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2018 Org 0328

1	Personal Services and Employee Benefits00100	\$	411,574
2	Unclassified.....09900		7,350
3	Current Expenses13000		<u>2,816,076</u>
4	Total.....	\$	3,235,000

DEPARTMENT OF EDUCATION*330 - State Board of Education –**State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2018 Org 0402

1	Personal Services and Employee Benefits00100	\$	5,628,855
2	Unclassified.....09900		2,000,000
3	Current Expenses13000		212,367,820
4	Repairs and Alterations.....06400		10,000
5	Equipment.....07000		10,000
6	Other Assets.....69000		<u>10,000</u>
7	Total.....	\$	220,026,675

*331 - State Board of Education –**School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2018 Org 0402

1	Personal Services and Employee Benefits00100	\$	1,812,648
2	Unclassified.....09900		1,150,500
3	Current Expenses13000		143,281,265
4	Repairs and Alterations.....06400		20,000
5	Equipment.....07000		100,000
6	Other Assets.....69000		<u>25,000</u>
7	Total.....	\$	146,389,413

*332 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2018 Org 0402

1	Personal Services and Employee Benefits00100	\$ 1,519,972
2	Unclassified.....09900	155,000
3	Current Expenses13000	14,320,081
4	Repairs and Alterations.....06400	10,000
5	Equipment.....07000	10,000
6	Other Assets.....69000	<u>10,000</u>
7	Total.....	\$ 16,025,053

*333 - State Board of Education –
Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2018 Org 0402

1	Personal Services and Employee Benefits00100	\$ 3,344,940
2	Unclassified.....09900	1,000,000
3	Current Expenses13000	108,346,390
4	Repairs and Alterations.....06400	10,000
5	Equipment.....07000	10,000
6	Other Assets.....69000	<u>10,000</u>
7	Total.....	\$ 112,721,330

DEPARTMENT OF EDUCATION AND THE ARTS

334 - Department of Education and the Arts –

Office of the Secretary

(WV Code Chapter 5F)

Fund 8841 FY 2018 Org 0431

1	Personal Services and Employee Benefits00100	\$ 416,675
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2	Current Expenses	13000	5,587,325
3	Repairs and Alterations	06400	<u>1,000</u>
4	Total		\$ 6,005,000

335 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2018 Org 0432

1	Personal Services and Employee Benefits	00100	\$ 743,046
2	Current Expenses	13000	1,947,372
3	Repairs and Alterations	06400	1,000
4	Equipment	07000	1,000
5	Buildings	25800	1,000
6	Other Assets	69000	1,000
7	Land	73000	<u>360</u>
8	Total		\$ 2,694,778

336 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2018 Org 0433

1	Personal Services and Employee Benefits	00100	\$ 333,648
2	Current Expenses	13000	1,076,162
3	Equipment	07000	<u>543,406</u>
4	Total		\$ 1,953,216

337 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2018 Org 0439

1	Equipment	07000	\$ 750,000
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338 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 8734 FY 2018 Org 0932

1	Personal Services and Employee Benefits00100	\$ 11,248,930
2	Current Expenses13000	54,485,940
3	Repairs and Alterations.....06400	350,400
4	Equipment07000	<u>1,275,870</u>
5	Total.....	\$ 67,361,140

339 - State Board of Rehabilitation –

Division of Rehabilitation Services –

Disability Determination Services

(WV Code Chapter 18)

Fund 8890 FY 2018 Org 0932

1	Personal Services and Employee Benefits00100	\$ 13,730,634
2	Current Expenses13000	11,383,206
3	Repairs and Alterations.....06400	1,100
4	Equipment07000	<u>83,350</u>
5	Total.....	\$ 25,198,290

DEPARTMENT OF ENVIRONMENTAL PROTECTION

340 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2018 Org 0313

1	Personal Services and Employee Benefits00100	\$ 29,177,068
2	Current Expenses13000	190,201,007
3	Repairs and Alterations.....06400	738,283
4	Equipment07000	1,725,238
5	Unclassified.....09900	2,201,827
6	Other Assets69000	2,154,416
7	Land73000	<u>100,000</u>
8	Total.....	\$ 226,297,839

DEPARTMENT OF HEALTH AND HUMAN RESOURCES*341 - Consolidated Medical Service Fund*

(WV Code Chapter 16)

Fund 8723 FY 2018 Org 0506

1	Personal Services and Employee Benefits00100	\$	750,876
2	Unclassified.....09900		73,307
3	Current Expenses13000		<u>6,630,103</u>
4	Total.....	\$	7,454,286

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

(WV Code Chapter 16)

Fund 8802 FY 2018 Org 0506

1	Personal Services and Employee Benefits00100	\$	13,744,404
2	Unclassified.....09900		947,948
3	Current Expenses13000		79,110,551
4	Equipment.....07000		456,972
5	Buildings25800		155,000
6	Other Assets.....69000		<u>380,000</u>
7	Total.....	\$	94,794,875

*343 - Division of Health –**West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2018 Org 0506

1	West Virginia Drinking Water Treatment		
2	Revolving Fund – Transfer68900	\$	16,000,000

344 - West Virginia Health Care Authority

(WV Code Chapter 16)

Fund 8851 FY 2018 Org 0507

1	Unclassified.....	09900	\$	9,966
2	Current Expenses	13000		<u>986,649</u>
3	Total.....		\$	996,615

345 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2018 Org 0510

1	Personal Services and Employee Benefits	00100	\$	625,349
2	Unclassified.....	09900		5,482
3	Current Expenses	13000		<u>140,389</u>
4	Total.....		\$	771,220

346 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 8722 FY 2018 Org 0511

1	Personal Services and Employee Benefits	00100	\$	68,943,213
2	Unclassified.....	09900		22,855,833
3	Current Expenses	13000		72,070,005
4	Medical Services.....	18900		3,234,265,405
5	Medical Services Administrative Costs	78900		132,045,119
6	CHIP Administrative Costs.....	85601		3,333,752
7	CHIP Services.....	85602		47,422,974
8	Federal Economic Stimulus	89100		<u>20,000,000</u>
9	Total.....		\$	3,600,936,301

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY***347 - Office of the Secretary*

(WV Code Chapter 5F)

Fund 8876 FY 2018 Org 0601

1	Personal Services and Employee Benefits00100	\$	439,636
2	Unclassified.....09900		250,000
3	Current Expenses13000		24,307,690
4	Repairs and Alterations.....06400		3,000
5	Other Assets69000		<u>5,000</u>
6	Total.....	\$	25,005,326

348 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 8726 FY 2018 Org 0603

1	Unclassified.....09900	\$	982,705
2	Mountaineer ChalleNGe Academy70900		4,550,000
3	Martinsburg Starbase74200		410,000
4	Charleston Starbase.....74300		400,000
5	Military Authority74800		<u>91,927,900</u>
6	Total.....	\$	98,270,605

7 The Adjutant General shall have the authority to transfer
8 between appropriations.

349 - Adjutant General –

West Virginia National Guard Counterdrug Forfeiture Fund

(WV Code Chapter 15)

Fund 8785 FY 2018 Org 0603

1	Personal Services and Employee Benefits00100	\$	1,350,000
2	Current Expenses13000		300,000
3	Equipment.....07000		<u>350,000</u>
4	Total.....	\$	2,000,000

350 - Division of Homeland Security and

Emergency Management

(WV Code Chapter 15)

Fund 8727 FY 2018 Org 0606

1	Personal Services and Employee Benefits00100	\$	721,650
2	Current Expenses13000		20,429,281
3	Repairs and Alterations.....06400		5,000
4	Equipment.....07000		<u>100,000</u>
5	Total.....	\$	21,255,931

351 - Division of Corrections

(WV Code Chapters 25, 28, 49 and 62)

Fund 8836 FY 2018 Org 0608

1	Unclassified.....09900	\$	1,100
2	Current Expenses13000		<u>108,900</u>
3	Total.....	\$	110,000

352 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2018 Org 0612

1	Personal Services and Employee Benefits00100	\$	2,435,539
2	Current Expenses13000		2,125,971
3	Repairs and Alterations.....06400		42,000
4	Equipment.....07000		2,502,285
5	Buildings25800		750,500
6	Other Assets69000		144,500
7	Land73000		<u>500</u>
8	Total.....	\$	8,001,295

353 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2018 Org 0619

1	Current Expenses13000	\$	80,000
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354 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 8803 FY 2018 Org 0620

1	Personal Services and Employee Benefits00100	\$	1,056,170
2	Unclassified.....09900		25,185
3	Current Expenses13000		18,774,373
4	Repairs and Alterations.....06400		<u>1,750</u>
5	Total.....	\$	19,857,478

DEPARTMENT OF REVENUE*355 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2018 Org 0704

1	Current Expenses13000	\$	3,000,000
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DEPARTMENT OF TRANSPORTATION*356 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2018 Org 0802

1	Personal Services and Employee Benefits00100	\$	501,394
2	Current Expenses13000		13,671,640
3	Repairs and Alterations.....06400		<u>500</u>
4	Total.....	\$	14,173,534

357 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2018 Org 0805

1	Personal Services and Employee Benefits00100	\$	702,637
2	Current Expenses13000		9,161,605

2017]

HOUSE OF DELEGATES

3441

3	Repairs and Alterations.....	06400	2,500
4	Equipment.....	07000	4,726,958
5	Buildings.....	25800	750,000
6	Other Assets.....	69000	<u>250,000</u>
7	Total.....		\$ 15,593,700

358 - Public Port Authority

(WV Code Chapter 17)

Fund 8830 FY 2018 Org 0806

1	Current Expenses	13000	\$ 0
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DEPARTMENT OF VETERANS' ASSISTANCE

359 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 8858 FY 2018 Org 0613

1	Personal Services and Employee Benefits	00100	\$ 2,751,100
2	Current Expenses	13000	3,925,900
3	Repairs and Alterations.....	06400	50,000
4	Equipment.....	07000	200,000
5	Buildings.....	25800	600,000
6	Other Assets.....	69000	100,000
7	Land	73000	<u>100,000</u>
8	Total.....		\$ 7,727,000

360 - Department of Veterans' Assistance –

Veterans' Home

(WV Code Chapter 9A)

Fund 8728 FY 2018 Org 0618

1	Personal Services and Employee Benefits	00100	\$ 877,915
2	Current Expenses	13000	844,092
3	Repairs and Alterations.....	06400	220,000

4	Equipment	07000	198,000
5	Buildings	25800	296,000
6	Other Assets	69000	20,000
7	Land	73000	<u>10,000</u>
8	Total		\$ 2,466,007

BUREAU OF SENIOR SERVICES

361 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 8724 FY 2018 Org 0508

1	Personal Services and Employee Benefits	00100	\$ 721,393
2	Current Expenses	13000	13,811,853
3	Repairs and Alterations	06400	<u>3,000</u>
4	Total		\$ 14,536,246

MISCELLANEOUS BOARDS AND COMMISSIONS

362 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8743 FY 2018 Org 0926

1	Personal Services and Employee Benefits	00100	\$ 1,286,913
2	Current Expenses	13000	368,953
3	Repairs and Alterations	06400	40,000
4	Equipment	07000	<u>750,000</u>
5	Total		\$ 2,445,866

363 - Public Service Commission –

Gas Pipeline Division

(WV Code Chapter 24B)

Fund 8744 FY 2018 Org 0926

1	Personal Services and Employee Benefits00100	\$	596,600
2	Current Expenses		124,628
3	Equipment		3,000
4	Unclassified.....09900		<u>4,072</u>
5	Total.....	\$	<u>728,300</u>

364 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2018 Org 0941

1	Personal Services and Employee Benefits00100	\$	159,235
2	Current Expenses		631,365
3	Repairs and Alterations.....06400		5,000
4	Equipment		3,000
5	Other Assets		2,000
6	Total.....	\$	<u>800,600</u>
7	Total TITLE II, Section 6 - Federal Funds	\$	<u>\$4,874,926,288</u>

- 1 **Sec. 7. Appropriations from federal block grants.** — The
 2 following items are hereby appropriated from federal block grants
 3 to be available for expenditure during the fiscal year 2018.

365 - West Virginia Development Office –

Community Development

Fund 8746 FY 2018 Org 0307

1	Personal Services and Employee Benefits00100	\$	648,117
2	Unclassified.....09900		375,000
3	Current Expenses		<u>36,476,883</u>
4	Total.....	\$	<u>\$ 37,500,000</u>

366 - Department of Commerce

West Virginia Development Office –

Office of Economic Opportunity –

Community Services

Fund 8902 FY 2018 Org 0307

1	Personal Services and Employee Benefits00100	\$	362,389
2	Unclassified.....09900		125,000
3	Current Expenses13000		12,002,111
4	Repairs and Alterations.....06400		1,500
5	Equipment.....07000		<u>9,000</u>
6	Total.....	\$	12,500,000

*367 - WorkForce West Virginia –**WorkForce Investment Act*Fund 8749 FY 2018 Org 0323

1	Personal Services and Employee Benefits00100	\$	2,112,606
2	Unclassified.....09900		23,023
3	Current Expenses13000		39,263,511
4	Repairs and Alterations.....06400		1,600
5	Equipment.....07000		500
6	Buildings.....25800		<u>1,100</u>
7	Total.....	\$	41,402,340

*368 - Division of Health –**Maternal and Child Health*Fund 8750 FY 2018 Org 0506

1	Personal Services and Employee Benefits00100	\$	2,124,294
2	Unclassified.....09900		110,017
3	Current Expenses13000		<u>8,767,420</u>
4	Total.....	\$	11,001,731

*369 - Division of Health –**Preventive Health*Fund 8753 FY 2018 Org 0506

1	Personal Services and Employee Benefits00100	\$	162,320
2	Unclassified.....09900		22,457

3	Current Expenses	13000	1,895,366
4	Equipment	07000	<u>165,642</u>
5	Total		\$ 2,245,785

370 - Division of Health –

Substance Abuse Prevention and Treatment

Fund 8793 FY 2018 Org 0506

1	Personal Services and Employee Benefits	00100	\$ 822,766
2	Unclassified.....	09900	115,924
3	Current Expenses	13000	<u>10,653,740</u>
4	Total		\$ 11,592,430

371 - Division of Health –

Community Mental Health Services

Fund 8794 FY 2018 Org 0506

1	Personal Services and Employee Benefits	00100	\$ 936,557
2	Unclassified.....	09900	33,533
3	Current Expenses	13000	<u>2,383,307</u>
4	Total		\$ 3,353,397

372 - Division of Human Services –

Energy Assistance

Fund 8755 FY 2018 Org 0511

1	Personal Services and Employee Benefits	00100	\$ 1,514,312
2	Unclassified.....	09900	350,000
3	Current Expenses	13000	<u>33,181,300</u>
4	Total		\$ 35,045,612

373 - Division of Human Services –

Social Services

Fund 8757 FY 2018 Org 0511

1	Personal Services and Employee Benefits00100	\$ 14,231,684
2	Unclassified.....09900	171,982
3	Current Expenses 13000	<u>2,870,508</u>
4	Total.....	\$ 17,274,174

374 - Division of Human Services –

Temporary Assistance for Needy Families

Fund 8816 FY 2018 Org 0511

1	Personal Services and Employee Benefits00100	\$ 18,297,327
2	Unclassified.....09900	1,250,000
3	Current Expenses 13000	<u>105,847,136</u>
4	Total.....	\$ 125,394,463

375 - Division of Human Services –

Child Care and Development

Fund 8817 FY 2018 Org 0511

1	Personal Services and Employee Benefits00100	\$ 4,676,841
2	Unclassified.....09900	350,000
3	Current Expenses 13000	<u>31,999,456</u>
4	Total.....	\$ 37,026,297

376 - Division of Justice and Community Services –

Juvenile Accountability Incentive

Fund 8829 FY 2018 Org 0620

1	Personal Services and Employee Benefits00100	\$ 1,648
2	Current Expenses 13000	48,351
3	Repairs and Alterations.....06400	<u>1</u>
4	Total.....	<u>\$ 50,000</u>

5 Total TITLE II, Section 7 – Federal Block Grants..... \$ 334,386,229

1 **Sec. 8. Awards for claims against the state.** — There are
2 hereby appropriated for fiscal year 2018, from the fund as

3 designated, in the amounts as specified, general revenue funds in
4 the amount of \$930,143, special revenue funds in the amount of
5 \$458,733, and state road funds in the amount of \$802,735 for
6 payment of claims against the state.

1 **Sec. 9. Appropriations from general revenue surplus**
2 **accrued.** — The following item is hereby appropriated from the
3 state fund, general revenue, and is to be available for expenditure
4 during the fiscal year 2018 out of surplus funds only, accrued from
5 the fiscal year ending June 30, 2017, subject to the terms and
6 conditions set forth in this section.

7 It is the intent and mandate of the Legislature that the following
8 appropriation be payable only from surplus as of July 31, 2017
9 from the fiscal year ending June 30, 2017, only after first meeting
10 requirements of W.Va. Code §11B-2-20(b).

11 In the event that surplus revenues available on July 31, 2017,
12 are not sufficient to meet the appropriation made pursuant to this
13 section, then the appropriation shall be made to the extent that
14 surplus funds are available as of the date mandated to meet the
15 appropriation in this section.

377 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2018 Org 0211

1	Capital Outlay, Repairs and		
2	Equipment – Surplus.....	67700	\$ <u>8,000,000</u>
3	Total TITLE II, Section 9 – Surplus Accrued.....		\$ <u>8,000,000</u>

1 **Sec. 10. Appropriations from lottery net profits surplus**
2 **accrued.** — The following item is hereby appropriated from the
3 lottery net profits, and is to be available for expenditure during the
4 fiscal year 2018 out of surplus funds only, as determined by the
5 director of lottery, accrued from the fiscal year ending June 30,
6 2017, subject to the terms and conditions set forth in this section.

7 It is the intent and mandate of the Legislature that the following
8 appropriation be payable only from surplus accrued from the fiscal
9 year ending June 30, 2017.

10 In the event that surplus revenues available from the fiscal year
11 ending June 30, 2017, are not sufficient to meet the appropriation
12 made pursuant to this section, then the appropriation shall be made
13 to the extent that surplus funds are available.

378 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2018 Org 0508

1	Senior Services Medicaid Transfer –	
2	Lottery Surplus	68199 \$ <u>8,000,000</u>
3	Total TITLE II, Section 10 – Surplus Accrued.....	\$ <u>8,000,000</u>

1 **Sec. 11. Appropriations from state excess lottery revenue**
2 **surplus accrued.** — The following item is hereby appropriated
3 from the state excess lottery revenue fund, and is to be available
4 for expenditure during the fiscal year 2018 out of surplus funds
5 only, as determined by the director of lottery, accrued from the
6 fiscal year ending June 30, 2017, subject to the terms and
7 conditions set forth in this section.

8 It is the intent and mandate of the Legislature that the following
9 appropriation be payable only from surplus accrued from the fiscal
10 year ending June 30, 2017.

11 In the event that surplus revenues available from the fiscal year
12 ending June 30, 2017, are not sufficient to meet the appropriation
13 made pursuant to this section, then the appropriation shall be made
14 to the extent that surplus funds are available.

379 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2018 Org 0511

1	Medical Services – Lottery Surplus	68100	\$ <u>32,000,000</u>
2	Total TITLE II, Section 11 – Surplus Accrued.....		\$ <u>32,000,000</u>

1 **Sec. 12. Special revenue appropriations.** — There are hereby
2 appropriated for expenditure during the fiscal year 2018
3 appropriations made by general law from special revenues which
4 are not paid into the state fund as general revenue under the
5 provisions of W.Va. Code §12-2-2: *Provided*, That none of the
6 money so appropriated by this section shall be available for
7 expenditure except in compliance with the provisions of W.Va.
8 Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending
9 unit has filed with the director of the budget and the legislative
10 auditor prior to the beginning of each fiscal year:

11 (a) An estimate of the amount and sources of all revenues
12 accruing to such fund; and

13 (b) A detailed expenditure schedule showing for what purposes
14 the fund is to be expended. During Fiscal Year 2018, the following
15 funds are hereby available and are to be transferred to the
16 Department of Health and Human Resources, Division of Human
17 Services – Medical Services Trust Fund (fund 5185) from available
18 balances per the following:

380 -Treasurer’s Office –

Banking Services Fund

(WV Code Chapter 12)

Fund 1322 FY 2018 Org 1300

1	Directed Transfer	70000	\$1,209,197.40
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381 - Department of Administration -

Office of the Secretary -

State Employee Sick Leave Fund

(WV Code Chapter 5)

Fund 2045 FY 2018 Org 0201

1 Directed Transfer70000 \$ 540,659.06

382 - Department of Administration -

Office of the Secretary -

Gifts, Grants and Donations

(WV Code Chapter 5A)

Fund 2046 FY 2018 Org 0201

1 Directed Transfer70000 \$ 80,000

383 - Department of Administration -

Division of Personnel -

Civil Service Emergency Employment Fund

(WV Code Chapter 29)

Fund 2444 FY 2018 Org 0222

1 Directed Transfer70000 \$ 264.96

384 - Department of Health and Human Resources -

Division of Health -

Breast and Cervical Diagnostic and Treatment Fund

(WV Code Chapter 16)

Fund 5197 FY 2018 Org 0506

1 Directed Transfer70000 \$ 1,500,000

2 Total TITLE II, Section 12 – Directed Transfer \$3,330,121.42

1 **Sec. 13. State improvement fund appropriations.** —
2 Bequests or donations of nonpublic funds, received by the
3 Governor on behalf of the state during the fiscal year 2018, for the
4 purpose of making studies and recommendations relative to
5 improvements of the administration and management of spending
6 units in the executive branch of state government, shall be
7 deposited in the state treasury in a separate account therein
8 designated state improvement fund.

9 There are hereby appropriated all moneys so deposited during
10 the fiscal year 2018 to be expended as authorized by the Governor,
11 for such studies and recommendations which may encompass any
12 problems of organization, procedures, systems, functions, powers
13 or duties of a state spending unit in the executive branch, or the
14 betterment of the economic, social, educational, health and general
15 welfare of the state or its citizens.

1 **Sec. 14. Specific funds and collection accounts.** — A fund or
2 collection account which by law is dedicated to a specific use is
3 hereby appropriated in sufficient amount to meet all lawful
4 demands upon the fund or collection account and shall be expended
5 according to the provisions of Article 3, Chapter 12 of the Code.

1 **Sec. 15. Appropriations for refunding erroneous payment.**
2 — Money that has been erroneously paid into the state treasury is
3 hereby appropriated out of the fund into which it was paid, for
4 refund to the proper person.

5 When the officer authorized by law to collect money for the
6 state finds that a sum has been erroneously paid, he or she shall
7 issue his or her requisition upon the Auditor for the refunding of
8 the proper amount. The Auditor shall issue his or her warrant to the
9 Treasurer and the Treasurer shall pay the warrant out of the fund
10 into which the amount was originally paid.

1 **Sec. 16. Sinking fund deficiencies.** — There is hereby
2 appropriated to the Governor a sufficient amount to meet any
3 deficiencies that may arise in the mortgage finance bond insurance
4 fund of the West Virginia housing development fund which is
5 under the supervision and control of the municipal bond

6 commission as provided by W.Va. Code §31-18-20b, or in the
7 funds of the municipal bond commission because of the failure of
8 any state agency for either general obligation or revenue bonds or
9 any local taxing district for general obligation bonds to remit funds
10 necessary for the payment of interest and sinking fund
11 requirements. The Governor is authorized to transfer from time to
12 time such amounts to the municipal bond commission as may be
13 necessary for these purposes.

14 The municipal bond commission shall reimburse the state of
15 West Virginia through the Governor from the first remittance
16 collected from the West Virginia housing development fund or
17 from any state agency or local taxing district for which the
18 Governor advanced funds, with interest at the rate carried by the
19 bonds for security or payment of which the advance was made.

1 **Sec. 17. Appropriations for local governments.** — There are
2 hereby appropriated for payment to counties, districts and
3 municipal corporations such amounts as will be necessary to pay
4 taxes due counties, districts and municipal corporations and which
5 have been paid into the treasury:

- 6 (a) For redemption of lands;
- 7 (b) By public service corporations;
- 8 (c) For tax forfeitures.

1 **Sec. 18. Total appropriations.** — Where only a total sum is
2 appropriated to a spending unit, the total sum shall include personal
3 services and employee benefits, annual increment, current
4 expenses, repairs and alterations, buildings, equipment, other
5 assets, land, and capital outlay, where not otherwise specifically
6 provided and except as otherwise provided in TITLE I –
7 GENERAL PROVISIONS, Sec. 3.

1 **Sec. 19. General school fund.** — The balance of the proceeds
2 of the general school fund remaining after the payment of the
3 appropriations made by this act is appropriated for expenditure in
4 accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION

1 **Sec. 1. Appropriations conditional.** — The expenditure of the
2 appropriations made by this act, except those appropriations made
3 to the legislative and judicial branches of the state government, are
4 conditioned upon the compliance by the spending unit with the
5 requirements of Article 2, Chapter 11B of the Code.

6 Where spending units or parts of spending units have been
7 absorbed by or combined with other spending units, it is the intent
8 of this act that appropriations and reappropriations shall be to the
9 succeeding or later spending unit created, unless otherwise
10 indicated.

1 **Sec. 2. Constitutionality.** — If any part of this act is declared
2 unconstitutional by a court of competent jurisdiction, its decision
3 shall not affect any portion of this act which remains, but the
4 remaining portion shall be in full force and effect as if the portion
5 declared unconstitutional had never been a part of the act.”

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. 604**), and there were—yeas 63, nays 37, 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, Fluharty, Frich, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson and Williams.

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. 605**), and there were—yeas 64, nays 36, 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, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson and Williams.

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.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three to notify the Senate that the House of Delegates had completed the business of this First Regular Session of the 83rd Legislature and was ready to adjourn *sine die*.

Whereupon,

The Speaker appointed as members of said committee the following:

Delegates Ellington, N. Foster and Barrett.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three on the part of the House of Delegates, to join with a similar committee of the Senate, to inform His Excellency, the Governor, that the Legislature was ready to adjourn *sine die*.

The Speaker appointed as members of such committee the following:

Delegates Espinosa, Summers and Love.

Miscellaneous Business

Delegate N. Foster asked and obtained unanimous consent that all remarks during debate on Com. Sub. for H. B. 2018 be printed in the Appendix to the Journal.

Committee Reports

In accordance with House Rule 68, Delegate Hanshaw, Chair of the Joint Committee on Enrolled Bills, and Delegate Westfall, Vice Chair of the Joint Committee on Enrolled Bills, filed the following reports with the Clerk:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the dates listed, 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:

April 10, 2017

H. B. 2522, Nurse licensure compact,

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

Com. Sub. for S. B. 173, Relating generally to autocycles,

Com. Sub. for S. B. 230, Relating to certain WV officials carrying concealed firearm nationwide,

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,

And,

Com. Sub. for S. B. 575, Relating generally to shooting ranges.

April 11, 2017

Com. Sub. for H. B. 2603, Relating to municipal policemen's or firemen's pension and relief funds that are funded at one hundred and twenty-five percent or more,

H. B. 2691, Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber,

Com. Sub. for H. B. 2709, Authorizing the City of South Charleston to levy a special district excise tax,

Com. Sub. for H. B. 2734, Authorizing a method for the collection and remittance of property taxes related to dealers' heavy equipment inventory,

Com. Sub. for H. B. 2792, Requiring the Library Commission to survey the libraries of the state,

Com. Sub. for H. B. 2797, Codifying statutory immunity for government agencies and officials from actions of third-parties using documents or records,

H. B. 2833, Specifying the contents and categories of information for inclusion in annual reports,

H. B. 2963, Eliminating tax lien waiver requirement for estates of nonresidents,

And,

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

April 13, 2017

Com. Sub. for H. B. 2006, Increasing the penalties for violating the Whistle-blower Law,

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,

Com. Sub. for H. B. 2404, Barring persons who are convicted of certain criminal offenses from acquiring property from their victims,

H. B. 2427, Requiring agencies listed in the online state phone directory to update certain employee information,

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. 2801, Expiring funds to the unappropriated balance in the State Fund from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund,

H. B. 3103, Making a supplementary appropriation to the Department of Health and Human Resources,

Com. Sub. for S. B. 4, Allowing licensed professionals donate time to care of indigent and needy in clinical setting,

S. B. 25, Creating farm-to-food bank tax credit,

Com. Sub. for S. B. 116, Authorizing MAPS promulgate legislative rules,

Com. Sub. for S. B. 125, Authorizing DHHR and Health Care Authority promulgate legislative rules,

Com. Sub. for S. B. 151, Authorizing Department of Administration promulgate legislative rules,

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,

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,

S. B. 256, Relating to prohibiting aiding and abetting of sexual abuse by school personnel,

Com. Sub. for S. B. 280, Moving administration of Civil Air Patrol to Adjutant General,

Com. Sub. for S. B. 288, Increasing penalty for crime of child abuse causing death by parent, guardian, custodian or other person,

Com. Sub. for S. B. 299, Supplementing, amending, decreasing and increasing items of appropriations from State Road Fund to DOH,

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,

S. B. 321, Reporting requirements of employee information to CPRB,

Com. Sub. for S. B. 337, Hiring correctional officers without regard to placement on correctional officer register,

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,

Com. Sub. for S. B. 386, Creating WV Medical Cannabis Act,

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. 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. 493, Providing increase in compensation for conservation officers,

S. B. 495, Relating to regulation of events by State Athletic Commission,

Com. Sub. for S. B. 505, Providing five-year reclamation period following completion of well pads for horizontal wells,

Com. Sub. for S. B. 533, Relating to taxes on wine and intoxicating liquors,

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. 608, Clarifying lawful business structures are unaffected by enactment of prohibitory legislation,

Com. Sub. for S. B. 636, Authorizing State Fire Commission establish program to address problems facing VFDs,

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,

Com. Sub. for S. B. 671, Relating to WV Anatomical Board,

S. B. 690, Authorizing WV State Police impose and collect fees for agencies and entities using their facilities,

And,

S. B. 694, Expiring funds to unappropriated surplus balance in General Revenue fund to Department of Administration.

April 17, 2017

H. B. 2119, Repealing West Virginia Health Benefit Exchange Act,

Com. Sub. for H. B. 2195, Relating to requiring comprehensive drug awareness and prevention program in all public schools,

Com. Sub. for H. B. 2319, Relating to candidates or candidate committees for legislative office disclosing contributions,

H. B. 2348, Eliminating any requirement that class hours of students be consecutive,

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,

And,

Com. Sub. for H. B. 2503, Relating to the rulemaking authority for Board of Osteopathic Medicine.

April 18, 2017

Com. Sub. for H. B. 2364, Prohibiting electioneering within or near early voting locations during early voting periods,

Com. Sub. for H. B. 2373, Authorizing school bus drivers trained in administration of epinephrine auto-injectors to administer auto-injectors,

H. B. 2446, Relating to the requirement that all executive branch agencies maintain a website that contains specific information,

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,

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. 2620, West Virginia Drug Overdose Monitoring Act,

H. B. 2628, Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine,

Com. Sub. for H. B. 2631, Relating to time standards for disposition of complaint proceedings,

Com. Sub. for H. B. 2646, Terminating the Women's Commission and discontinue its functions,

Com. Sub. for H. B. 2674, Relating to access to and receipt of certain information regarding a protected person,

Com. Sub. for H. B. 2676, Transferring the Security office under the Division of Culture and History to the Division of Protective Services,

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

Com. Sub. for H. B. 2726, Authorizing home incarceration officers to arrest participants for violating the terms and conditions of his or her supervision with or without a court order,

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. 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. 2850, Relating to product liability actions,

Com. Sub. for H. B. 2898, Authorizing the Joint Committee on Government and Finance to request and obtain criminal background checks of employees of the Legislature,

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

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. 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. 3037, Removing the Division of Energy as an independent agency,

And,

Com. Sub. for H. B. 3048, Relating to collection of Tier II fees for chemical inventories.

April 19, 2017

Com. Sub. for S. B. 386, Creating WV Medical Cannabis Act.

April 20, 2017

Com. Sub. for H. B. 2001, Relating to ethics and transparency in government,

Com. Sub. for H. B. 2002, Relating to parental notification of abortions performed on unemancipated minors,

Com. Sub. for H. B. 2083, Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing,

Com. Sub. for H. B. 2109, Relating to the West Virginia Land Reuse Agency Authorization Act,

Com. Sub. for H. B. 2219, Authorizing miscellaneous boards and agencies to promulgate legislative rules,

Com. Sub. for H. B. 2303, Increasing criminal penalties for littering,

Com. Sub. for H. B. 2359, Relating to offenses and penalties for practicing osteopathic medicine without a license,

Com. Sub. for H. B. 2367, Establishing a criminal offense of organized retail crime,

Com. Sub. for H. B. 2402, Relating to abandoned antique vehicles,

Com. Sub. for H. B. 2428, Establishing additional substance abuse treatment facilities,

Com. Sub. for H. B. 2447, Renaming the Court of Claims the state Claims Commission,

Com. Sub. for H. B. 2479, Uniform Deployed Parents Custody and Visitation Act,

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. 2637, Relating to employment of retired teachers and prospective employable professional personnel in areas of critical need and shortage,

Com. Sub. for H. B. 2679, Relating to the possession of firearms in parks and park facilities,

Com. Sub. for H. B. 2683, Relating to West Virginia Insurance Guaranty Association Act,

Com. Sub. for H. B. 2702, Relating to excused absences for personal illness from school,

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. 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,

Com. Sub. for H. B. 2739, Relating to supplemental Medicaid provider reimbursement,

Com. Sub. for H. B. 2759, Creating Statewide Interoperable Radio Network,

Com. Sub. for H. B. 2767, Authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks,

Com. Sub. for H. B. 2771, Relating to temporary teaching certificates for Armed Forces spouses,

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. 2805, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state,

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

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

H. B. 2967, Relating generally to administration of estates and trusts,

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

Com. Sub. for H. B. 3080, Requiring instruction in the Declaration of Independence and the United States Constitution,

Com. Sub. for H. B. 3093, Establishing Broadband Enhancement and Expansion Policies,

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,

S. B. 28, Creating new system for certain contiguous counties to establish regional recreation authorities,

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. 76, Creating WV Second Chance for Employment Act,

Com. Sub. for S. B. 134, Authorizing Bureau of Commerce to promulgate legislative rules,

S. B. 172, Eliminating salary for Water Development Authority board members,

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. 204, Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses,

S. B. 219, Relating to conspiracy to commit crimes under Uniform Controlled Substances Act,

Com. Sub. for S. B. 220, Relating to offenses and penalties under Uniform Controlled Substances Act,

Com. Sub. for S. B. 224, Repealing requirement for employer's bond for wages and benefits,

S. B. 235, Relating to motorcycle registration renewal,

Com. Sub. for S. B. 239, Limiting use of wages by employers and labor organizations for political activities,

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,

S. B. 333, Requiring all DHHR-licensed facilities access WV Controlled Substances Monitoring Program Database,

S. B. 339, Creating Legislative Coalition on Chronic Pain Management,

S. B. 345, Allowing certain hunting and trapping on private lands on Sundays,

S. B. 360, Creating Legislative Coalition on Diabetes Management,

Com. Sub. for S. B. 362, Authorizing redirection of certain amounts to General Revenue Fund,

Com. Sub. for S. B. 402, Relating to covenants not to compete between physicians and hospitals,

Com. Sub. for S. B. 419, Creating special revenue fund sources for Division of Labor to meet statutory obligations,

S. B. 433, Permitting counties increase excise tax on privilege of transferring real property,

Com. Sub. for S. B. 441, Establishing Municipal Home Rule Pilot Program,

S. B. 444, Establishing Court Advanced Technology Subscription Fund,

S. B. 486, Relating to health care provider taxes,

S. B. 490, Clarifying standard of liability for officers of corporation,

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. 535, Reorganizing Division of Tourism,

S. B. 547, Modifying fees paid to Secretary of State,

S. B. 554, Relating to false swearing in legislative proceeding,

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. 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. 631, Prosecuting violations of municipal building code,

Com. Sub. for S. B. 637, Relating to private club operations requirements,

Com. Sub. for S. B. 656, Relating to Student Data Accessibility, Transparency and Accountability Act,

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.

April 21, 2017

Com. Sub. for H. B. 2196, Relating to the Secondary Schools Athletic Commission,

Com. Sub. for H. B. 2329, Prohibiting the production, manufacture or possession of fentanyl,

Com. Sub. for H. B. 2509, Relating to the practice of telemedicine,

Com. Sub. for H. B. 2526, Classifying additional drugs to Schedules I, II, IV and V of controlled substances,

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. 2552, Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund,

Com. Sub. for H. B. 2555, Relating to tax credits for apprenticeship training in construction trades,

Com. Sub. for H. B. 2579, Increasing the penalties for transporting controlled substances,

Com. Sub. for H. B. 2585, Creating felony crime of conducting financial transactions involving proceeds of criminal activity,

Com. Sub. for H. B. 2601, Relating to municipal policemen's or municipal firemen's pension and relief funds,

Com. Sub. for H. B. 2619, Risk Management and Own Risk and Solvency Assessment Act,

H. B. 2684, Imposing penalties for repeat violations of the prohibition against driving under the influence on a suspended license,

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

Com. Sub. for H. B. 2731, Clarifying civil actions heard in circuit court,

Com. Sub. for H. B. 2815, Relating to higher education governance,

Com. Sub. for H. B. 2839, Updating the procedures for legislative review of departments and licensing boards,

Com. Sub. for H. B. 2851, Updating fee structure provisions for broker-dealers,

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,

H. B. 2962, Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors,

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

H. B. 3022, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations,

And,

Com. Sub. for S. B. 388, Relating to dangerous weapons.

Messages from the Executive

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 8, 2017

Executive Message 2 2017 Regular Session

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates
State Capitol, Rm 228M
Charleston, WV 25305

Dear Mr. Speaker:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

Board of Medicine, State of West Virginia — Annual Report for July 1, 2014-June 30, 2016

Corrections, West Virginia Division of – Annual Report 2016

Court of Claims, West Virginia – Annual Report 2017

Energy, West Virginia Division of – Annual Report December 1, 2015-November 30, 2016

Federal Communications Commission Task Force on Optimal Public Safety Answering Point

Architecture – Supplemental Reports/Recommendations

Federal Financial Institutions Examination Council- Appraisal Subcommittee – Annual Report 2015

James “Tiger” Morton Catastrophic Illness Commission-West Virginia Department of Health and Human Resources – Annual Report 2016

Lottery, West Virginia – Comprehensive Annual Financial Report, Fiscal Year Ending June 30, 2016 and 2015

National Shooting Sports Foundation – Firearms and Ammunition Industry Economic Impact Report 2017

Natural Resources, West Virginia Division of – Annual Report 2015-2016

Office of Inspector General, West Virginia Department of Health and Human Resources

Nursing Home and Assisted Living Facilities in West Virginia – Annual Report, October 1, 2015-September 30, 2015

Public Defender Services, West Virginia – Annual Report 2016

Public Service Commission Consumer Advocate Division – West Virginia, Annual Report 2017

Respiratory Care, West Virginia State Board of – Annual Report, July 1, 2015-June 30, 2016

Sanitarians, West Virginia State Board of – Annual Report 2016

State Police, West Virginia – Annual Report, FY 2015-2016

Water Development Authority, West Virginia – Annual Report, FY 2016

West Virginia University West Virginia Assistive Technology System – Annual Report 2016

Women’s Commission, West Virginia – Annual Report 2016

Workforce Planning Council, Governor’s Office – Annual Report 2016

Sincerely,

Jim Justice,
Governor.

A communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, as follows:

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 8, 2017

Veto Message

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates
Room 228M, Building 1
State Capitol Complex
Charleston, WV 25305

Re: Enrolled Senate Bill 437

Dear Speaker Armstead:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute to Senate Bill 437 because legal challenge to this legislation, would put the state's FY2018 budget in jeopardy, and for the substantial loss of employment to our citizens. My top priority is to create jobs, not lose them. Senate Bill 347 is job-killing legislation, and therefore I reject it.

The bill would decimate the greyhound racing industry, cost hardworking people their jobs and turn away tourists to our great state. Dog racing brought the casinos into existence; not the other way around. It is not right to go back on the promise that was made to the people of West Virginia and shut down the state's dog tracks.

Because voters in the affected counties authorized the passage of video lottery (slots) and table games through a local option election, citizens of those affected counties could challenge whether the Legislature can unilaterally and without local voter approval, authorize slots and gaming to continue at a free-standing casino with no licensed pari-mutuel racing. Further legal challenge, I believe will come from the casinos themselves, in the unconstitutional unequal treatment of casinos with no racing events from those that are required to hold racing events in order to a license. These challenges would jeopardize the continuation of video lottery and pari-mutuel racing revenues in our state, which could impact the July 1, 2017 state budget.

I cannot support any legislation that would jeopardize the health of the state's casino industry, the state's FY2018 budget and the livelihood of so many of our citizens.

For the foregoing reasons, I disapprove and return the bill.

Sincerely,

Jim Justice,
Governor.

Subsequent to the adjournment of the session, communications were received from His Excellency, the Governor, advising that on April 8, 2017, he approved **Com. Sub. for H. B. 2506, H. B. 2774, Com. Sub. for S. B. 113, Com. Sub. for S. B. 222 and Com. Sub. for S. B. 338**; on April 10, 2017, he approved **Com. Sub. for H. B. 2459, Com. Sub. for H. B. 2486, H. B. 2878 and H. B. 3106**; on April 11, 2017, he approved **Com. Sub. for H. B. 2180, H. B. 2518, Com. Sub. for H. B. 2519, H. B. 2586, H. B. 2653, H. B. 2706, H. B. 2796, H. B. 2856, Com. Sub. for S. B. 5, Com. Sub. for S. B. 36, S. B. 41, S. B. 164, Com. Sub. for S. B. 206, Com. Sub. for S. B. 214, Com. Sub. for S. B. 225, Com. Sub. for S. B. 233, Com. Sub. for S. B. 247, Com. Sub. for S. B. 261, Com. Sub. for S. B. 442, Com. Sub. for S. B. 445, Com. Sub. for S. B. 455, Com. Sub. for S. B. 456, Com. Sub. for S. B. 473, Com. Sub. for S. B. 497, Com. Sub. for S. B. 531, Com. Sub. for S. B. 634 and S. B. 684**; on April 14, 2017, he approved **Com. Sub. for H. B. 2603, H. B. 2691, Com. Sub. for H. B. 2792, Com. Sub. for H. B. 2797, Com. Sub. for H. B. 2801, H. B. 3053, H. B. 3103, Com. Sub. for S. B. 299, Com. Sub. for S. B. 300, Com. Sub. for S. B. 303, Com. Sub. for S. B. 305, S. B. 349, S. B. 400, Com. Sub. for S. B. 575 and S. B. 694**; on April 18, 2017, he approved **Com. Sub. for H. B. 2006, H. B. 2427, Com. Sub. for S. B. 116, Com. Sub. for S. B. 151, S. B. 170, S. B. 171, Com. Sub. for S. B. 173, Com. Sub. for S. B. 186, S. B. 198, Com. Sub. for S. B. 288, S. B. 321, Com. Sub. for S. B. 350, Com. Sub. for S. B. 358, S. B. 364, S. B. 365, S. B. 392, Com. Sub. for S. B. 398, Com. Sub. for S. B. 454, Com. Sub. for S. B. 505, S. B. 566, Com. Sub. for S. B. 581, Com. Sub. for S. B. 588, Com. Sub. for S. B. 636, Com. Sub. for S. B. 671 and S. B. 690**; on April 19, 2017, he approved **Com. Sub. for S. B. 386**; on April 20, 2017, he approved **Com. Sub. for H. B. 2373, Com. Sub. for H. B. 2404; Com. Sub. for S. B. 4, S. B. 25, Com. Sub. for S. B. 125, S. B. 169, Com. Sub. for S. B. 230, Com. Sub. for S. B. 337, S. B. 444, Com. Sub. for S. B. 522 and S. B. 564**; on April 21, 2017, he approved **H. B. 2119, Com. Sub. for H. B. 2631, H. B. 2833, Com. Sub. for S. B. 280, S. B. 490, S. B. 495, Com. Sub. for S. B. 563**; on April 24, 2017, he approved **H. B. 2188, Com. Sub. for**

H. B. 2303, Com. Sub. for H. B. 2329, Com. Sub. for H. B. 2479, Com. Sub. for H. B. 2555, Com. Sub. for H. B. 2601, Com. Sub. for H. B. 2674, Com. Sub. for H. B. 2683, H. B. 2684, Com. Sub. for H. B. 2704, Com. Sub. for H. B. 2720, Com. Sub. for H. B. 2721, Com. Sub. for H. B. 2722, Com. Sub. for H. B. 2724, Com. Sub. for H. B. 2771, Com. Sub. for H. B. 2805, Com. Sub. for H. B. 2851, Com. Sub. for H. B. 2939, H. B. 2967, Com. Sub. for H. B. 2980, H. B. 3037, S. B. 174, Com. Sub. for S. B. 224, S. B. 235, Com. Sub. for S. B. 240, S. B. 256, Com. Sub. for S. B. 339, Com. Sub. for S. B. 344, Com. Sub. for S. B. 345, Com. Sub. for S. B. 360, S. B. 433, Com. Sub. for S. B. 523, Com. Sub. for S. B. 535, S. B. 547, S. B. 608, S. B. 631 and S. B. 691; on April 25, 2017, he approved Com. Sub. for H. B. 2083, Com. Sub. for H. B. 2109, Com. Sub. for H. B. 2219, Com. Sub. for H. B. 2402, Com. Sub. for H. B. 2428, Com. Sub. for H. B. 2447, Com. Sub. for H. B. 2453, Com. Sub. for H. B. 2475, Com. Sub. for H. B. 2494, H. B. 2522, Com. Sub. for H. B. 2637, Com. Sub. for H. B. 2676, Com. Sub. for H. B. 2702, Com. Sub. for H. B. 2759, Com. Sub. for H. B. 2767, Com. Sub. for H. B. 2815, Com. Sub. for H. B. 2839, Com. Sub. for H. B. 2961, Com. Sub. for S. B. 76, Com. Sub. for S. B. 134, Com. Sub. for S. B. 180, Com. Sub. for S. B. 187, Com. Sub. for S. B. 362, Com. Sub. for S. B. 419, Com. Sub. for S. B. 486, S. B. 493, Com. Sub. for S. B. 515, Com. Sub. for S. B. 533, S. B. 578, Com. Sub. for S. B. 602, Com. Sub. for S. B. 637, S. B. 658 and S. B. 667; and on April 26, 2017, he approved Com. Sub. for H. B. 2001, Com. Sub. for H. B. 2002, Com. Sub. for H. B. 2195, Com. Sub. for H. B. 2319, H. B. 2348, Com. Sub. for H. B. 2359, Com. Sub. for H. B. 2364, Com. Sub. for H. B. 2367, Com. Sub. for H. B. 2503, Com. Sub. for H. B. 2509, Com. Sub. for H. B. 2520, Com. Sub. for H. B. 2526, H. B. 2548, Com. Sub. for H. B. 2552, Com. Sub. for H. B. 2561, Com. Sub. for H. B. 2579, Com. Sub. for H. B. 2585, Com. Sub. for H. B. 2619, Com. Sub. for H. B. 2620, H. B. 2628, Com. Sub. for H. B. 2679, Com. Sub. for H. B. 2709, Com. Sub. for H. B. 2711, Com. Sub. for H. B. 2726, Com. Sub. for H. B. 2731, Com. Sub. for H. B. 2734, Com. Sub. for H. B. 2739, Com. Sub. for H. B. 2781, Com. Sub. for H. B. 2804, Com. Sub. for

H. B. 2846, Com. Sub. for H. B. 2850, Com. Sub. for H. B. 2857, Com. Sub. for H. B. 2897, Com. Sub. for H. B. 2898, Com. Sub. for H. B. 2935, Com. Sub. for H. B. 2941, Com. Sub. for H. B. 2948, Com. Sub. for H. B. 2949, H. B. 2962, H. B. 2963, H. B. 3018, H. B. 3022, H. B. 3048, Com. Sub. for H. B. 3064, Com. Sub. for H. B. 3080, Com. Sub. for H. B. 3093, Com. Sub. for H. B. 3096, Com. Sub. for S. B. 40, Com. Sub. for S. B. 204, Com. Sub. for S. B. 219, Com. Sub. for S. B. 220, Com. Sub. for S. B. 221, Com. Sub. for S. B. 333, Com. Sub. for S. B. 388, Com. Sub. for S. B. 402, Com. Sub. for S. B. 461, S. B. 554, Com. Sub. for S. B. 630, S. B. 686 and S. B. 687.

Action of His Excellency, the Governor, on other bills following adjournment of the session, is indicated in communications addressed to the Secretary of State, as follows:

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 12, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Senate Bill 347

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute to Senate Bill 347. This bill strikes

the existing requirement that a physician assistant must maintain National Commission on Certification of Physician Assistants certification as a condition of renewal of their licensure, while also allowing physician assistants to work in “collaboration” with rather than under the “supervision” of a physician. The unfortunate effect of this bill is that it weakens existing professional safeguards governing the medical knowledge and skills of physician assistants that have been serving the public interest for years, even as it grants greater autonomy to physician assistants.

My first objection to the Bill is the striking of the following language from West Virginia Code §30-3E-4:

“(5) Has a current certification from the National Commission on Certification of Physician Assistants;”

My second objection to the Bill is striking of the following language from West Virginia Code §30-3E-6:

“(3) Proof that he or she is currently certified and has been continuously certified during the preceding licensure period by the National Commission on Certification of Physician Assistants; and”

I appreciate the importance of enabling physician assistants to practice to the fullest extent of their training and of promoting patient access to health care. However, if the goal of the Bill is to modernize physician assistant practice to reflect current needs, we must also ensure that patients continue to receive treatment by health care providers who are operating with current clinical knowledge. By removing the state’s requirement that physician assistants maintain national certification as a condition of renewing their license, the interests of West Virginia patients are not being protected as strongly as they should be.

For the following reasons, I disapprove and return the Enrolled Committee Substitute for Senate Bill 347.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 13, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 2018

Dear Secretary Warner:

Pursuant to section fifty-one, article IV of the Constitution of the State of West Virginia, I hereby veto Enrolled Committee Substitute for House Bill 2018 (the “Budget Bill”) in its entirety.

When I presented my vision for West Virginia during the State of the State address in February, I submitted a proposed budget for fiscal year 2018 (“FY2018”) that not only was balanced but guaranteed that we would “Save Our State” and not kill the patient. My proposed budget responsibly addressed the \$497 million hole currently projected for FY2018 and would have put West Virginia on a pathway to prosperity.

I am proud of the fact that my proposed budget for FY2018 did not take one penny from the Revenue Shortfall Reserve Fund (“Rainy Day Fund”). It ensured that all sectors of the State would participate in solving our budget crisis and would jump-start the economy with approximately 48,000 new jobs by investing in our roads and bridges. The Budget Bill presented to me today bears no resemblance to my original proposal. It is a reckless spending plan

that guarantees future budget shortfalls just one year from now and every year thereafter.

Moreover, it relies on revenue from bills that I have vetoed or did not pass. Among other measures, the Budget Bill irresponsibly uses \$225 million in one-time money, including \$90 million from the Rainy Day Fund to “balance” the FY2018 budget. The Budget Bill includes minimal revenue enhancements and does not address, to any meaningful extent, the structural hole that we face.

The Legislature’s spending plan will not save the patient. The Budget Bill that I am vetoing today only kicks the can further down the road. It does not give our classroom teachers a pay raise, nor does it boost investments in infrastructure or tourism. Not only does it not create the 48,000 jobs, it does not create one job. In fact, it creates an even bigger hole in the bucket. Quite simply, the Budget Bill has no tools to jump-start our economy. It even abandons the most vulnerable population of our State by cutting the Medicaid program without any plan to make it whole again in the future.

Finally, the Budget Bill’s effective date is problematic because the Legislature did not secure the votes to make it effective from passage. The bill does not become effective until July 8, 2017, over a week into the fiscal year. Notwithstanding assurances to the contrary, this will cause a state government shutdown. Perhaps that was the leadership in the Legislature’s goal, but it is a nonstarter for me. We must all work together, not as Republicans and Democrats, but as West Virginians, to enact a bipartisan budget that is in place starting July 1, 2017.

I hereby veto the Budget Bill in its entirety. There is time, however, for compromise and responsible action. Let’s get serious. Let’s get to work.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 13, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for Senate Bill 248

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 248. This bill purports to clarify the composition and chairmanship of the Commission on Special Investigations. It exhibits, however, certain technical flaws which may compromise future investigations and actions by the Commission on Special Investigations.

This bill is technically flawed because its title is defective. *See State ex rel. Davis v. Oakley*, 156 W. Va. 154, 191 S.E.2d 610 (1972) (requiring bill title to provide notice of bill's contents). Specifically, there are two sections that are not reflected in the title: (1) That the director may issue subpoenas on the Commission's behalf, (P. 6, line 16-17) and (2) that the agency head is required to appear before the Commission to answer why an employee has failed to appear or failed to produce requested or subpoenaed material and address the basis for failure to comply. (P. 6, line 26-30).

As a result of these issues, I disapprove and return Enrolled Committee Substitute for Senate Bill 248.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 21, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Senate Bill 28

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 28.

Enrolled Senate Bill No. 28 permits unrestricted recreational trail development anywhere in West Virginia where two or more contiguous counties show an interest in establishing a new recreational trail system. The stated legislative purpose of Enrolled Senate Bill No. 28 is to promote economic development through recreational trail development. However, I have concerns that this bill will not achieve the desired outcome and may actually work against its stated purpose.

We have already learned from the skiing and whitewater rafting industries that there is not an unlimited demand for recreational activities. Unlimited and unrestricted State sponsored recreational trail development would create an environment where you might increase total ridership, but actually decrease economic development by spreading those riders and visitors over a much broader geographic area. Before private capital will be brought to the marketplace in support of a recreational trail system, a density of trail ridership must be demonstrated and sustained over a period of years to warrant the investment.

The State and private sector have already invested millions of dollars in existing recreational trail systems and those public and private dollars would be put at risk by unrestricted and unregulated expansion. The State of West Virginia already competes with the Spearhead Trail System established by the Commonwealth of Virginia and the Commonwealth of Kentucky just recently authorized the establishment of a new trail system in eastern Kentucky, all competing for the same visitors.

Any expansion of the State's recreational trail systems must be strategic and require a showing that the new trail system would not only expand visitation, but would not materially detract from the visitation and ridership on existing trail systems where numerous private and public investments have already been made.

For these reasons, I must veto Enrolled Senate Bill No. 28.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 25, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled House Bill 2446

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 2446.

This bill is very broad in its application, requiring “contact information of each staff member, including office location”. Some state employees work in undercover positions and their office locations are in their personal homes or in locations that are confidential for their safety. Requiring that their complete contact information be disclosed on an agency’s website could put their safety and the safety of their coworkers in jeopardy. Allowing personal location information to be published on agency websites, especially for law enforcement officers, could act as a valuable resource for criminals who wish to do harm to the officers or their families.

Although I understand the importance of providing the public with easy access to the information required by this bill, I believe the spirit and intent of this legislation can be accomplished administratively by simply working with all our state agencies. I plan to direct these agencies to publish the relevant contact information on their websites just as soon as possible.

For the foregoing reason, I disapprove and return the bill.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 25, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 622

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 622 for technical reasons. The bill's title is defective because it does not include one of the code sections contained in the body of the bill, W. V. Code §38-10C-2.

For the foregoing reason, I disapprove and return the bill.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 26, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Senate Bill 172

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 172.

In the title, Enrolled Senate Bill 172 claims to eliminate “the salary for appointed board members [of the Water Development Authority] effective July 1, 2017.” Instead, the bill arguably increases the compensation for board members by requiring that they be paid the same daily rates as legislators for attending official meetings and engaging in official duties *in addition to the \$12,000 per year salary*. The bill does not explicitly eliminate the salary for Water Development Authority members.

Because the contents of Senate Bill 172 do not reflect the bill’s stated objective, I disapprove and return Enrolled Senate Bill 172.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 26, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 239

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 239.

This bill creates a significant hardship on employers and employees for a convenient practice that has become commonplace in today's society, authorizing employee payroll deductions. Payroll deductions are used for a variety of purposes, such as employee benefit payments, donations to non-profit organizations (i.e., the United Way), and employee membership dues. Current law requires an employee to complete a payroll deduction authorization prior to any deduction being made by an employer from the employee's paycheck. The authorization continues until the employee changes or discontinues it.

Enrolled Committee Substitute for Senate Bill 239 modifies the definition of deduction to exclude amounts for authorized credit unions, charities, outside savings plans, or union or club dues. It places an unnecessary burden on businesses, and an inconvenience on employees and organizations receiving deductions, by mandating the creation of a new wage assignment *every year* to continue the authorization.

Therefore, I disapprove and return Enrolled Committee Substitute for Senate Bill 239.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 26, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 255

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 255.

In this bill, the Legislature adopts the overarching policy that the political party of the person appointed to fill a vacancy in an Executive Constitutional Office, the West Virginia Legislature, or a county commissioner or clerk office is dependent on which political party the individual “was affiliated *at the time the vacancy occurred.*” (emphasis added) In *State ex. rel. Biafore v. Tomblin*, 782 S.E.2d 223 (2016), the Supreme Court of Appeals of West Virginia interpreted the West Virginia Code to require that, for the vacancy of a State Senator who was elected as a Democrat but switched his party registration to Republican, the Governor was required to appoint a Republican to fill his office. The Supreme Court stated that its “decision is grounded in law, not in ideology or politics.” *Id.* at 232. Yet, the Legislature would use the holding of this case to justify codifying current law and public policy.

Unfortunately, the current law makes for short-sighted public policy. It rewards political tomfoolery rather than the will of the

voters in the previous election. If applied to a situation where a Republican or Democrat switches his or her party registration to the Communist Party before vacating the office, Enrolled Committee Substitute for Senate Bill 255 would require the Governor to appoint a replacement from the Communist Party. That unfathomable scenario is possible under this bill, and I cannot sign it into law.

For the foregoing reasons, I disapprove and return Enrolled Committee Substitute for Senate Bill 255.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 26, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 441

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 441. This well-intentioned legislation establishes the Municipal Home Rule Pilot Program as a permanent program, provides all 234 West Virginia

municipalities an opportunity to participate in the program, and resolves a pending legal issue before the Supreme Court of Appeals of West Virginia regarding the authority of municipalities to pass ordinances for the licensing and certification of certain public employees.

But Enrolled Committee Substitute for Senate Bill 441 expands the obligations of the Municipal Home Rule Board *without* addressing the costs or potential liabilities associated with these expanded obligations. The bill fails to address legal issues that have surfaced during the Pilot Program, including the Board's inability to retain legal counsel when necessary and the limits of a municipality's authority to adopt ordinances that supersede State statutes regarding the restrictions that can be placed on roadways under the jurisdiction of the Division of Highways. These shortcomings in the legislation require a veto of the bill.

Therefore, I disapprove and return Enrolled Committee Substitute for Senate Bill 441.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 26, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 606

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 606 for public policy reasons.

Senate Bill 606 provides an exemption to the Minimum Wage — Maximum Hour Act for recreational establishments that meet a business duration or average receipt condition and that pay employees in an annual amount at least equal to the WV minimum wage (\$8.75) times 2080 hours. The annual payment amount condition reads “on a salary basis in an annual amount of not less than” \$18,200.00 (\$8.75 x 2080 hours). To calculate this exemption, the employer must wait until either the end of the calendar year or upon the employee’s termination, which opens the employer up to possible back wages owed to the employee. The calculation of the annual salary condition is a complex and complicated calculation that could be confusing to businesses trying to qualify for the exemption.

Further, if there is confusion in the application of this condition and employees’ salaries are incorrect, it could pose a significant burden to a group of West Virginia workers that can least afford an error in their pay — minimum wage workers.

Because of potential confusion by businesses in the implementation of the conditions for the exemption and the importance of protecting the minimum wage component for West Virginia workers, I disapprove and return Enrolled Committee Substitute for Senate Bill 606.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 26, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 656

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 656. This bill would expressly grant a student assessment vendor the authority to sell student data without appropriate privacy protections in place.

Enrolled Committee Substitute Senate Bill 656 gives a student assessment vendor the right to sell student data to third parties if consent is obtained either from the student (15 years of age or older) or from the parents (under 15). This bill does not include appropriate privacy safeguards and, therefore, I disapprove and return Enrolled Committee Substitute for Senate Bill 656.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 26, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 2196

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2196. This bill would allow home school, private school, and parochial school students to be eligible to participate in Secondary School Activities Commission (SSAC) interscholastic activities.

The bill is unnecessary due to Enrolled Committee Substitute for Senate Bill 630 being signed into law. Specifically, Enrolled Committee Substitute for Senate Bill 630 permits home school and private school students to participate in co-curricular and extracurricular activities in a school district if enrolled in a virtual school program, and it further requires students enrolled in a virtual school program to be counted in the net enrollment of the school district for the purposes of calculating and receiving state aid. I believe this would more effectively assist counties with offsetting any costs incurred for non-public school students that opt to participate in SSAC co-curricular and extracurricular activities.

I believe Enrolled Committee Substitute for Senate Bill 630 provides a better solution to address this issue moving forward and, therefore, I disapprove and return Enrolled Committee Substitute for House Bill 2196.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 26, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 2589

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2589. This bill requires county boards of education to equally enroll home school and private school students in vocational school course offerings and further prohibits counties from charging for the additional admission of home school and private school students.

Enrolled Committee Substitute for House Bill 2589 restricts counties ability to make local education decisions. Specifically, the bill requires counties to enroll home school and private school students in vocational school course offerings, without school district approval or consideration of current class capacity, which would place a financial burden on our counties. Current state law already permits home school students to participate in public school course offerings, including Career and Technical Education courses offered at vocational schools and, therefore, the provisions of Enrolled Committee Substitute for House Bill 2589 are duplicative.

I disapprove and return Enrolled Committee Substitute for House Bill 2589 for the aforementioned reasons.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

April 26, 2017

Veto Message

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 2646

Dear Secretary Warner:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 2646. The WV Women's Commission exists to encourage better health and wellbeing for women in West Virginia through educational, political and economic participation. Women in West Virginia rank near the bottom nationally both in political participation (48th) and employment and earnings (51st). They also have unhealthy rankings nationally in poverty and education (49th) and health and well-being rates (44th)¹.

Now more than ever, the Women's Commission is needed in West Virginia and should not be terminated. Critical to the success of West Virginia women is the continued work of the Women's

Commission. Our state's women are too important to be allowed to fall behind in our state's economy. West Virginia needs the women of our state to succeed. Without their success, West Virginia cannot succeed.

For the foregoing reasons I disapprove and return the Enrolled Committee Substitute for House Bill 2646.

Sincerely,

Jim Justice,
Governor.

¹ All data taken from the 2015 Institute for Women's Policy Research, Status of the Women in the States report.

There being no further business to come before the House, at 1:24 a.m., on motion of Delegate Cowles, the House of Delegates adjourned *sine die*.

We hereby certify that the forgoing record of the proceedings of the House of Delegates, First Regular Session, 2017, is the Official Journal of the House of Delegates for said session.

Tim Armstead
Speaker of the House of Delegates

Stephen J. Harrison
Clerk of the House of Delegates