

JOURNAL of THE SENATE State of West Virginia

EIGHTY-FOURTH LEGISLATURE

Regular Sixty-Day Session, 2019

First Extraordinary Session, 2019

Second Extraordinary Session, 2019

VOLUME II



NOTE: The second volume continues with Journal proceedings proper (page 1135) of February 18 and concludes with the proceedings of March 7 ending with page 2276 of the Regular Session.

(2) The rule shall designate which county school district is required to pay for a student attending a public charter school; and

(3) The rule shall require the Department of Education to follow federal requirements in ensuring that federal funding follows the student to a public charter school.

(b) The state board may promulgate a rule in accordance with §29A-3B-1 et seq. of this code to clarify, if necessary, the requirements of this article and address any unforeseen issues that might arise relating to the implementation of the requirements of this article. The rule also shall include a provision prohibiting a county board from discrimination against any district employee involved directly or indirectly with an application to establish a public charter school under this article.

(c) The state board may promulgate a rule in accordance with §29A-3B-1 et seq. of this code, if necessary, for ensuring the accountability of public charter schools for meeting the standards for student performance required of other public school students under §18-2E-5 of this code and the accountability of authorizers for ensuring that those standards are met in the schools authorized by it. If an authorizer fails to close a charter school that does not meet the standards, the authorizer shall appear before the State Board to justify its decision. The State Board may uphold or overturn the authorizer's decision and may revoke the authority of the authorizer to authorize charter schools.

(d) Notwithstanding any other provision of this article to the contrary, the state board may promulgate a rule in accordance with §29A-3B-1 et seq. of this code which allows the schools for the deaf and blind to apply to the state board for authorization to become a public charter school.

§18-5G-12. Access to public facilities.

(a) A public charter school may request usage of public facilities from a local county board where the charter school is located. A local county board or other public entity shall make facilities available to the charter school that are either not used in

whole or in part for classroom instruction at the time the charter school seeks to use or lease the public facility.

(b) If a charter school seeks to lease the whole or part of a public facility, the cost of the lease must be at or under current market value.

(c) During the term of the lease, the charter school is solely responsible for the direct expenses related to the public facility lease, including utilities, insurance, maintenance, repairs and remodeling. The county school board is responsible for any debt incurred or liens that are attached to the school building before the charter school leases the public facility.

§18-5G-13. Reports.

(a) An authorizer that has authorized a public charter school that is currently in operation shall submit to the state superintendent for presentation to the state board and the West Virginia Public Charter School Commission an annual report within 60 days of the end of each school fiscal year summarizing:

(1) The performance of the public charter schools overseen by the authorizer, according to the performance measures and expectations specified in the charter contracts;

(2) The authorizing duties and functions provided by the authorizer during the previous academic year.

(b) One year after public charter schools have been in operation, and each year thereafter, the State Superintendent shall issue to the Governor, the Legislature, and the general public, a report on the state's public charter school program, drawing from the annual reports submitted by authorizers pursuant to this section, as well as any additional relevant data compiled by the State Superintendent up to the school year ending in the preceding calendar year. The report must include an assessment of the public charter school program's successes, challenges, and areas for improvement in meeting the purposes of this chapter as well as any suggested changes in state law or policy necessary to strengthen the public charter school program.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**§18-7A-3. Definitions.**

As used in this article, unless the context clearly requires a different meaning:

(1) “Accumulated contributions” means all deposits and all deductions from the gross salary of a contributor plus regular interest.

(2) “Accumulated net benefit” means the aggregate amount of all benefits paid to or on behalf of a retired member.

(3) “Actuarially equivalent” or “of equal actuarial value” means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, “actuarially equivalent” shall be computed using the mortality tables and interest rates required to comply with those requirements.

(4) “Annuities” means the annual retirement payments for life granted beneficiaries in accordance with this article.

(5) “Average final salary” means the average of the five highest fiscal year salaries earned as a member within the last 15 fiscal years of total service credit, including military service as provided in this article, or if total service is less than 15 years, the average annual salary for the period on which contributions were made: *Provided*, That salaries for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code.

(6) “Beneficiary” means the recipient of annuity payments made under the retirement system.

(7) “Contributor” means a member of the retirement system who has an account in the teachers accumulation fund.

(8) “Deposit” means a voluntary payment to his or her account by a member.

(9) “Employer” means the agency of and within the state which has employed or employs a member.

(10) “Employer error” means an omission, misrepresentation, or violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required. A deliberate act contrary to the provisions of this section by a participating public employer does not constitute employer error.

(11) “Employment term” means employment for at least 10 months, a month being defined as 20 employment days.

(12) “Gross salary” means the fixed annual or periodic cash wages paid by a participating public employer to a member for performing duties for the participating public employer for which the member was hired. Gross salary shall be allocated and reported in the fiscal year in which the work was done. Gross salary also includes retroactive payments made to a member to correct a clerical error, or made pursuant to a court order or final order of an administrative agency charged with enforcing federal or state law pertaining to the member’s rights to employment or wages, with all retroactive salary payments to be allocated to and considered paid in the periods in which the work was or would have been done. Gross salary does not include lump sum payments for bonuses, early retirement incentives, severance pay or any other fringe benefit of any kind including, but not limited to, transportation allowances, automobiles or automobile allowances, or lump sum payments for unused, accrued leave of any type or character.

(13) “Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

(14) “Member” means any person who has accumulated contributions standing to his or her credit in the state Teachers Retirement System. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited, or until cessation of membership pursuant to §18-7A-13 of this code.

(15) “Members of the administrative staff of the public schools” means deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

(16) “Members of the extension staff of the public schools” means every agricultural agent, boys’ and girls’ club agent and every member of the agricultural extension staff whose work is not primarily stenographic, clerical, or secretarial.

(17) “New entrant” means a teacher who is not a present teacher.

(18) “Nonteaching member” means any person, except a teacher member, who is regularly employed for full-time service by: (A) Any county board of education; (B) the State Board of Education; (C) the Higher Education Policy Commission; (D) the West Virginia Council for Community and Technical College Education; ~~or~~ (E) a governing board, as defined in §18B-1-2 of this code; or (F) a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its approved charter application a determination to participate in the retirement systems under this article and §18-7B-1 et seq. of this code, subject to §18-7B-7a: Provided, That any person whose employment with the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board commences on or after July 1, 1991, is not considered a nonteaching member.

(19) “Plan year” means the 12-month period commencing on July 1 and ending the following June 30 of any designated year.

(20) “Present member” means a present teacher or nonteacher who is a member of the retirement system.

(21) “Present teacher” means any person who was a teacher within the 35 years beginning July 1, 1934, and whose membership in the retirement system is currently active.

(22) “Prior service” means all service as a teacher completed prior to July 1, 1941, and all service of a present member who was employed as a teacher, and did not contribute to a retirement account because he or she was legally ineligible for membership during the service.

(23) “Public schools” means all publicly supported schools, including colleges and universities in this state.

(24) “Refund beneficiary” means the estate of a deceased contributor or a person he or she has nominated as beneficiary of his or her contributions by written designation duly executed and filed with the retirement board.

(25) “Regular interest” means interest at four percent compounded annually, or a higher earnable rate if set forth in the formula established in legislative rules, series seven of the Consolidated Public Retirement Board, 162 CSR 7.

(26) “Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay.

(27) “Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar year in which the member retires or ceases covered employment under the system after having attained the age of 70 and one-half years.

(28) “Retirant” means any member who commences an annuity payable by the retirement system.

(29) “Retirement board” means the Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq.* of this code.

(30) “Retirement system” means the state Teachers Retirement System established by this article.

(31) “Teacher member” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads, and assistant heads of the divisions under his or her supervision, or any other employee under the State Superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, the State Department of Education or the State Teachers Retirement Board, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and Rehabilitation, the Division of Health or the Division of Human Services; (K) an employee of the State Board of School Finance, if that person was formerly employed as a teacher in the public schools; ~~and~~ (L) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 *et seq.* of this code who elects to remain a member of the State Teachers Retirement System provided in this article; and (M) any person employed by a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its approved charter application a determination to participate in the retirement systems under this article and §18-7B-1 *et seq.* of this code.

(32) “Total service” means all service as a teacher or nonteacher while a member of the retirement system since last becoming a member and, in addition thereto, credit for prior service, if any.

Age in excess of 70 years shall be considered to be 70 years.

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.**§18-7B-2. Definitions.**

As used in this article, unless the context clearly requires a different meaning:

(1) "Annual addition" means, for purposes of the limitations under Section 415(c) of the Internal Revenue Code, the sum credited to a member's account for any limitation year of: (A) Employer contributions; (B) employee contributions; and (C) forfeitures. Repayment of cashouts or contributions as described in Section 415(k)(3) of the Internal Revenue Code, rollover contributions and picked-up employee contributions to a defined benefit plan shall not be treated as annual additions, consistent with the requirements of Treasury Regulation §1.415(c)-1;

(2) "Annuity account" or "annuity" means an account established for each member to record the deposit of member contributions and employer contributions and interest, dividends or other accumulations credited on behalf of the member;

(3) "Compensation" means the full compensation actually received by members for service whether or not a part of the compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions: *Provided*, That annual compensation for determining contributions during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code: *Provided, however*, That solely for purposes of applying the limitations of Section 415 of the Internal Revenue Code to any annual addition, "compensation" has the meaning given it in §18-7B-13(d) of this code;

(4) "Consolidated board" or "board" means the Consolidated Public Retirement Board created and established pursuant to §5-10D-1 *et seq.* of this code;

(5) “Defined contribution system” or “system” means the Teachers’ Defined Contribution Retirement System created and established by this article;

(6) “Employer” means the agency of and within the State of West Virginia which has employed or employs a member;

(7) “Employer contribution” means an amount deposited into the member’s individual annuity account on a periodic basis coinciding with the employee’s regular pay period by an employer from its own funds;

(8) “Employment term” means employment for at least 10 months in any plan year with a month being defined as 20 employment days;

(9) “Existing employer” means any employer who employed or employs a member of the system;

(10) “Existing retirement system” means the State Teachers Retirement System established in §18B-7A-1 *et seq.* of this code;

(11) “Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended;

(12) “Member” or “employee” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education or the State Department of Education, if that person was formerly employed as a teacher in

the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and the Department of Health and Human Resources; (K) any person who is regularly employed for full-time service by any county board of education or the State Board of Education; (L) the administrative staff of the public schools including deans of instruction, deans of men and deans of women, and financial and administrative secretaries; ~~and~~ (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the Teachers' Defined Contribution Retirement System established by this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its approved charter application a determination to participate in the retirement systems under this article, subject to §18-7B-7a, and §18-7A-1 et seq. of this code;

(13) "Member contribution" means an amount reduced from the employee's regular pay periods, and deposited into the member's individual annuity account within the Teachers' Defined Contribution Retirement System;

(14) "Permanent, total disability" means a mental or physical incapacity requiring absence from employment service for at least six months: *Provided*, That the incapacity is shown by an examination by a physician or physicians selected by the board: *Provided, however*, That for employees hired on or after July 1, 2005, "permanent, total disability" means an inability to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months and the incapacity is so severe that the member is likely to be permanently unable to perform the duties of the position the member occupied immediately prior to his or her disabling injury or illness;

(15) "Plan year" means the 12 month period commencing on July 1 of any designated year and ending on the following June 30;

(16) “Public schools” means all publicly supported schools, including normal schools, colleges and universities in this state;

(17) “Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay;

(18) “Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar year in which the member retires or otherwise ceases employment with a participating employer after having attained the age of 70 and one-half years;

(19) “Retirement” means a member’s withdrawal from the active employment of a participating employer and completion of all conditions precedent to retirement;

(20) “Year of employment service” means employment for at least 10 months, with a month being defined as 20 employment days: *Provided*, That no more than one year of service may be accumulated in any 12 month period.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.

(a) The county attendance director and the assistants shall diligently promote regular school attendance. The director and assistants shall:

(1) Ascertain reasons for unexcused absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age as defined under section one-a of this article;

(2) Take such steps as are, in their discretion, best calculated to encourage the attendance of students and to impart upon the parents

and guardians the importance of attendance and the seriousness of failing to do so; and

(3) For the purposes of this article, the following definitions shall apply:

(A) “Excused absence” shall be defined to include:

(i) Personal illness or injury of the student or in the family;

(ii) Personal illness or injury of the student’s parent, guardian, custodian, or family member: Provided, That the excuse must provide reasonable explanation for why the student’s absence was necessary and caused by the illness or injury in the family;

~~(iii)~~ Medical or dental appointment with written excuse from physician or dentist;

(iv) Chronic medical condition or disability that impacts attendance;

(v) Participation in home or hospital instruction due to an illness or injury or other extraordinary circumstance that warrants home or hospital confinement;

(vi) Calamity, such as a fire or flood;

(vii) Death in the family;

(viii) School-approved or county-approved curricular or extra-curricular activities;

~~(ix)~~ Judicial obligation or court appearance involving the student;

(x) Military requirement for students enlisted or enlisting in the military;

(xi) Personal or academic circumstances approved by the principal; and

(xii) Such other situations as may be further determined by the county board: Provided, That absences of students with disabilities shall be in accordance with the Individuals with Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in compliance therewith.

(B) “Unexcused absence” shall be any absence not specifically included in the definition of “excused absence”.

(b) In the case of three total unexcused absences of a student during a school year, the attendance director, or assistant, or principal shall ~~serve written notice 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 or other designated representative will be required.~~ make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending and not incurring any additional unexcused absences.

(c) In the case of five total unexcused absences, the attendance director or assistant or principal shall ~~serve written notice to the parent, guardian or custodian of the student that within five days of receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in person to the school the student attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the unexcused absences of the student, including the adjustment of unexcused absences based upon such meeting.~~ again make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending school and not incurring any additional unexcused absences.

(d) In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant shall make a complaint against the parent, guardian, or custodian before a magistrate of the county. If it appears from the complaint that there

is probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian, or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within 10 calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

(e) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least 10 days' advance notice of the date, time, and place of the hearing.

(f) When any doubt exists as to the age of a student absent from school, the attendance director and assistants have authority to require a properly attested birth certificate or an affidavit from the parent, guardian, or custodian of the student, stating age of the student. In the performance of his or her duties, the county attendance director and assistants have authority to take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

(g) The county attendance director and assistants shall devote such time as is required by section three of this article to the duties of attendance director in accordance with this section during the instructional term and at such other times as the duties of an attendance director are required. All attendance directors and assistants hired for more than 200 days may be assigned other duties determined by the superintendent during the period in excess of 200 days. The county attendance director is responsible under

direction of the county superintendent for efficiently administering school attendance in the county.

(h) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to §29A-3B-1 *et seq.* of this code that sets forth student absences that are excluded for accountability purposes. The absences that are excluded by the rule include, but are not limited to, excused student absences, students not in attendance due to disciplinary measures, and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in such other ways as the county superintendent may direct for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided above, or if requested by the chief administrator, principal, or assistant principal; and

(9) Serve as the liaison for homeless children and youth.

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 §18-4-1 *et seq.* of this code.

(d) “Professional educator” shall be synonymous with and shall have the same meaning as “teacher” as defined in §18-1-1 of this code, 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 §18-1-1 of this code 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. Professional student support personnel shall also include professional personnel providing direct social and emotional support services to students.

including but not limited to, social workers and psychologists. 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 §18A-4-8a of this code.

(h) “Service personnel” means all personnel as provided in §18A-4-8 of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by 200: Provided, That the computation for any service person employed for three and one-half hours or less per day as provided in §18A-4-8a of this code shall be 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 ~~4,000~~ 2,500 of those adults counted on the basis of full-time equivalency and apportioned annually to each county to support Advanced Career Education programs, as provided in §18-2E-11 of this code, in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency: *Provided, That beginning with the 2021 fiscal year and every year thereafter, a career technical education center may only receive the funding for enrollment as authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code;* 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 §18-5-44 of this code, counted on the basis of full-time equivalency;

(3) ~~No pupil shall~~ A pupil may not 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 1,400, the net enrollment of the county shall be ~~increased by an amount to be determined in accordance with the following~~ considered to be 1,400 for the purposes of determining the county's basic foundation program only. During the 2019-2020 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 sparse population density.

~~(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 10.

(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 10 but less than 20.

(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 20.

(n) “Levies for general current expense purposes” means 90 percent of the levy rate for county boards of education ~~calculated or set by the Legislature~~ as determined pursuant to §11-8-6f of this code. The levy rate shall be assumed to be the rate established in that section and not an increased rate established by a county board.

(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.

(q) The amendments to this section during the 2019 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the 2019 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

§18-9A-8. Foundation allowance for professional student support services.

(a) The basic foundation allowance to the county for professional student support personnel shall be the amount of money determined in accordance with the following:

(1) The sum of the state minimum salaries, as determined in accordance with the provisions of §18-4-1 *et seq* of this code, for all state aid eligible school nurse and counselor positions in the county during the 2008 fiscal year which number shall be reduced in the same proportion as the number of professional educators allowed to be funded under §18-9A-4 of this code to the total number of professional educators employed that are state aid eligible. In performing this calculation, the numerator shall be the number of professional educators actually funded under section four of this article and the denominator shall be the total number of professional educators employed that are eligible to be funded under §18-9A-4 of this code;

(2) The amount derived from the calculation in §18-9A-8(a)(1) of this code is increased by one half percent;

(3) The amount derived from the calculation in §18-9A-8(a)(2) of this code is the basic foundation allowance to the county for professional student support personnel for the 2009 fiscal year;

(4) For fiscal years 2010, 2011, 2012 and 2013, the basic foundation allowance to the county for professional student support personnel increases by one-half percent per year over the allowance for the previous year; and

(5) For all fiscal years thereafter until fiscal year 2020, the basic foundation allowance to the county for professional student support personnel remains the same amount as in the 2013 fiscal year, plus any additional amount of funding necessary to cover the increases in the State Minimum Salary Schedule set forth in §18A-4-2 of this code effective for the fiscal year beginning July 1, 2018, and thereafter.

(b) The additional positions for counselors that may be created as a result of the one percent increase provided pursuant to this section shall be assigned to schools where the counselor can:

(1) Enhance student achievement;

(2) Provide early intervention for students in grades prekindergarten through five; and

(3) Enhance student development and career readiness.

(c) Effective for the 2019-20 fiscal year and thereafter, the basic foundation allowance to the county for professional student support personnel is the amount of money required to pay the state minimum salaries, in accordance with provisions of §18A-4-1 et seq. of this code, subject to the following:

(1) In making this computation, each county shall receive an allowance for four and seventy hundredths state aid eligible professional student support personnel positions to each 1,000 students in net enrollment;

(2) For any professional student support personnel positions, or fraction thereof, determined for a county pursuant to §18-9A-8(c)(1) of this code that exceed the number employed, the county's allowance for these positions shall be determined using the average state funded salary of professional student support personnel for the county;

(3) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

(4) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional student support 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 limit.

(5) For the 2019-20 fiscal year only, the number of positions funded for each county by subdivision (1) cannot be less than the number of positions that would have been funded in accordance with the previous methodology for determining the number of professional student support personnel positions funded for each county.

§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 is the sum of the following:

(1) For current expense:

(A) The non-salary 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% 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: Provided, That effective July 1, 2019, each county's allowance for current expense is 71.25 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 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 is made proportional to the number of service personnel authorized for the county in compliance with section five of this article; 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 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 §18-5A-5 of this code. Decisions for the expenditure of such funds are made at the school level by the faculty senate in accordance with the provisions of ~~said~~ §18-5A-5 of this code and 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-10a. Allowance for education savings accounts.

(a) Subject to subsection (b) of this section, an amount equivalent to 75 percent of the prior year's statewide average net state aid allotted per pupil based on net enrollment for state aid purposes multiplied by 1,000 shall be paid annually by the Department of Education to the West Virginia State Treasurer's Office solely for the purposes of the education savings account program set forth in §18-31-1 et seq. of this code.

(b) For any fiscal year in which funds paid to the Treasurer's Office pursuant to subsection (a) of this section accumulate due to the existence of fewer than 1,000 education savings accounts, the amount paid by the Department of Education to the Treasurer's Office shall be reduced to the amount required to ensure there is sufficient funding available to pay into 1,000 education service accounts for the fiscal year.

(c) The Treasurer's Office shall report to the Department of Education at the end of each fiscal year on the balance of funds paid to the Treasurer's Office pursuant to this section that have not been deposited into an education savings account.

(d) The state board may, by rule, determine how the fund transfer to the treasurer shall be accomplished.

§18-9A-12. County basic foundation; total basic state aid allowance.

(a) The basic foundation program for each county for the fiscal year shall be the sum of the amounts computed in accordance with the provisions of sections four, five, six, seven, eight, nine, and ten of this article. On the first working day of July in each year, the State Board shall determine the basic foundation program for each county for that fiscal year. Data used in the computations relating to net and adjusted enrollment, and the number of professional educators, shall be for the second month of the prior school term. Transportation expenditures used in these computations shall be for the most recent year in which data are available. The allocated state aid share of the county's basic foundation program shall be the difference between the cost of its basic foundation program and the county's local share as determined in §18-9A-11 of this code except as provided in subsection (b) of this section: Provided, That for all years after 2018, in calculating the allocated state aid share of the county's basic foundation program, when subtracting the amount of the county's local share, if the county's local share as determined in §18-9A-11 of this code is greater than the county's local share was determined to be for fiscal year 2015-2016, then the allocated state aid share of the county's basic foundation program shall be the difference between the cost of its basic foundation program and the county's 2015-2016 determined local share.

(b) The allocated state aid share shall be adjusted in the following circumstances in the following manner: *Provided, That* prior to such adjustment, the State Tax Commissioner shall provide the State Board, by January 15 of each year, a certified listing of those counties in which such adjustment shall be made pursuant to this subsection, together with the amount of revenue which will not be available to each county board in the ensuing fiscal year as a result of the circumstance:

(1) In those instances where the local share as computed under §18-9A-11 of this code is not reflective of local funds available because the county is under a final court order, or a final decision of a board of assessment appeals under §11-3-24b of this code, to refund or credit property taxes paid in prior years, the allocated state aid share shall be the county's basic foundation program, minus the local share as computed under §18-9A-11 of this code, plus the amount of property tax the county is unable to collect or must refund due to the final court order or final decision of a board of assessment appeals: *Provided*, That said adjustment shall not be made or shall only be made proportionately when the Legislature fails to fund, or funds only in part, the public school basic foundation support plan state share at a level sufficient to cover the reduction in state share: *Provided, however*, That nothing herein provided shall be construed to require or mandate any level of funding by the Legislature.

(2) In those instances where the local share as computed under §18-9A-11 of this code is not reflective of local funds available because the county is collecting tax based upon an assessed value which is less than that determined by the tax commissioner in the most recent published survey of property valuations in the state due to an error in the published survey, which error is certified to by the tax commissioner, the allocated state aid share shall be the county's basic foundation program, minus the local share as computed under §18-9A-11 of this code, plus the amount of property tax the county is unable to collect based on differences in the assessed valuation between those in the most recent published survey of valuation and the corrected assessed value actually levied upon by the county: *Provided*, That said adjustment shall not be made or shall only be made proportionately when the Legislature fails to fund or funds only in part the public school basic foundation support plan state share at a level sufficient to cover the reduction in state share: *Provided, however*, That nothing herein provided shall be construed to require or mandate any level of funding by the Legislature.

(3) In instances where a county is unable to collect property taxes from a taxpayer during the pendency of any court proceeding,

the allocated state aid share shall be the county's basic foundation program minus the local share as computed under §18-9A-11 of this code, plus the amount the county is unable to collect as a result of the pending court proceedings as certified by the tax commissioner: *Provided*, That the county is required to reimburse the amount of allocated state aid share attributable to the amount of property tax it later receives upon completion of court proceedings, which shall be paid into the General Revenue Fund of the state: *Provided, however*, That said adjustment shall not be made or shall only be made proportionately when the Legislature fails to fund or funds only in part the public school basic foundation support plan state share at a level sufficient to cover the reduction in state share: *Provided further*, That nothing herein provided shall be construed to require or mandate any level of funding by the Legislature.

(c) The allocated state aid share shall be adjusted in any county receiving payments or contributions in lieu of property taxes. In instances where a county receives payments or contributions in lieu of property taxes, the allocated state aid share shall be the county's basic foundation program minus the local share as computed under §18-9A-11 of this code, plus any amounts added pursuant to subsection (b) of this section minus the payments or contributions in lieu of property taxes which are distributed by the sheriff to the county board of education. In determining the amount of such contribution or payment in lieu of taxes, each county commission shall provide to the State Tax Commissioner, by January 1 of each year, the total amount of such payments or contributions paid to the county and the proportion of the total amount that has been or will be distributed to the county board of education. The State Tax Commissioner then shall provide the State Board, by January 15 of each year, a certified listing of those counties in which an adjustment pursuant to this section shall be made, together with the amount of revenue which will be available to each county board in the ensuing fiscal year as a result of contribution or payment in lieu of taxes.

(d) Total basic state aid to the county shall be the computed state share of basic foundation support. After such computation is

completed, the State Board shall immediately certify to each county board the amount of state aid allocated to the county for that fiscal year, subject to any qualifying provisions of this article.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-5. Powers and duties of state superintendent.

(a) The State Superintendent of Schools shall organize, promote, administer, and be responsible for:

(1) Stimulating and assisting county boards ~~of education~~ in establishing, organizing, and maintaining special schools, classes, regular class programs, home-teaching, and visiting-teacher services for exceptional children.

(2) Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating, and rehabilitating exceptional children, and in helping coordinate the services of such agencies.

(3) (A) Preparing the necessary rules, policies, ~~formula~~ and formulas for distribution of available appropriated funds, reporting forms, and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification, and approval of qualified teachers and therapists subject to approval by the State Board of Education: *Provided*, That no state rule, policy, or standard under this article or any county board rule, policy, or standard governing special education may exceed the requirements of federal law or regulation.

(B) ~~An~~ A separate appropriation shall be made to the Department of Education to be ~~distributed~~ disbursed to county boards and public charter schools authorized pursuant to §18-5G-1 et seq. of this code to ~~support children~~ assist them with serving exceptional children with high cost/high acuity special needs that exceed the capacity of county to provide with funds available. Each county board and public charter school shall apply to the state superintendent ~~for receipt of~~ to receive this funding in a manner set forth by the state superintendent that assesses and takes into

account varying acuity levels of the exceptional students. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be ~~distributed~~ disbursed to county boards and public charter schools for this purpose before any of the state appropriation is ~~distributed~~ disbursed. The state board shall promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code that implements the provisions of this subdivision relating to ~~distributing~~ disbursing the funds to the county boards and public charter schools. The rule at least shall include a definition for “children with high acuity needs”.

(4) Receiving from county boards ~~of education and public charter schools~~, their applications, annual reports, and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims, and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Assuring that all exceptional children in the state, including children in mental health facilities, residential institutions, private schools and correctional facilities as provided in §18-2-13f of this code receive an education in accordance with state and federal laws: *Provided*, That the state superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor.

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

~~(7) Receive the county plan for integrated classroom submitted by the county boards of education and submit a state plan, approved by the State Board of Education, to the Legislative Oversight Commission on Education Accountability no later than December 1, 1995~~

(b) Nothing contained in this section shall be construed to prevent any county board ~~of education~~ from establishing and maintaining special schools, classes, regular class programs, home-teaching, or visiting-teacher services for exceptional children out of funds available from local revenue.

ARTICLE 31. EDUCATION SAVINGS ACCOUNT PROGRAM.**§18-31-1. Short title.**

This article shall be known as the “Education Savings Account Act” or “ESA Act.” The program created by the ESA Act shall be known as the “Education Savings Account Program” or “ESA Program.”

§18-31-2. Definitions.

The following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) “Account” or “ESA” means an education savings account, awarded pursuant to this article, to which funds are allocated by the treasurer to the parent or parents of an ESA student in order to pay qualifying education expenses to educate the student pursuant to the requirements and conditions of this article;

(2) “Curriculum” means a complete course of study for a particular content area or grade level, including any supplemental materials required by the curriculum;

(3) “Education service provider” means a person or organization that receives payments from education savings accounts to provide educational goods and services to ESA students;

(4) “Eligible student” means an elementary or secondary student who has attended a West Virginia public school in the prior school year, is not attending a public school outside of West Virginia, and:

(i) Possesses and Individualized Education Plan (IEP) written in accordance with rules established by the State Board;

(ii) Was determined IDEA eligible by a multidisciplinary evaluation team;

(iii) possesses a 504 plan;

(iv) Is medically diagnosed by a licensed physician in one of the IDEA disability categories under 20 USC 1401(3)(A); or

(v) Was the victim of a prohibited incident of harassment, intimidation or bullying pursuant to §18-2C-1, et seq., of this code;

(5) “ESA student” means a student who receives an account pursuant to this article;

(6) “Parent” means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student or ESA student;

(7) “Participating school” means any private school that provides education to elementary and/or secondary students and has notified the treasurer of its intention to participate in the program and comply with the program’s requirements;

(8) “Resident school district” means the county school district in which the student resides; and

(9) “Treasurer” means the West Virginia State Treasurer’s Office or an organization that the Treasurer has contracted with to carry out any or all portions of this article.

§18-31-3. Basic elements of the Education Savings Account Program.

(a) The amount of funds deposited in an account pursuant to this article shall be an amount equivalent to 75 percent of the prior year’s statewide average net state aid allotted per pupil based on net enrollment adjusted for state aid purposes. The funds deposited shall be derived from the amount paid by the Department of Education to the treasurer pursuant to §18-9A-10a of this code.

(b) Parents of an ESA student shall agree to use the funds deposited in their student’s ESA only for the following qualifying expenses to educate the ESA student:

(1) Tuition and/or fees at a private school;

(2) Tutoring services provided by an individual or a tutoring facility; and

(3) Fees for nationally standardized assessments, advanced placement examinations, any examinations related to college or university admission, and tuition and/or fees for preparatory courses for the aforementioned exams.

(c) The funds in an ESA may only be used for educational purposes in accordance with §18-31-3(d) of this code.

(d) ESA funds may not be refunded, rebated, or shared with a parent or ESA student in any manner. Any refund or rebate for goods or services purchased with ESA funds shall be credited directly to the student's ESA.

(e) Parents are allowed to make payments for the costs of educational goods and services not covered by the funds in their student's ESA. However, personal deposits into an ESA is not permitted.

(f) Funds deposited in an ESA do not constitute taxable income to the parent or the ESA student.

(g) An ESA shall remain in force, and any unused funds shall roll over from quarter-to-quarter and from year-to-year until the parent withdraws the ESA student from the ESA Program or until the ESA student graduates from college with a bachelor's degree, unless the ESA is closed because of a substantial misuse of funds. However, if an ESA student has not enrolled in a postsecondary institution within four years after graduating from high school, or if an ESA student turns 24 years of age, whichever occurs first, the ESA shall be closed and any unused funds revert to the treasurer and be allocated to fund other ESAs.

(h) Nothing in this article requires that an ESA student must be enrolled, full or part-time, in either a private school or nonpublic online school.

§18-31-4. Application for an Education Savings Account.

(a) A parent may apply to the treasurer to establish an ESA for an eligible student at any point on or after July 1, 2019. The household income of an eligible student shall be less than \$150,000 per year to qualify for the education savings account program. For purposes of this article, the household income shall be the adjusted gross income claimed for federal income tax purposes by the biological parent or parents, legal guardian or guardians, custodian or custodians, or person or persons with legal authority to act on behalf of an eligible student plus any income of the eligible student. The treasurer shall develop a process for verifying the income of any applicant for the education savings account.

(b) The treasurer shall accept and approve applications year-round and shall establish procedures for approving applications in an expeditious manner: *Provided*, That the number of education savings accounts may not exceed 1,000 total at any one time.

(c) The treasurer shall create a standard form that parents can submit to establish their student's eligibility for the ESA Program and shall ensure that the application is readily available and may be submitted through various sources, including the Internet.

(d) The treasurer shall approve an application for an ESA if:

(1) The parent submits an application for an ESA in accordance with any application procedures established by the treasurer;

(2) The student on whose behalf the parent is applying is an eligible student;

(3) Funds are available for the ESA; and

(4) The parent signs an agreement with the treasurer, promising:

(A) To provide an education for the eligible student in at least the subjects of reading, language, mathematics, science, and social studies;

(B) Not to enroll the ESA student, full-time, in a district school, an Innovation in Education School, the West Virginia Virtual School, or a West Virginia School for the Deaf and Blind;

(C) To use the funds in the ESA only for qualifying expenses to educate the eligible student as established by the ESA Program; and

(D) To comply with the rules and requirements of the ESA Program.

(E) To afford the ESA student opportunities for educational enrichment such as organized athletics, art, music, or literature.

(e) The signed agreement between the parent and the treasurer shall be consistent with the compulsory school attendance exemption requirements of §18-8-1 *et seq.* of this code and the treasurer shall verify with the Department of Education within 30 days that the student has withdrawn from public school under one of those exemptions.

(f) The treasurer shall annually renew a student's ESA after verifying with the Department of Education that:

(1) For an ESA student who chooses to attend a private school, the school board will communicate their continued attendance; or

(2) For an ESA student who chooses an individualized instructional program, he or she must annually take a nationally normed standardized test of academic achievement and received a score within or above the fourth stanine or if below the fourth stanine, shows improvement from the previous year's results, or a certified teacher conducts a review of the student's academic work and determines that the student is making academic progress commensurate with their age and ability and reports the results to the county board in which the student resides no later than July 30.

A student who has failed to maintain good standing under this subsection may re-establish eligibility for an ESA after complying with another exemption for compulsory school attendance for a period of one school year.

(g) Upon notice to the treasurer, an ESA student may choose to stop receiving ESA funding and enroll full-time in a public school.

(h) Enrolling as a full-time student in a public school shall result in the immediate suspension of payment of additional funds into the student's ESA; however, the ESA shall remain open and active for the parent to make qualifying expenditures to educate the student from funds remaining in the ESA. When or if no funds remain in the student's ESA or the student turns 24, the treasurer may close the ESA.

(i) If an eligible student decides to return to the ESA Program, they must reapply.

(j) The treasurer may adopt rules and policies to provide the least disruptive process for ESA students who desire to stop receiving ESA payments and enroll full-time in a public school.

§18-31-5. Responsibilities of the Treasurer.

In addition to the treasurer's duties, obligations, and authority stated in other parts of this article, the treasurer has the following duties, obligations, and authority:

(1) The treasurer shall maintain an updated list of participating schools and shall ensure that the list is publicly available through various sources, including the Internet.

(2) The treasurer shall provide parents with a written explanation of the allowable uses of ESA funds, the responsibilities of parents, the duties of the treasurer and the role of any private financial management firms or other private organizations that the treasurer may contract with to administer the ESA Program or any aspect of the ESA Program.

(3) The treasurer shall ensure that parents of students with a disability receive notice that participation in the ESA Program is a parental placement under 20 U.S.C. § 1412 of the Individuals with Disabilities Education Act (IDEA) along with an explanation of the rights that parentally placed students possess under (IDEA) and any applicable state laws and regulations.

(4) The treasurer shall contract with private organizations to administer the ESA Program. This includes, but is not limited to, private financial management firms to manage ESAs.

(5) The treasurer may deduct an amount from education savings accounts to cover the costs of administering the ESA Program, up to a maximum of five percent annually in the first two years of the ESA Program and up to a maximum of three percent annually thereafter.

(6) The treasurer shall implement or contract with a private organization to implement a commercially viable, cost effective, and parent-friendly system for payment for services from ESAs to education service providers by electronic or online funds transfer and by debit card. The treasurer shall not adopt a system that relies exclusively on requiring parents to be reimbursed for out-of-pocket expenses, but rather shall provide maximum flexibility to parents by facilitating direct payments to education service providers as well as requests for preapproval of and reimbursements for qualifying expenses, including expenses pursuant to §18-31-3(d)(15) of this code.

(7) The treasurer shall also seek to implement a commercially viable, cost-effective, and parent-friendly system for publicly rating, reviewing, and sharing information about education service providers, ideally as part of the same system that facilitates the electronic or online funds transfers so as to create a one-stop-shop for parents and ESA students.

(8) If an education service provider requires partial payment of tuition or fees prior to the start of the academic year to reserve space for an ESA student admitted to the education service provider, such partial payment may be paid by the treasurer prior to the start of the school year in which the ESA is awarded, and deducted in an equitable manner from subsequent ESA deposits to ensure adequate funds remain available throughout the school year; but if an ESA student decides not to use the education service provider, the partial reservation payment must be returned to the treasurer by such education service provider and credited to the student's ESA.

(9) The treasurer shall continue making deposits into a student's ESA until:

(A) The treasurer determines that the ESA student is no longer an eligible student;

(B) The treasurer determines that there was substantial misuse of the funds in the ESA;

(C) The parent or ESA student withdraws from the ESA Program;

(D) The ESA student enrolls full-time in a public school; or

(E) The ESA student graduates from high school.

(10) The treasurer shall have the authority to conduct or contract for the auditing of individual ESAs, and shall, at a minimum, conduct random audits of ESAs on an annual basis.

(11) The treasurer shall have the authority to make any parent or ESA student ineligible for the ESA Program in the event of intentional and substantial misuse of ESA funds.

(A) The treasurer shall create procedures to ensure that a fair process exists to determine whether an intentional and substantial misuse of ESA funds has occurred.

(B) The treasurer shall have the authority to refer suspected cases of intentional and substantial misuse of ESA funds to the Attorney General for investigation if evidence of fraudulent use of ESA funds is obtained.

(C) A parent or ESA student may appeal the treasurer's decision to make a parent or ESA student ineligible for the ESA Program.

(12) The treasurer may bar an education service provider from accepting payments from ESAs if the treasurer determines that the education service provider has:

(A) Intentionally and substantially misrepresented information or failed to refund any overpayments in a timely manner; or

(B) Routinely failed to provide students with promised educational goods or services.

(13) The treasurer shall create procedures to ensure that a fair process exists to determine whether an education service provider may be barred from receiving payment from ESAs.

(A) If the treasurer bars an education service provider from receiving payments from ESAs, it shall notify parents and ESA students of its decision as quickly as possible.

(B) Education service providers may appeal the treasurer's decision to bar them from receiving payments from ESAs.

(14) The treasurer may accept gifts and grants from any source to cover administrative costs, to inform the public about the ESA Program, or to fund additional ESAs.

(15) The treasurer may adopt rules and policies that are not inconsistent with this article and that are necessary for the administration of this article, including:

(A) Establishing or contracting for the establishment of an online anonymous fraud reporting service;

(B) Establishing an anonymous telephone hotline for fraud reporting;

(C) Policies that require a surety bond for education service providers receiving more than \$100,000 in ESA funds;

(D) Procedures for refunding payments from education service providers back to ESAs; and

(E) Procedures for entering into reciprocal agreements with other state ESA agencies or entities, whether public or private, to recognize and allow education service providers approved in other states to receive payments from ESAs under this article.

(16) Any rules or policies adopted by the treasurer should avoid excessive bureaucracy and overly prescriptive mandates and instead focus on easing parental involvement and encouraging education service providers to provide parents and ESA students with a broad array of educational options.

§18-31-6. Parent Review Committee.

(a) There is created the Parent Review Committee to assist the treasurer in determining whether questionable expenditures meet the requirements to be considered qualifying expenses to educate the ESA student pursuant to §18-31-3(d) of this code, and to provide recommendations to the treasurer about how to implement, administer, and improve the ESA Program.

(b) (1) The Parent Review Committee:

(A) Consists of seven members who are parents of ESA students and represent no fewer than four counties in the state; and

(B) Shall be appointed by the State Treasurer and serve at the State Treasurer's pleasure for one calendar year and may be reappointed; and

(2) The State Treasurer, or the director's designee, serves as the nonvoting chair of the committee.

(c) The treasurer may request the committee to meet, in person or virtually, to determine whether an expenditure of ESA funds is or was a qualifying expense to educate an ESA student pursuant to §18-31-3(d) of this code. The committee may deny or approve questionable expenditures by a majority vote.

(d) The treasurer may also request the committee to meet, in person or virtually, to review appeals of education service provider denials pursuant to §18-31-7 of this code, and to provide a recommendation to the treasurer as to whether an education service provider should be allowed to receive, or continue receiving, payments from ESAs.

§18-31-7. Requirements for and rights of education service providers.

(a) To be eligible to accept payments from an ESA, an education service provider shall:

(1) Submit notice to the treasurer that they wish to participate in the ESA Program;

(2) Provide parents with a receipt for all qualifying educational expenses;

(3) Agree not to refund, rebate, or share ESA funds with parents or ESA students in any manner, except that funds may be remitted or refunded to an ESA in accordance with procedures established by the treasurer;

(4) Certify that it will not discriminate on any basis prohibited by 42 U.S.C. §1981; and

(5) Agree to submit any employee who will have contact with ESA students to a criminal background check.

(b) This article does not limit the independence or autonomy of an education service provider or makes the actions of an education service provider the actions of the state government.

(c) Education service providers shall be given maximum freedom to provide for the educational needs of ESA students without governmental control.

(d) This article does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of education service providers beyond those necessary to enforce the requirements of the program.

§18-31-8. Responsibilities of resident school districts.

The resident school district shall provide an education service provider that has enrolled an ESA student with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC Section 1232 g).

§18-31-9. Legal proceedings.

(a) In any legal proceeding challenging the application of this chapter to a participating entity, the state bears the burden of establishing that the challenged action, rule, or requirement is necessary and does not impose any undue burden on education service providers.

(b) No liability arises on the part of the treasurer or the state or of any county school district based on the award or use of an ESA awarded pursuant to this article.

(c) If any part of this article is challenged in a state court as violating either the state or federal constitutions, parents of eligible and/or ESA students are permitted to intervene in the lawsuit for the purposes of defending the article's constitutionality. However, for the purposes of judicial administration, a court may limit the number of parents permitted to intervene or require that all parents file a joint brief, so long as they are not required to join any brief filed on behalf of any named state defendant.

CHAPTER 18A. SCHOOL PERSONNEL.**ARTICLE 2. SCHOOL PERSONNEL.****§18A-2-8. Suspension and dismissal of school personnel by board; appeal.**

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

(b) A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation

pursuant to section twelve of this article. The charges shall be stated in writing served upon the employee within two days of presentation of the charges to the board.

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

(d) A county board of education has the duty and authority to provide a safe and secure environment in which students may learn and prosper; therefore, it may take necessary steps to suspend or dismiss any person in its employment at any time should the health, safety, and welfare of students be jeopardized or the learning environment of other students has been impacted.

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

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

§18A-3-6. Grounds for revocation of certificates; recalling certificates for correction.

(a) The state superintendent may, after ten days' notice and upon proper evidence, revoke the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; a finding of abuse by the Department of Health and Human Resources in accordance with §49-1-1 et seq of this code; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to obtain the certificates: *Provided*, That the certificates of a teacher may not be revoked for any matter for which the teacher was disciplined, less than dismissal, by the county board that employs the teacher, nor for which the teacher is meeting or has met an improvement plan determined by the county board, unless it can be proven by clear and convincing evidence that the teacher has committed one of the offenses listed in this subsection and his or her actions render him or her unfit to teach: *Provided, however*, That in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The state superintendent may designate the West Virginia commission for professional teaching standards or members thereof to conduct hearings on revocations or certificate denials and make recommendations for action by the state superintendent: *Provided further*, That a teacher convicted under §61-8D-5 or a finding of abuse by the Department of Health and Human Resources under §49-1-1 et seq. of this code shall have his or her certificate or license automatically revoked.

(b) It shall be the duty of any county superintendent who knows of any acts on the part of any teacher for which a certificate may be revoked in accordance with this section to report the same, together with all the facts and evidence, to the state superintendent for such action as in the state superintendent's judgment may be proper.

(c) If a certificate has been granted through an error, oversight, or misinformation, the state superintendent has authority to recall the certificate and make such corrections as will conform to the requirements of law and the state board.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-2. State minimum salaries for teachers.

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A. B. degree, including the equity supplement, to at least \$43,000 by fiscal year 2019.

(b) For school year 2018–2019, ~~and continuing thereafter~~, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule I as set forth in this section; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year: Provided, That for the school year 2019-2020, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule II as set forth in this section; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.

STATE MINIMUM SALARY SCHEDULE I

Years	4 th	3 rd	2 nd	A.B.	A.B.	M.A.	M.A.	M.A.	M.A.	Doc-
Exp	Class	Class	Class		+ 15		+ 15	+ 30	+ 45	torate
0	29,937	30,626	30,892	32,335	33,096	34,863	35,624	36,385	37,146	38,181
1	30,265	30,954	31,220	32,853	33,614	35,382	36,143	36,903	37,664	38,699
2	30,594	31,282	31,548	33,372	34,133	35,900	36,661	37,422	38,183	39,218
3	30,922	31,610	31,876	33,891	34,651	36,419	37,180	37,940	38,701	39,736
4	31,494	32,182	32,448	34,653	35,414	37,182	37,943	38,703	39,464	40,499

5	31,822	32,510	32,776	35,172	35,933	37,700	38,461	39,222	39,983	41,018
6	32,150	32,838	33,104	35,690	36,451	38,219	38,980	39,740	40,501	41,536
7	32,478	33,167	33,432	36,209	36,970	38,737	39,498	40,259	41,020	42,055
8	32,806	33,495	33,761	36,727	37,488	39,256	40,017	40,777	41,538	42,573
9	33,134	33,823	34,089	37,246	38,007	39,774	40,535	41,296	42,057	43,092
10	33,463	34,151	34,417	37,766	38,526	40,294	41,055	41,816	42,576	43,611
11	33,791	34,479	34,745	38,284	39,045	40,813	41,573	42,334	43,095	44,130
12	34,119	34,807	35,073	38,803	39,563	41,331	42,092	42,853	43,613	44,648
13	34,447	35,135	35,401	39,321	40,082	41,850	42,610	43,371	44,132	45,167
14	34,775	35,463	35,729	39,840	40,600	42,368	43,129	43,890	44,650	45,685
15	35,103	35,791	36,057	40,358	41,119	42,887	43,647	44,408	45,169	46,204
16	35,431	36,119	36,385	40,877	41,637	43,405	44,166	44,927	45,687	46,722
17	35,759	36,448	36,713	41,395	42,156	43,924	44,685	45,445	46,206	47,241
18	36,087	36,776	37,042	41,914	42,675	44,442	45,203	45,964	46,725	47,760
19	36,415	37,104	37,370	42,432	43,193	44,961	45,722	46,482	47,243	48,278
20	36,743	37,432	37,698	42,951	43,712	45,479	46,240	47,001	47,762	48,797
21	37,072	37,760	38,026	43,469	44,230	45,998	46,759	47,519	48,280	49,315
22	37,400	38,088	38,354	43,988	44,749	46,516	47,277	48,038	48,799	49,834
23	37,728	38,416	38,682	44,507	45,267	47,035	47,796	48,556	49,317	50,352
24	38,056	38,744	39,010	45,025	45,786	47,554	48,314	49,075	49,836	50,871
25	38,384	39,072	39,338	45,544	46,304	48,072	48,833	49,594	50,354	51,389
26	38,712	39,400	39,666	46,062	46,823	48,591	49,351	50,112	50,873	51,908
27	39,040	39,728	39,994	46,581	47,341	49,109	49,870	50,631	51,391	52,426
28	39,368	40,057	40,322	47,099	47,860	49,628	50,388	51,149	51,910	52,945
29	39,696	40,385	40,651	47,618	48,378	50,146	50,907	51,668	52,428	53,463
30	40,024	40,713	40,979	48,136	48,897	50,665	51,425	52,186	52,947	53,982

31	40,353	41,041	41,307	48,655	49,416	51,183	51,944	52,705	53,465	54,500
32	40,681	41,369	41,635	49,173	49,934	51,702	52,463	53,223	53,984	55,019
33	41,009	41,697	41,963	49,692	50,453	52,220	52,981	53,742	54,503	55,538
34	41,337	42,025	42,291	50,210	50,971	52,739	53,500	54,260	55,021	56,056
35	41,665	42,353	42,619	50,729	51,490	53,257	54,018	54,779	55,540	56,575

STATE MINIMUM SALARY SCHEDULE II

Years	<u>4th</u>	<u>3rd</u>	<u>2nd</u>	<u>A.B.</u>	<u>A.B.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>MA.</u>	<u>M.A.</u>	<u>Doc-</u>
<u>Exp.</u>	<u>Class</u>	<u>Class</u>	<u>Class</u>		<u>+15</u>		<u>+15</u>	<u>+30</u>	<u>+45</u>	<u>torate</u>
<u>0</u>	<u>32,057</u>	<u>32,746</u>	<u>33,012</u>	<u>34,455</u>	<u>35,216</u>	<u>36,983</u>	<u>37,744</u>	<u>38,505</u>	<u>39,266</u>	<u>40,301</u>
<u>1</u>	<u>32,385</u>	<u>33,074</u>	<u>33,340</u>	<u>34,973</u>	<u>35,734</u>	<u>37,502</u>	<u>38,263</u>	<u>39,023</u>	<u>39,784</u>	<u>40,819</u>
<u>2</u>	<u>32,714</u>	<u>33,402</u>	<u>33,668</u>	<u>35,492</u>	<u>36,253</u>	<u>38,020</u>	<u>38,781</u>	<u>39,542</u>	<u>40,303</u>	<u>41,338</u>
<u>3</u>	<u>33,042</u>	<u>33,730</u>	<u>33,996</u>	<u>36,011</u>	<u>36,771</u>	<u>38,539</u>	<u>39,300</u>	<u>40,060</u>	<u>40,821</u>	<u>41,856</u>
<u>4</u>	<u>33,614</u>	<u>34,302</u>	<u>34,568</u>	<u>36,773</u>	<u>37,534</u>	<u>39,302</u>	<u>40,063</u>	<u>40,823</u>	<u>41,584</u>	<u>42,619</u>
<u>5</u>	<u>33,942</u>	<u>34,630</u>	<u>34,896</u>	<u>37,292</u>	<u>38,053</u>	<u>39,820</u>	<u>40,581</u>	<u>41,342</u>	<u>42,103</u>	<u>43,138</u>
<u>6</u>	<u>34,270</u>	<u>34,958</u>	<u>35,224</u>	<u>37,810</u>	<u>38,571</u>	<u>40,339</u>	<u>41,100</u>	<u>41,860</u>	<u>42,621</u>	<u>43,656</u>
<u>7</u>	<u>34,598</u>	<u>35,287</u>	<u>35,552</u>	<u>38,329</u>	<u>39,090</u>	<u>40,857</u>	<u>41,618</u>	<u>42,379</u>	<u>43,140</u>	<u>44,175</u>
<u>8</u>	<u>34,926</u>	<u>35,615</u>	<u>35,881</u>	<u>38,847</u>	<u>39,608</u>	<u>41,376</u>	<u>42,137</u>	<u>42,897</u>	<u>43,658</u>	<u>44,693</u>
<u>9</u>	<u>35,254</u>	<u>35,943</u>	<u>36,209</u>	<u>39,366</u>	<u>40,127</u>	<u>41,894</u>	<u>42,655</u>	<u>43,416</u>	<u>44,177</u>	<u>45,212</u>
<u>10</u>	<u>35,583</u>	<u>36,271</u>	<u>36,537</u>	<u>39,886</u>	<u>40,646</u>	<u>42,414</u>	<u>43,175</u>	<u>43,936</u>	<u>44,696</u>	<u>45,731</u>
<u>11</u>	<u>35,911</u>	<u>36,599</u>	<u>36,865</u>	<u>40,404</u>	<u>41,165</u>	<u>42,933</u>	<u>43,693</u>	<u>44,454</u>	<u>45,215</u>	<u>46,250</u>
<u>12</u>	<u>36,239</u>	<u>36,927</u>	<u>37,193</u>	<u>40,923</u>	<u>41,683</u>	<u>43,451</u>	<u>44,212</u>	<u>44,973</u>	<u>45,733</u>	<u>46,768</u>
<u>13</u>	<u>36,567</u>	<u>37,255</u>	<u>37,521</u>	<u>41,441</u>	<u>42,202</u>	<u>43,970</u>	<u>44,730</u>	<u>45,491</u>	<u>46,252</u>	<u>47,287</u>
<u>14</u>	<u>36,895</u>	<u>37,583</u>	<u>37,849</u>	<u>41,960</u>	<u>42,720</u>	<u>44,488</u>	<u>45,249</u>	<u>46,010</u>	<u>46,770</u>	<u>47,805</u>
<u>15</u>	<u>37,223</u>	<u>37,911</u>	<u>38,177</u>	<u>42,478</u>	<u>43,239</u>	<u>45,007</u>	<u>45,767</u>	<u>46,528</u>	<u>47,289</u>	<u>48,324</u>

<u>16</u>	<u>37,551</u>	<u>38,239</u>	<u>38,505</u>	<u>42,997</u>	<u>43,757</u>	<u>45,525</u>	<u>46,286</u>	<u>47,047</u>	<u>47,807</u>	<u>48,842</u>
<u>17</u>	<u>37,879</u>	<u>38,568</u>	<u>38,833</u>	<u>43,515</u>	<u>44,276</u>	<u>46,044</u>	<u>46,805</u>	<u>47,565</u>	<u>48,326</u>	<u>49,361</u>
<u>18</u>	<u>38,207</u>	<u>38,896</u>	<u>39,162</u>	<u>44,034</u>	<u>44,795</u>	<u>46,562</u>	<u>47,323</u>	<u>48,084</u>	<u>48,845</u>	<u>49,880</u>
<u>19</u>	<u>38,535</u>	<u>39,224</u>	<u>39,490</u>	<u>44,552</u>	<u>45,313</u>	<u>47,081</u>	<u>47,842</u>	<u>48,602</u>	<u>49,363</u>	<u>50,398</u>
<u>20</u>	<u>38,863</u>	<u>39,552</u>	<u>39,818</u>	<u>45,071</u>	<u>45,832</u>	<u>47,599</u>	<u>48,360</u>	<u>49,121</u>	<u>49,882</u>	<u>50,917</u>
<u>21</u>	<u>39,192</u>	<u>39,880</u>	<u>40,146</u>	<u>45,589</u>	<u>46,350</u>	<u>48,118</u>	<u>48,879</u>	<u>49,639</u>	<u>50,400</u>	<u>51,435</u>
<u>22</u>	<u>39,520</u>	<u>40,208</u>	<u>40,474</u>	<u>46,108</u>	<u>46,869</u>	<u>48,636</u>	<u>49,397</u>	<u>50,158</u>	<u>50,919</u>	<u>51,954</u>
<u>23</u>	<u>39,848</u>	<u>40,536</u>	<u>40,802</u>	<u>46,627</u>	<u>47,387</u>	<u>49,155</u>	<u>49,916</u>	<u>50,676</u>	<u>51,437</u>	<u>52,472</u>
<u>24</u>	<u>40,176</u>	<u>40,864</u>	<u>41,130</u>	<u>47,145</u>	<u>47,906</u>	<u>49,674</u>	<u>50,434</u>	<u>51,195</u>	<u>51,956</u>	<u>52,991</u>
<u>25</u>	<u>40,504</u>	<u>41,192</u>	<u>41,458</u>	<u>47,664</u>	<u>48,424</u>	<u>50,192</u>	<u>50,953</u>	<u>51,714</u>	<u>52,474</u>	<u>53,509</u>
<u>26</u>	<u>40,832</u>	<u>41,520</u>	<u>41,786</u>	<u>48,182</u>	<u>48,943</u>	<u>50,711</u>	<u>51,471</u>	<u>52,232</u>	<u>52,993</u>	<u>54,028</u>
<u>27</u>	<u>41,160</u>	<u>41,848</u>	<u>42,114</u>	<u>48,701</u>	<u>49,461</u>	<u>51,229</u>	<u>51,990</u>	<u>52,751</u>	<u>53,511</u>	<u>54,546</u>
<u>28</u>	<u>41,488</u>	<u>42,177</u>	<u>42,442</u>	<u>49,219</u>	<u>49,980</u>	<u>51,748</u>	<u>52,508</u>	<u>53,269</u>	<u>54,030</u>	<u>55,065</u>
<u>29</u>	<u>41,816</u>	<u>42,505</u>	<u>42,771</u>	<u>49,738</u>	<u>50,498</u>	<u>52,266</u>	<u>53,027</u>	<u>53,788</u>	<u>54,548</u>	<u>55,583</u>
<u>30</u>	<u>42,144</u>	<u>42,833</u>	<u>43,099</u>	<u>50,256</u>	<u>51,017</u>	<u>52,785</u>	<u>53,545</u>	<u>54,306</u>	<u>55,067</u>	<u>56,102</u>
<u>31</u>	<u>42,473</u>	<u>43,161</u>	<u>43,427</u>	<u>50,775</u>	<u>51,536</u>	<u>53,303</u>	<u>54,064</u>	<u>54,825</u>	<u>55,585</u>	<u>56,620</u>
<u>32</u>	<u>42,801</u>	<u>43,489</u>	<u>43,755</u>	<u>51,293</u>	<u>52,054</u>	<u>53,822</u>	<u>54,583</u>	<u>55,343</u>	<u>56,104</u>	<u>57,139</u>
<u>33</u>	<u>43,129</u>	<u>43,817</u>	<u>44,083</u>	<u>51,812</u>	<u>52,573</u>	<u>54,340</u>	<u>55,101</u>	<u>55,862</u>	<u>56,623</u>	<u>57,658</u>
<u>34</u>	<u>43,457</u>	<u>44,145</u>	<u>44,411</u>	<u>52,330</u>	<u>53,091</u>	<u>54,859</u>	<u>55,620</u>	<u>56,380</u>	<u>57,141</u>	<u>58,176</u>
<u>35</u>	<u>43,785</u>	<u>44,473</u>	<u>44,739</u>	<u>52,849</u>	<u>53,610</u>	<u>55,377</u>	<u>56,138</u>	<u>56,899</u>	<u>57,660</u>	<u>58,695</u>

(c) Six hundred dollars shall be paid annually to each classroom teacher who has at least 20 years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

(d) Effective July 1, 2020, each classroom teacher providing math instruction in the teacher's certified area of study for at least 60 percent of the time the teacher is providing instruction to students shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in §18A-4-2(b) of this code.

~~(d)~~ (e) ~~To meet the objective of salary equity among the counties as set forth in §18A-4-5 of this code, In accordance with §18A-4-5 of this code,~~ each teacher shall be paid ~~an equity~~ the supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of that section:

(1) For "4th Class" at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For "3rd Class" at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For "2nd Class" at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For "A. B." at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For "A. B. + 15" at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For "M. A." at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For "M. A. + 15" at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(8) For “M. A. + 30” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For “M. A. + 45” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience; and

(10) For “Doctorate” at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5a of this code; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

§18A-4-2d. Mathematics teacher incentive.

(a) The Legislature recognizes that receiving quality math instruction is vital to a student’s post-secondary success and that that there is a shortage of certified math teachers to provide such instruction.

(b) To ensure that students are receiving the appropriate level of math instruction that will enable post-secondary success, the Department of Education shall develop or approve specialized mathematics courses and make the courses available to classroom teachers.

(c) Effective July 1, 2019, a classroom teacher who completes a specialized mathematics course established or approved pursuant to this section by May 1 of the fiscal year shall receive a one-time payment of \$2,000 from the Mathematics Incentive Program line item established for the Department of Education for this purpose, subject to appropriation by the Legislature. If the appropriations to the Department of Education for this purpose are insufficient to compensate all applicable teachers, the Department of Education

shall request a supplemental appropriation in an amount sufficient to compensate all such teachers. Additionally, if funds are still insufficient to compensate all applicable teachers, each applicable teacher shall receive their proportionate share of the funding available for the year. This one-time payment may not be counted as part of the teacher's average final salary for the purpose of calculating retirement and no retirement contribution will be withheld from the payment.

(d) A classroom teacher who completes the mathematics enrichment course established or approved by the Department of Education after May 1 of the fiscal year shall receive the one-time salary supplement described in subsection (a) of this section during the subsequent fiscal year, subject to appropriation by the Legislature.

(e) The one-time payment provided for in this section may only be paid to a classroom teacher providing math instruction in the teacher's certified area of study for at least 60 percent of the time the teacher is providing instruction to students.

§18A-4-5. Salary equity among the counties; state salary supplement.

~~(a) For the purposes of this section, salary equity among the counties means that the salary potential of school employees employed by the various districts throughout the state does not differ by greater than ten percent between those offering the highest salaries and those offering the lowest salaries. In the case of professional educators, the difference shall be calculated using the average of the professional educator salary schedules, degree classifications B. A. through doctorate and the years of experience provided in the most recent state minimum salary schedule for teachers, in effect in the ten counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty five counties. In the case of school service personnel, the difference shall be calculated utilizing the average of the school service personnel salary schedules, pay grades A through H and the years of experience provided in the most recent state minimum pay scale pay grade for service personnel, in effect in the ten counties~~

~~offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty-five counties.~~

(a) The Legislature recognizes its constitutional responsibility to provide for a thorough and efficient system of education. To carry out this responsibility the Legislature enacted, and continues to update, as necessary, the public school support program as set forth in §18-9A-1, et seq. The public school support program is a non-discriminatory funding mechanism for financing the educational system in this state as it takes into account each county's specific characteristics, and ensures that all counties are provided equitable funding.

(b) The Legislature further finds that the purpose of the public school support program is not to deter counties from growing economically or from using county resources in a manner that best meets their specific educational needs and the desires of their citizens. To that end, counties must have the discretion and flexibility to use local county funds, not otherwise factored into the public school support program, to provide the best education possible to their students, including, but not limited to, providing salary supplements to teachers.

~~(b) (c) To meet the objective of salary equity among the counties, as defined in subsection (a) of this section, on and after July 1, 1984, subject Subject to available state appropriations and the conditions set forth herein, each teacher and school service personnel shall receive an equity supplement amount as specified in sections two and eight-a, respectively, of this article in addition to the amount from the State Minimum Salary Schedules provided in those sections. State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with §18-9A-1 et seq. of this code. The amount allocated for this supplement shall be apportioned between teachers and school service personnel in direct proportion to that amount necessary to support the professional salaries and service personnel salaries statewide under §18-9A-4, §18-9A-5, and §18-9A-8 of this code.~~

~~(c) State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with article nine-~~

~~a, chapter eighteen of this code. The amount allocated for salary equity shall be apportioned between teachers and school service personnel in direct proportion to that amount necessary to support the professional salaries and service personnel salaries statewide under sections four, five and eight, article nine a, chapter eighteen of this code. In the event the Department of Education determines that the objective of salary equity among the counties has not been met, it shall include in its budget request for the public school support plan for the next school year a request for funding sufficient to meet the objective of salary equity through an across-the-board increase in the equity supplement amount of the affected class of employees.~~

(d) Pursuant to this section, each teacher and service person shall receive from state funds the equity supplement amount indicated in ~~subsection (e), section two and subsection (f), section eight a of this article §18A 4 2 and §18A 4 8a of this code,~~ as applicable, reduced by any amount provided by the county as a salary supplement for teachers and school service personnel on January 1, 1984.

(e) The amount received pursuant to this section shall not be decreased as a result of any county supplement increase instituted after January 1, 1984: *Provided,* That any amount received pursuant to this section may be reduced proportionately based upon the amount of funds appropriated for this purpose. No county may reduce any salary supplement that was in effect on January 1, 1984, except as permitted by sections five-a and five-b of this article.

§18A-4-5a. County salary supplements for teachers.

(a) County boards of education in fixing the salaries of teachers shall use at least the state minimum salaries established under the provisions of this article. The board may establish salary schedules which shall be in excess of the state minimums fixed by this article, such county schedules to be uniform ~~throughout the county~~ as to the classification of training, experience, responsibility and other requirements subject to the following:

(1) Counties may fix higher salaries for teachers placed in special instructional assignments, for those assigned to or employed for duties other than regular instructional duties, and for teachers of one-teacher schools; ~~and they~~

(2) Counties may provide additional compensation for any teacher assigned duties in addition to the teacher's regular instructional duties wherein such noninstructional duties are not a part of the scheduled hours of the regular school day; ~~Uniformity also shall apply to such additional salary increments or compensation for all persons performing like assignments and duties within the county; *Provided, That*~~

(3) Counties may provide additional compensation for teachers who are assigned and fully certified to teach in a subject area in which the county board finds it has a critical need and shortage of fully certified teachers;

(4) Counties may provide additional compensation or other financial assistance to teachers who teach in schools that are in remote geographical locations or have experienced high rates of turnover in experienced teachers; and

(5) Counties may provide additional compensation to teachers who, in addition to regularly assigned teaching duties, are assigned as a master teacher, mentor, academic coach, or other title whose duties include providing strong school-based support and supervision to assist licensure candidates in a clinical internship, beginning teachers, and other teachers at the school to improve their professional practice as set forth in the county's comprehensive system of support for teacher and leader induction and professional growth provided for in section §18A-3C-3 of this code.

(b) In establishing such local salary schedules authorized in subsection (a) of this section, ~~no county shall~~ a county may not reduce local funds allocated for salaries in effect on January 1, 1990, and used in supplementing the state minimum salaries as provided for in this article, unless forced to do so by defeat of a special levy, or a loss in assessed values or events over which it has

no control and for which the county board has received approval from the state board prior to making such reduction.

(c) Counties may provide, in a uniform manner, benefits for teachers which require an appropriation from local funds including, but not limited to, dental, optical, health and income protection insurance, vacation time and retirement plans excluding the state Teachers Retirement System. Nothing herein shall prohibit the maintenance nor result in the reduction of any benefits in effect on January 1, 1984, by any county board of education.

§18A-4-7a. Employment, promotion, and transfer of professional personnel; ~~Seniority~~ qualifications.

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: *Provided*, That the county superintendent shall be hired under separate criteria pursuant to §18-4-2 of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

(1) Appropriate certification, licensure, or both;

(2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(3) The amount of course work, degree level, or both in the relevant field and degree level generally;

(4) Academic achievement;

(5) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(6) Specialized training relevant to performing the duties of the job;

(7) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(8) Seniority;

(9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(11) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) When filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an applicant's qualifications: *Provided*, That if one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion under subsection (b) of this section shall be given equal weight except that the criterion in subdivisions (10) and (11) of said subsection shall each be double weighted.

(d) For a classroom teaching position, if the principal and faculty senate recommend the same applicant pursuant to subdivisions (10) and (11), subsection (b) of this section, and the superintendent concurs with those recommendations, then the other provisions of subsections (b) and (c) of this section do not apply and the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary.

(e) The state board shall promulgate a rule, including an emergency rule if necessary, in accordance with ~~the provisions of~~ §29A-3B-1 *et seq.* article three-b, chapter twenty-nine-a of this

code to implement and interpret ~~the provisions of~~ this section. The rule may provide for a classroom teacher who directly participates in making recommendations pursuant to this section to be compensated at the appropriate daily rate during periods of participation beyond his or her individual contract.

(f) The recommendations of the principal and faculty senate made pursuant to subdivisions (10) and (11), subsection (b) of this section shall be based on a determination as to which applicant is the most highly qualified for the position: *Provided*, That nothing in this subsection may require principals or faculty senates to assign any amount of weight to any factor in making a recommendation.

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the employee has been employed as a regular full-time certified and/or licensed professional educator by the county board of education and shall be granted in all areas that the employee is certified, licensed or both.

(h) Upon completion of 133 days of employment in any one school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. One hundred thirty-three days or more of said employment shall be prorated and shall vest as a fraction of the school year worked by the permanent, full-time teacher.

(i) Guidance counselors and all other professional employees, as defined in section one, article one of this chapter, except classroom teachers, shall gain seniority in their nonteaching area of professional employment on the basis of the length of time the employee has been employed by the county board of education in that area: *Provided*, That if an employee is certified as a classroom teacher, the employee accrues classroom teaching seniority for the time that employee is employed in another professional area. For the purposes of accruing seniority under this subsection,

employment as principal, supervisor or central office administrator, as defined in §18A-1-1 of this code, shall be considered one area of employment.

(j) Employment for a full employment term equals one year of seniority, but an employee may not accrue more than one year of seniority during any given fiscal year. Employment for less than the full employment term shall be prorated. ~~A random selection system established by the employees and approved by the county board shall be used to determine the priority if two or more employees accumulate identical seniority: *Provided*, That when two or more principals have accumulated identical seniority.~~ All decisions on reductions in force shall be based on qualifications as set forth in a county board policy. Furthermore, for the purposes of this subsection and subsections (k) through (s), inclusive, of this section, the word “qualifications” means the qualifications set forth in county board policy and only means qualifications set forth in subsection (b) of this section to the extent those qualifications are set forth in county board policy: *Provided*, That in defining the word “qualifications” in its policy, the county board:

(1) Shall consider including the following criteria:

(A) Seniority;

(B) Appropriate certification, licensure, or both;

(C) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(D) The amount of course work, degree level, or both in the relevant field and degree level generally;

(E) Academic achievement;

(F) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(G) Specialized training relevant to performing the duties of the job;

(H) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(I) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(J) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(K) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties;

(2) Shall consider other criteria set forth in subdivision (1) of this subsection to the extent they are included in the county board policy only after considering personnel whose last performance evaluation conducted pursuant to §18A-2-12 or §18A-3C-2 of this code, as applicable, is less than satisfactory; and

(3) May not include salary as one of the criteria in the definition.

(k) Whenever a county board is required to reduce the number of professional personnel in its employment, the employee ~~with the least amount of seniority~~ who is least qualified, as set forth in county board policy, shall be properly notified and released from employment pursuant to ~~the provisions of §18A-2-2 of this code. The provisions of this~~ This subsection ~~are~~ is subject to the following:

(1) All persons employed in a certification area to be reduced who are employed under a temporary permit shall be properly

notified and released before a fully certified employee in such a position is subject to release;

(2) Notwithstanding any provision of this code to the contrary, for any vacancy in an established, existing or newly created position that, on or before March 1, is known to exist for the ensuing school year, upon recommendation of the superintendent, the board shall appoint the successful applicant from among all qualified applicants. All employees subject to release shall be considered applicants for the positions for which they are qualified and shall be considered before posting such vacancies for application by nonemployees;

(3) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both: ~~if the employee's seniority is greater than the seniority of any other employee in that area of certification, licensure or both~~ Provided, That the employee is the most qualified person for that position;

(4) If an employee subject to release holds certification, licensure or both in more than one lateral area and if the employee's ~~seniority is~~ qualifications are greater than the ~~seniority~~ qualifications of any other employee in one or more of those areas of certification, licensure, or both, the employee subject to release shall be employed in the professional position held by the employee ~~with the least seniority~~ who is least qualified in any of those areas of certification, licensure, or both; and

(5) If, prior to August 1 of the year, a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is

another employee on the preferred recall list with proper certification and ~~higher seniority~~ has greater qualifications, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

(l) For the purpose of this article, all positions which meet the definition of "classroom teacher" as defined in section one, article one of this chapter shall be lateral positions. For all other professional positions, the county board of education shall adopt a policy by October 31, 1993, and may modify the policy thereafter as necessary, which defines which positions shall be lateral positions. In adopting the policy, the board ~~shall~~ may give consideration to the rank of each position in terms of title; nature of responsibilities; salary level; and certification, licensure or both, ~~and along with the~~ days in the period of employment.

(m) All professional personnel whose ~~seniority~~ lesser qualifications, as determined by county board policy, with the county board is insufficient to allow their retention by the county board during a reduction in workforce shall be placed upon a preferred recall list. As to any professional position opening within the area where they had previously been employed or to any lateral area for which they have certification, licensure or both, the employee shall be recalled on the basis of seniority qualifications if no regular, full-time professional personnel, or those returning from leaves of absence with greater ~~seniority~~ are qualified qualifications, apply for and accept the position.

(n) ~~Before position openings that are known or expected to extend for twenty consecutive employment days or longer for professional personnel may be filled by the board, the board shall be required to notify all qualified professional personnel on the preferred list and give them an opportunity to apply, but failure to apply shall not cause the employee to forfeit any right to recall. The notice shall be sent by certified mail to the last known address of the employee and it shall be the duty of each professional personnel to notify the board of continued availability annually, of any change in address or of any change in certification, licensure or both~~ The board shall annually notify professional personnel on the preferred list of the job application procedures and any websites

used to advertise vacancies. The notice shall be sent by certified mail via the U.S. Postal Service to the last known address of the employee, and it shall be the duty of each professional person to notify the board of continued availability annually of any change in address, or of any change in certification, licensure or both.

(o) Openings in established, existing, or newly created positions shall be processed as follows:

(1) Boards shall be required to post and date notices of each opening at least once. At their discretion, boards may post an opening for a position other than classroom teacher more than once in order to attract more qualified applicants. At their discretion, boards may ~~post~~ repost an opening for a classroom teacher ~~one additional time~~ after the first posting in order to attract more qualified applicants ~~only if fewer than three individuals apply during the first posting~~ subject to the following:

(A) Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five working days which may include any website maintained by the county board;

(B) At least one notice shall be posted within 20 working days of the position openings and shall include the job description;

(C) Any special criteria or skills that are required by the position shall be specifically stated in the job description and directly related to the performance of the job;

(D) Postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply; and

(E) Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant;

(2) No vacancy may be filled until after the five-day minimum posting period of the most recent posted notice of the vacancy;

(3) If one or more applicants under all the postings for a vacancy meets the qualifications listed in the job posting, the successful applicant to fill the vacancy shall be selected by the board within 30 working days of the end of the first posting period;

(4) A position held by a teacher who is certified, licensed, or both, who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five years; and

(5) Nothing provided herein may prevent the county board of education from eliminating a position due to lack of need.

(p) Notwithstanding any other provision of the code to the contrary, where the total number of classroom teaching positions in an elementary school does not increase from one school year to the next, but there exists in that school a need to realign the number of teachers in one or more grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels for which they are certified without that position being posted: *Provided*, That the employee and the county board mutually agree to the reassignment.

(q) Reductions in classroom teaching positions in elementary schools shall be determined pursuant to the considerations set forth in county board policy and processed as follows:

(1) When the total number of classroom teaching positions in an elementary school needs to be reduced, the reduction shall be made on the basis of ~~seniority~~ qualifications with the least ~~senior~~ qualified classroom teacher being recommended for transfer; and

(2) When a specified grade level needs to be reduced and the least ~~senior~~ qualified employee in the school is not in that grade level, the ~~senior~~ least qualified classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the ~~senior~~ least qualified classroom teacher in the school without that position being posted: *Provided*, That the employee is certified, licensed or both and agrees to the reassignment.

(r) Any board failing to comply with ~~the provisions of~~ this article may be compelled to do so by mandamus and shall be liable to any party prevailing against the board for court costs and reasonable attorney fees as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactive to the date of the violation and payable entirely from local funds. Further, the board shall be liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

~~(s) The county board shall compile, update annually on July 1 and make available by electronic or other means to all employees a list of all professional personnel employed by the county, their areas of certification and their seniority.~~

~~(t)~~ (s) Notwithstanding any other provision of this code to the contrary, upon recommendation of the principal and approval by the classroom teacher and county board, a classroom teacher assigned to the school may at any time be assigned to a new or existing classroom teacher position at the school without the position being posted.

(t) All personnel in a public charter school shall continue to accrue seniority in the same manner that they would accrue seniority if employed in a noncharter public school in the county for the purpose of employment in noncharter public schools.

(u) The amendments to this section during the 2019 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the 2019 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

§18A-4-8a. Service personnel minimum monthly salaries.

(a) The minimum monthly pay for each service employee shall be as follows:

(1) For school year 2018–2019, ~~and continuing thereafter~~, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade Schedule I and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade set forth in this subdivision: Provided, That for school year 2019-2020, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade Schedule II and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade set forth in this subdivision.

STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE I

Years		PAY GRADE							
Exp.	A	B	C	D	E	F	G	H	
0	1,770	1,791	1,833	1,886	1,939	2,002	2,034	2,107	
1	1,802	1,824	1,865	1,918	1,972	2,035	2,066	2,140	
2	1,835	1,856	1,898	1,951	2,004	2,067	2,099	2,172	
3	1,867	1,889	1,931	1,984	2,037	2,100	2,132	2,205	
4	1,900	1,922	1,963	2,016	2,069	2,133	2,164	2,239	
5	1,933	1,954	1,996	2,049	2,102	2,165	2,197	2,271	
6	1,965	1,987	2,030	2,082	2,135	2,198	2,230	2,304	
7	1,999	2,019	2,062	2,114	2,167	2,231	2,262	2,337	
8	2,032	2,052	2,095	2,147	2,200	2,263	2,295	2,369	
9	2,064	2,085	2,128	2,181	2,233	2,296	2,327	2,402	

10	2,097	2,118	2,160	2,213	2,265	2,330	2,361	2,435
11	2,130	2,151	2,193	2,246	2,298	2,362	2,394	2,467
12	2,162	2,184	2,225	2,279	2,332	2,395	2,426	2,500
13	2,195	2,216	2,258	2,311	2,364	2,427	2,459	2,533
14	2,228	2,249	2,291	2,344	2,397	2,460	2,492	2,565
15	2,260	2,282	2,323	2,376	2,429	2,493	2,524	2,598
16	2,293	2,314	2,356	2,409	2,462	2,525	2,557	2,631
17	2,325	2,347	2,390	2,442	2,495	2,558	2,590	2,664
18	2,358	2,380	2,422	2,474	2,527	2,591	2,622	2,697
19	2,392	2,412	2,455	2,507	2,560	2,623	2,655	2,729
20	2,424	2,445	2,488	2,541	2,593	2,656	2,688	2,763
21	2,457	2,477	2,520	2,573	2,625	2,689	2,720	2,797
22	2,490	2,511	2,553	2,606	2,658	2,722	2,754	2,829
23	2,522	2,544	2,586	2,639	2,692	2,756	2,788	2,863
24	2,555	2,576	2,618	2,671	2,724	2,790	2,821	2,897
25	2,588	2,609	2,651	2,704	2,758	2,822	2,855	2,929
26	2,620	2,642	2,683	2,738	2,792	2,856	2,887	2,963
27	2,653	2,674	2,716	2,770	2,824	2,888	2,921	2,996
28	2,686	2,707	2,750	2,804	2,858	2,922	2,955	3,030
29	2,718	2,741	2,783	2,836	2,891	2,956	2,987	3,064
30	2,752	2,773	2,817	2,870	2,924	2,988	3,021	3,097
31	2,785	2,807	2,851	2,904	2,958	3,022	3,055	3,130
32	2,819	2,840	2,883	2,937	2,990	3,056	3,087	3,164
33	2,853	2,873	2,917	2,971	3,024	3,088	3,121	3,197
34	2,885	2,907	2,951	3,005	3,058	3,122	3,155	3,230
35	2,919	2,941	2,983	3,037	3,090	3,156	3,188	3,264
36	2,953	2,974	3,017	3,071	3,125	3,189	3,222	3,296
37	2,985	3,008	3,051	3,105	3,159	3,223	3,255	3,330

38	3,019	3,040	3,083	3,137	3,191	3,256	3,288	3,364
39	3,053	3,074	3,117	3,171	3,225	3,289	3,322	3,396
40	3,085	3,108	3,150	3,204	3,259	3,323	3,355	3,430

STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE II

Years

<u>Exp.</u>	<u>PAY GRADE</u>							
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
<u>0</u>	<u>1,885</u>	<u>1,906</u>	<u>1,948</u>	<u>2,001</u>	<u>2,054</u>	<u>2,117</u>	<u>2,149</u>	<u>2,222</u>
<u>1</u>	<u>1,917</u>	<u>1,939</u>	<u>1,980</u>	<u>2,033</u>	<u>2,087</u>	<u>2,150</u>	<u>2,181</u>	<u>2,255</u>
<u>2</u>	<u>1,950</u>	<u>1,971</u>	<u>2,013</u>	<u>2,066</u>	<u>2,119</u>	<u>2,182</u>	<u>2,214</u>	<u>2,287</u>
<u>3</u>	<u>1,982</u>	<u>2,004</u>	<u>2,046</u>	<u>2,099</u>	<u>2,152</u>	<u>2,215</u>	<u>2,247</u>	<u>2,320</u>
<u>4</u>	<u>2,015</u>	<u>2,037</u>	<u>2,078</u>	<u>2,131</u>	<u>2,184</u>	<u>2,248</u>	<u>2,279</u>	<u>2,354</u>
<u>5</u>	<u>2,048</u>	<u>2,069</u>	<u>2,111</u>	<u>2,164</u>	<u>2,217</u>	<u>2,280</u>	<u>2,312</u>	<u>2,386</u>
<u>6</u>	<u>2,080</u>	<u>2,102</u>	<u>2,145</u>	<u>2,197</u>	<u>2,250</u>	<u>2,313</u>	<u>2,345</u>	<u>2,419</u>
<u>7</u>	<u>2,114</u>	<u>2,134</u>	<u>2,177</u>	<u>2,229</u>	<u>2,282</u>	<u>2,346</u>	<u>2,377</u>	<u>2,452</u>
<u>8</u>	<u>2,147</u>	<u>2,167</u>	<u>2,210</u>	<u>2,262</u>	<u>2,315</u>	<u>2,378</u>	<u>2,410</u>	<u>2,484</u>
<u>9</u>	<u>2,179</u>	<u>2,200</u>	<u>2,243</u>	<u>2,296</u>	<u>2,348</u>	<u>2,411</u>	<u>2,442</u>	<u>2,517</u>
<u>10</u>	<u>2,212</u>	<u>2,233</u>	<u>2,275</u>	<u>2,328</u>	<u>2,380</u>	<u>2,445</u>	<u>2,476</u>	<u>2,550</u>
<u>11</u>	<u>2,245</u>	<u>2,266</u>	<u>2,308</u>	<u>2,361</u>	<u>2,413</u>	<u>2,477</u>	<u>2,509</u>	<u>2,582</u>
<u>12</u>	<u>2,277</u>	<u>2,299</u>	<u>2,340</u>	<u>2,394</u>	<u>2,447</u>	<u>2,510</u>	<u>2,541</u>	<u>2,615</u>
<u>13</u>	<u>2,310</u>	<u>2,331</u>	<u>2,373</u>	<u>2,426</u>	<u>2,479</u>	<u>2,542</u>	<u>2,574</u>	<u>2,648</u>
<u>14</u>	<u>2,343</u>	<u>2,364</u>	<u>2,406</u>	<u>2,459</u>	<u>2,512</u>	<u>2,575</u>	<u>2,607</u>	<u>2,680</u>
<u>15</u>	<u>2,375</u>	<u>2,397</u>	<u>2,438</u>	<u>2,491</u>	<u>2,544</u>	<u>2,608</u>	<u>2,639</u>	<u>2,713</u>
<u>16</u>	<u>2,408</u>	<u>2,429</u>	<u>2,471</u>	<u>2,524</u>	<u>2,577</u>	<u>2,640</u>	<u>2,672</u>	<u>2,746</u>
<u>17</u>	<u>2,440</u>	<u>2,462</u>	<u>2,505</u>	<u>2,557</u>	<u>2,610</u>	<u>2,673</u>	<u>2,705</u>	<u>2,779</u>
<u>18</u>	<u>2,473</u>	<u>2,495</u>	<u>2,537</u>	<u>2,589</u>	<u>2,642</u>	<u>2,706</u>	<u>2,737</u>	<u>2,812</u>
<u>19</u>	<u>2,507</u>	<u>2,527</u>	<u>2,570</u>	<u>2,622</u>	<u>2,675</u>	<u>2,738</u>	<u>2,770</u>	<u>2,844</u>

<u>20</u>	<u>2,539</u>	<u>2,560</u>	<u>2,603</u>	<u>2,656</u>	<u>2,708</u>	<u>2,771</u>	<u>2,803</u>	<u>2,878</u>
<u>21</u>	<u>2,572</u>	<u>2,592</u>	<u>2,635</u>	<u>2,688</u>	<u>2,740</u>	<u>2,804</u>	<u>2,835</u>	<u>2,912</u>
<u>22</u>	<u>2,605</u>	<u>2,626</u>	<u>2,668</u>	<u>2,721</u>	<u>2,773</u>	<u>2,837</u>	<u>2,869</u>	<u>2,944</u>
<u>23</u>	<u>2,637</u>	<u>2,659</u>	<u>2,701</u>	<u>2,754</u>	<u>2,807</u>	<u>2,871</u>	<u>2,903</u>	<u>2,978</u>
<u>24</u>	<u>2,670</u>	<u>2,691</u>	<u>2,733</u>	<u>2,786</u>	<u>2,839</u>	<u>2,905</u>	<u>2,936</u>	<u>3,012</u>
<u>25</u>	<u>2,703</u>	<u>2,724</u>	<u>2,766</u>	<u>2,819</u>	<u>2,873</u>	<u>2,937</u>	<u>2,970</u>	<u>3,044</u>
<u>26</u>	<u>2,735</u>	<u>2,757</u>	<u>2,798</u>	<u>2,853</u>	<u>2,907</u>	<u>2,971</u>	<u>3,002</u>	<u>3,078</u>
<u>27</u>	<u>2,768</u>	<u>2,789</u>	<u>2,831</u>	<u>2,885</u>	<u>2,939</u>	<u>3,003</u>	<u>3,036</u>	<u>3,111</u>
<u>28</u>	<u>2,801</u>	<u>2,822</u>	<u>2,865</u>	<u>2,919</u>	<u>2,973</u>	<u>3,037</u>	<u>3,070</u>	<u>3,145</u>
<u>29</u>	<u>2,833</u>	<u>2,856</u>	<u>2,898</u>	<u>2,951</u>	<u>3,006</u>	<u>3,071</u>	<u>3,102</u>	<u>3,179</u>
<u>30</u>	<u>2,867</u>	<u>2,888</u>	<u>2,932</u>	<u>2,985</u>	<u>3,039</u>	<u>3,103</u>	<u>3,136</u>	<u>3,212</u>
<u>31</u>	<u>2,900</u>	<u>2,922</u>	<u>2,966</u>	<u>3,019</u>	<u>3,073</u>	<u>3,137</u>	<u>3,170</u>	<u>3,245</u>
<u>32</u>	<u>2,934</u>	<u>2,955</u>	<u>2,998</u>	<u>3,052</u>	<u>3,105</u>	<u>3,171</u>	<u>3,202</u>	<u>3,279</u>
<u>33</u>	<u>2,968</u>	<u>2,988</u>	<u>3,032</u>	<u>3,086</u>	<u>3,139</u>	<u>3,203</u>	<u>3,236</u>	<u>3,312</u>
<u>34</u>	<u>3,000</u>	<u>3,022</u>	<u>3,066</u>	<u>3,120</u>	<u>3,173</u>	<u>3,237</u>	<u>3,270</u>	<u>3,345</u>
<u>35</u>	<u>3,034</u>	<u>3,056</u>	<u>3,098</u>	<u>3,152</u>	<u>3,205</u>	<u>3,271</u>	<u>3,303</u>	<u>3,379</u>
<u>36</u>	<u>3,068</u>	<u>3,089</u>	<u>3,132</u>	<u>3,186</u>	<u>3,240</u>	<u>3,304</u>	<u>3,337</u>	<u>3,411</u>
<u>37</u>	<u>3,100</u>	<u>3,123</u>	<u>3,166</u>	<u>3,220</u>	<u>3,274</u>	<u>3,338</u>	<u>3,370</u>	<u>3,445</u>
<u>38</u>	<u>3,134</u>	<u>3,155</u>	<u>3,198</u>	<u>3,252</u>	<u>3,306</u>	<u>3,371</u>	<u>3,403</u>	<u>3,479</u>
<u>39</u>	<u>3,168</u>	<u>3,189</u>	<u>3,232</u>	<u>3,286</u>	<u>3,340</u>	<u>3,404</u>	<u>3,437</u>	<u>3,511</u>
<u>40</u>	<u>3,200</u>	<u>3,223</u>	<u>3,265</u>	<u>3,319</u>	<u>3,374</u>	<u>3,438</u>	<u>3,470</u>	<u>3,545</u>

(2) Each service employee shall receive the amount prescribed in the State Minimum Pay Scale Pay Grade in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

CLASS TITLE	PAY GRADE
Accountant I	D
Accountant II	E

Accountant III	F
Accounts Payable Supervisor	G
Aide I	A
Aide II	B
Aide III	C
Aide IV	D
Audiovisual Technician	C
Auditor	G
Autism Mentor	F
Braille Specialist	E
Bus Operator	D
Buyer	F
Cabinetmaker	G
Cafeteria Manager	D
Carpenter I	E
Carpenter II	F
Chief Mechanic	G
Clerk I	B
Clerk II	C
Computer Operator	E
Cook I	A
Cook II	B

Cook III	C
Crew Leader	F
Custodian I	A
Custodian II	B
Custodian III	C
Custodian IV	D
Director or Coordinator of Services	H
Draftsman	D
Early Childhood Classroom Assistant Teacher I	E
Early Childhood Classroom Assistant Teacher II	E
Early Childhood Classroom Assistant Teacher III	F
Educational Sign Language Interpreter I	F
Educational Sign Language Interpreter II	G
Electrician I	F
Electrician II	G
Electronic Technician I	F
Electronic Technician II	G
Executive Secretary	G
Food Services Supervisor	G
Foreman	G
General Maintenance	C
Glazier	D

Graphic Artist	D
Groundsman	B
Handyman	B
Heating and Air Conditioning Mechanic I	E
Heating and Air Conditioning Mechanic II	G
Heavy Equipment Operator	E
Inventory Supervisor	D
Key Punch Operator	B
Licensed Practical Nurse	F
Locksmith	G
Lubrication Man	C
Machinist	F
Mail Clerk	D
Maintenance Clerk	C
Mason	G
Mechanic	F
Mechanic Assistant	E
Office Equipment Repairman I	F
Office Equipment Repairman II	G
Painter	E
Paraprofessional	F
Payroll Supervisor	G

Plumber I	E
Plumber II	G
Printing Operator	B
Printing Supervisor	D
Programmer	H
Roofing/Sheet Metal Mechanic	F
Sanitation Plant Operator	G
School Bus Supervisor	E
Secretary I	D
Secretary II	E
Secretary III	F
Sign Support Specialist	E
Supervisor of Maintenance	H
Supervisor of Transportation	H
Switchboard Operator-Receptionist	D
Truck Driver	D
Warehouse Clerk	C
Watchman	B
Welder	F
WVEIS Data Entry and Administrative Clerk	B

(b) An additional \$12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

(c) An additional \$11 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds 12 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(2) A service person who holds 24 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(3) A service person who holds 36 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(4) A service person who holds 48 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(5) A service employee who holds 60 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(6) A service person who holds 72 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service person who holds 84 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service person who holds 96 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds 108 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds 120 college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

(d) An additional \$40 per month also is added to the minimum monthly pay of each service person for each of the following:

- (1) A service person who holds an associate's degree;
- (2) A service person who holds a bachelor's degree;
- (3) A service person who holds a master's degree;
- (4) A service person who holds a doctorate degree.

(e) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

- (1) A service person who holds a bachelor's degree plus 15 college hours;
- (2) A service person who holds a master's degree plus 15 college hours;
- (3) A service person who holds a master's degree plus 30 college hours;
- (4) A service person who holds a master's degree plus 45 college hours; and
- (5) A service person who holds a master's degree plus 60 college hours.

(f) ~~To meet the objective of salary equity among the counties, each~~ Each service person is paid ~~an equity~~ a supplement, as set forth in §18A-4-5 of this code, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article, and any county supplement in effect in a county pursuant to §18A-4-5b of this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service person's daily shift of work is performed between the hours of 6:00 p.m. and 5:00 a.m.

the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

(h) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in §18A-4-8b of this code is no less than one-seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: *Provided*, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: *Provided, however*, That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment, and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in §18A-5-8 of this code, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever supervision is required. For purposes of this section, "under the direct supervision of a certified professional person" means that certified professional person is present, with and accompanying the aide.

§18A-4-10. Personal leave for illness and other causes; leave banks; substitutes.

(a) *Personal Leave.*

(1) ~~At the beginning of the employment term, any~~ Any full-time employee of a county board is entitled ~~annually to accrue~~ to at least one and one-half days personal leave for each employment month or major fraction thereof in the employee's employment term. Personal leave is accrued at the end of each pay period based on a ten month pay calendar or on the last workday for separating employees. Unused leave shall be accumulative without limitation and is transferable within the state. A change in job assignment during the school year does not affect the employee's rights or benefits.

(2) A regular full-time employee who is absent from assigned duties due to accident, sickness, death in the immediate family, or life threatening illness of the employee's spouse, parents or child, or other cause authorized or approved by the board, shall be paid the full salary from his or her regular budgeted salary appropriation during the period which the employee is absent, but not to exceed the total amount of leave ~~to which the employee is entitled~~ has accrued.

(3) Each employee is permitted to use ~~three~~ four days of leave annually without regard to the cause for the absence. Personal leave without cause may not be used on consecutive work days unless authorized or approved by the employee's principal or immediate supervisor, as appropriate. The employee shall give notice of leave without cause to the principal or immediate supervisor at least 24 hours in advance, except that in the case of sudden and unexpected circumstances, notice shall be given as soon as reasonably practicable. The principal or immediate supervisor may deny use of the day if, at the time notice is given, either 15 percent of the employees or three employees, whichever is greater, under the supervision of the principal or immediate supervisor, have previously given notice of their intention to use that day for leave. Personal leave may not be used in connection with a concerted work stoppage or strike. Where the cause for leave originated prior to the beginning of the employment term, the employee shall be paid for time lost after the start of the employment term, but not to exceed the total amount of leave the employee has accrued. ~~If an employee uses personal leave which the employee has not yet~~

~~accumulated on a monthly basis and subsequently leaves the employment, the employee is required to reimburse the board for the salary or wages paid for the unaccumulated leave.~~

(4) The State Board shall maintain a rule to restrict the payment of personal leave benefits and the charging of personal leave time used to an employee receiving a workers' compensation benefit from a claim filed against and billed to the county board by which the person is employed. If an employee is awarded this benefit, the employee shall receive personal leave compensation only to the extent the compensation is required, when added to the workers' compensation benefit, to equal the amount of compensation regularly paid the employee. If personal leave compensation equal to the employee's regular pay is paid prior to the award of the workers' compensation benefit, the amount which, when added to the benefit, is in excess of the employee's regular pay shall be deducted from the employee's subsequent pay. The employee's accrued personal leave days shall be charged only for such days as equal the amount of personal leave compensation required to compensate the employee at the employee's regular rate of pay.

(5) The county board may establish reasonable rules for reporting and verification of absences for cause. If any error in reporting absences occurs, the county board may make necessary salary adjustments:

(A) In the next pay after the employee has returned to duty; or

(B) In the final pay if the absence occurs during the last month of the employment term.

(b) *Leave Banks.*

(1) Each county board shall establish a personal leave bank that is available to all school personnel. The board may establish joint or separate banks for professional personnel and school service personnel. Each employee may contribute up to two days of personal leave per school year. An employee may not be coerced or compelled to contribute to a personal leave bank.

(2) The personal leave bank shall be established and operated pursuant to a rule adopted by the county board. The rule:

(A) May limit the maximum number of days used by an employee;

(B) Shall limit the use of leave bank days to an active employee with fewer than five days accumulated personal leave who is absent from work due to accident or illness of the employee; and

(C) Shall prohibit the use of days to:

(i) Qualify for or add to service for any retirement system administered by the state; or

(ii) Extend insurance coverage pursuant to §5-16-13 of this code.

(D) Shall require that each personal leave day contributed:

(i) Is deducted from the number of personal leave days to which the donor employee is entitled by this section;

(ii) Is not deducted from the personal leave days without cause to which a donor employee is entitled if sufficient general personal leave days are otherwise available to the donor employee;

(iii) Is credited to the receiving employee as one full personal leave day;

(iv) May not be credited for more or less than a full day by calculating the value of the leave according to the hourly wage of each employee; and

(v) May be used only for an absence due to the purpose for which the leave was transferred. Any transferred days remaining when the catastrophic medical emergency ends revert back to the leave bank.

(3) The administration, subject to county board approval, may use its discretion as to the need for a substitute where limited absence may prevail, when an allowable absence does not:

(i) Directly affect the instruction of the students; or

(ii) Require a substitute employee because of the nature of the work and the duration of the cause for the absence.

(4) If funds in any fiscal year, including transfers, are insufficient to pay the full cost of substitutes for meeting the provisions of this section, the remainder shall be paid on or before August 31 from the budget of the next fiscal year.

(5) A county board may supplement the leave provisions in any manner it considers advisable in accordance with applicable rules of the state Board and the provisions of this chapter and chapter eighteen of this code.

(c) (1) A classroom teacher who has not utilized more than four than four personal days during the 200-day employment term shall receive a bonus of \$500 at the end of the school year.

(2) If the appropriations to the Department of Education for this purpose are insufficient to compensate all applicable classroom teachers, the Department of Education shall request a supplemental appropriation in an amount sufficient to compensate all classroom teachers. This payment may not be counted as part of the final average salary for the purpose of calculating retirement.

(d) The amendments to this section during the 2019 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the 2019 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-2. Holidays; closing of schools; time lost because of such; special Saturday classes.

(a) Schools shall be closed on Saturdays and on the following days which are designated as legal school holidays: Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas

Day, New Year's Day, Martin Luther King's birthday, Memorial Day and West Virginia Day. Schools also shall be closed on any day on which a primary election, general election or special election is held throughout the state or school district and on any day appointed and set apart by the president or the Governor as a holiday of special observance by the people of the state.

(b) When any of the above designated holidays, except a special election, falls on Saturday, the schools shall be closed on the preceding Friday. When any designated holiday falls on Sunday, the schools shall be closed on the following Monday.

(c) Special classes may be conducted on Saturdays for pupils and by teachers and service personnel. Saturday classes shall be conducted on a voluntary basis and teachers and service personnel shall be remunerated in ratio to the regularly contracted pay.

(d) Any school or schools may be closed by proper authorities on account of the prevalence of contagious disease, conditions of weather or any other calamitous cause over which the board has no control.

(1) Under any or all of the above provisions, the time lost by the school closings may not be counted as days of employment and may not be counted as meeting a part of the requirements of the minimum term of one hundred eighty days of instruction. Except as otherwise provided by §18-5-45a, a school employee's pay per pay period may not change as a result of a school closing not being counted as a day of employment, and the employee shall be paid the same amount during any pay period in which a school closing occurs that the employee would have been paid during the pay period if a school closing had not occurred.

(2) On the day or days when a school or schools are closed, county boards may provide appropriate alternate work schedules for professional and service personnel affected by the closing of any school or schools under any or all of the provisions of this subsection. Professional and service personnel shall receive pay the same as if school were in session.

(3) Insofar as funds are available or can be made available during the school year, the board may extend the employment term for the purpose of making up time that might affect the instructional term.

(e) In addition to any other provisions of this chapter, the board further is authorized to provide in its annual budget for meetings, workshops, vacation time or other holidays through extended employment of personnel at the same rate of pay.

CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.

ARTICLE 4. UNDERWOOD-SMITH ~~TEACHER~~ TEACHING SCHOLARSHIP SCHOLARS PROGRAM.

~~§18C-4-1. Scholarship and loan assistance fund~~ Underwood-Smith Teaching Scholars Program Fund created; purposes; funding.

(a) It is the purpose of this article ~~and article four a of this chapter~~ to improve the quality of education in the public schools of West Virginia by encouraging and enabling individuals who have demonstrated outstanding academic abilities to pursue teaching careers in the public schools in this state in mathematics, science, or special education at the ~~preschool~~ elementary, middle, or secondary levels. ~~in the public schools of this state. In addition, of those individuals who have demonstrated outstanding academic abilities to pursue teaching careers, for scholarships initially awarded for the fall semester, 2014, and thereafter~~ Particular efforts shall be made in the scholarship selection criteria and procedures to reflect the state's present and projected ~~subject and~~ geographic areas of critical need: *Provided*, That nothing in this article shall prohibit any individual who has demonstrated outstanding academic abilities from eligibility for an award from the Underwood-Smith Teacher Scholarship and Loan Assistance Fund under the provisions of this article as they existed prior to reenactment of this article during the 2019 Regular Session of the Legislature to pursue a teaching career in the field of music education.

(b) In consultation with the State Board of Education and the State Superintendent of Schools the commission shall propose legislative rules in accordance with the provisions of ~~article three-a, chapter twenty-nine a of this code~~ §29A-3A-1, *et seq.* The rules shall provide for the administration of the Underwood-Smith Teacher Scholarship and Loan Assistance programs Teaching Scholars Program by the vice chancellor for administration in furtherance of the purposes of this article, ~~and article four a of this chapter~~ including, but not limited to, the following:

(1) Establishing scholarship selection criteria and procedures;

(2) Establishing criteria and procedures for identifying ~~subject areas~~ public schools or geographic areas in critical need of teachers;

(3) Requiring scholarship recipients to teach in a public school in this state in mathematics, science, or special education at the elementary, middle, or secondary level in a geographic area of critical need pursuant to the provisions of §18C-4-3 of this code;

~~Awarding loan assistance, including establishing conditions under which partial awards may be granted for less than a full year of teaching in an area of critical need;~~

~~(4) Determining eligibility for loan assistance renewal;~~

~~(5) Establishing procedures ensuring that loan assistance funds are paid directly to the proper lending entity; and~~

~~(6)~~ (4) Establishing criteria for determining participant compliance or noncompliance with terms of the agreement and establishing procedures to address noncompliance including, but not limited to, repayment, deferral and excusal; and

~~(7)~~ (5) Developing model agreements.

(c) The commission and State Board of Education jointly shall ensure that Underwood-Smith Teaching Scholars recipients receive additional academic support and training from mathematics, science, or special education mentors beginning with

the freshman year and continuing through degree completion and the teaching obligation.

~~(d)~~ (d) There is created in the State Treasury a special revolving fund in the State Treasury to be known as The Underwood-Smith Teacher Scholarship and Loan Assistance Fund is continued in the State Treasury as a special revolving fund and is hereafter to be known as the Underwood-Smith Teaching Scholars Program Fund. The fund shall ~~to~~ be administered by the vice chancellor for administration solely for granting scholarships ~~and loan assistance~~ to teachers and prospective teachers in accordance with this article. ~~and article four a of this chapter.~~ Any moneys which may be appropriated by the Legislature, or received by the vice chancellor for administration from other sources, for the purposes of this article ~~and article four a of this chapter~~ shall be deposited in the fund. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Any moneys repaid to the vice chancellor for administration by reason of default of a scholarship ~~or loan assistance~~ agreement under this article ~~or article four a of this chapter~~ also shall be deposited in the fund. Fund balances shall be invested with the state's consolidated investment fund, and any and all interest earnings on these investments shall be used solely for the purposes for which moneys invested were appropriated or otherwise received.

~~(d)~~ (e) The vice chancellor for administration may accept and expend any gift, grant, contribution, bequest, endowment, or other money for the purposes of this article ~~and article four a of this chapter~~ and shall make a reasonable effort to encourage external support for the scholarship ~~and loan assistance~~ program.

~~(e)~~ (f) For the purpose of encouraging support for the scholarship ~~and loan assistance~~ program from private sources, the vice chancellor for administration may set aside no more than half of the funds appropriated by the Legislature for Underwood-Smith Teacher Scholarships and Loan Assistance Teaching Scholar awards to be used to match two state dollars to each private dollar from a nonstate source contributed on behalf of a specific institution of higher education in this state.

(g) In recognition of the high academic achievement necessary to receive an award under this article, each recipient shall be distinguished as an “Underwood-Smith Teaching Scholar” in a manner befitting the distinction as determined by the commission.

(h) Notwithstanding the provisions of subsection (d) of this section, and §18C-4A-3 and 18C-4A-4 of this code:

(1) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to satisfy the loan assistance agreement pursuant to §18C-4A-3 of this code for any student who is fulfilling the requirements of an agreement on the effective date of this section;

(2) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to fund Underwood-Smith teacher scholarships, and any renewals for which a recipient would be eligible pursuant to the prior enactment of this article, for those students receiving such scholarship on the effective date of this section; and

(3) The terms, conditions, requirements, and agreements applicable to an Underwood-Smith teacher scholarship or loan assistance recipient prior to the effective date of this section shall continue in effect and are not altered by the reenactment of this section during the 2019 regular session of the Legislature.

§18C-4-2. Selection criteria and procedures for awarding scholarships.

(a) ~~The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter §18C-1-5 of this code to shall select the recipients of Underwood-Smith teacher scholarships~~ Teaching Scholars who meet the eligibility criteria set forth in subsection (b) of this section.

(b) Eligibility for an Underwood-Smith ~~Teacher Scholarship~~ Teaching Scholars award shall be limited to students who meet the following criteria:

(1) Have graduated or are graduating from high school and rank in the top ten percent of their graduating class or the top ten percent statewide of those West Virginia students taking the ACT test with a cumulative grade point average of at least 3.25 on a 4.0 scale, and;

(A) For mathematics and science majors, met the college algebra ready assessment standards and college readiness English, reading, and writing standards as established by the commission; or

(B) For special education majors, met the college statistics readiness standards and college readiness English, reading, and writing standards as established by the commission;

(2) Agree to teach in the subject area of mathematics, science or special education in a public school in the state in a geographic area of critical need pursuant to the provisions of §18C-4-3 of this code; and

(3) In the case of a student pursuing a certificate in special education, have a cumulative grade point average of at least 3.25 on a 4.0 scale possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia; are public school aides or paraprofessionals as defined in section eight, article four, chapter eighteen a of this code and who have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia; or

(4) Are graduate students at the master's degree level; who have graduated or are graduating in the top ten percent of their college graduating class;

(c) To be eligible for an award, a non-citizen of the United States shall hold a valid Employment Authorization Document (EAD), or work permit, issued by the United States Citizenship and Immigration Services (USCIS).

(d) In accordance with the rules of the commission, the vice chancellor for administration shall develop criteria and procedures for the selection of scholarship recipients. The selection criteria shall reflect the purposes of this article and shall specify the areas in which particular efforts will be made in the selection of scholars as set forth in ~~section one of this article~~ §18C-4-1 of this code. Selection procedures and criteria also may include, but are not limited to, the grade point average of the applicant, involvement in extracurricular activities, financial need, current academic standing and an expression of interest in teaching as demonstrated by an essay written by the applicant. These criteria and procedures further may require the applicant to furnish letters of recommendation from teachers and others. It is the intent of the Legislature that academic abilities be the primary criteria for selecting scholarship recipients. ~~However, the qualified applicants with the highest academic abilities who intend to pursue teaching careers in areas of critical need and shortage pursuant to section one of this article shall be given priority.~~

~~(d)~~ (e) In developing the selection criteria and procedures to be used by the Higher Education Student Financial Aid Advisory Board, the vice chancellor for administration shall solicit the views of public and private education agencies and institutions and other interested parties. Input from interested parties shall be solicited by means of written and published selection criteria and procedures in final form for implementation and may be solicited by means of public hearings on the present and projected teacher needs of the state or any other methods the vice chancellor for administration may determine to be appropriate to gather the information.

(e) (f) The vice chancellor for administration shall make application forms for Underwood-Smith ~~Teacher Scholarships~~ Teaching Scholars available to public and private high schools in the state and in other locations convenient to applicants, parents and others, and shall make an effort to attract students from low-income backgrounds, ethnic or racial minority students, students with disabilities, and women or minority students who show interest in pursuing teaching careers in mathematics, ~~and science~~ and special education and who are under-represented in those fields.

§18C-4-3. Scholarship agreement.

(a) Each recipient of an Underwood-Smith ~~teacher scholarship~~ Teaching Scholars award shall enter into an agreement with the vice chancellor for administration under which the recipient shall meet the following conditions:

(1) Provide the commission with evidence of compliance with subsection (a), section four of this article;

(2) Beginning within a ~~ten year period~~ one year after completing the teacher education program for which the scholarship was awarded, ~~(A) teach full-time in the subject area of~~ mathematics, science, or special education at the elementary, middle, or secondary level, or special education at the elementary, middle or secondary level, in a geographic area of critical need, under contract with a county board of education in a public education program in the state, for a period of not fewer than ~~two~~ five consecutive years for ~~each year~~ the four academic years for which a scholarship was received. ~~or~~

~~(B) Teach full time under contract for not less than one year for each year for which a scholarship was received with a county board of education in this state in a teacher shortage area pursuant to section one of this article, in an exceptional children program in this state, in a school having less than average academic results or in a school in an economically disadvantaged area of this state; or~~

~~(C) Within the ten year period, while seeking and unable to secure a full time teaching position under contract with a county board of education which satisfies the conditions of paragraph (A) of this subdivision:~~

~~(i) Teach full time in a private school, parochial or other school approved for the instruction of students of compulsory school age pursuant to section one, article eight, chapter eighteen of this code; or~~

~~(ii) Teach in an institution of higher education in this state as defined in section two, article one, chapter eighteen b of this code or in a post secondary vocational education program in this state~~

~~for a period of not fewer than two years for each year for which a scholarship was received; or~~

~~(iii) Perform alternative service or employment in this state pursuant to rules promulgated by the commission, in federal, state, county or local supported programs with an educational component, including mental or physical health care, or with bona fide tax exempt charitable organizations dedicated to the above, for a period of not fewer than two years for each year for which a scholarship was received. Any teaching time accrued during the required five-year period as a substitute teacher for a county board of education under paragraph (A) or (B) of this subdivision in the subject area of mathematics, science, or special education at the elementary, middle, or secondary level, or special education at the elementary, middle or secondary level, shall be credited pro rata in accordance with rules promulgated by the commission; or~~

~~(3) Repay all or part of an Underwood-Smith ~~teacher scholarship~~ Teaching Scholars award received under this article plus interest and, if applicable, reasonable collection fees in accordance with ~~subsection (e), section four of this article, except as provided in subsection (d) of section four of this article~~ §18C-4-4 of this code.~~

(b) Scholarship agreements shall disclose fully the terms and conditions under which assistance under this article is provided and under which repayment may be required. The agreements shall include the following:

(1) A description of the conditions and procedures to be established under ~~section four of this article~~ §18C-4-4 of this code; and

(2) A description of the appeals procedure required to be established under ~~section four of this article~~ §18C-4-4 of this code.

~~(c) Individuals who were~~ The scholarship terms, conditions, requirements, and agreements applicable to awarded an Underwood-Smith teacher scholarship recipient prior to the effective date of this section ~~may apply the provisions of paragraph~~

~~(A), (B) or (C), subdivision (2), subsection (a) of this section to teaching or other service performed by them after July 1, 1997 shall continue in effect and are not altered by the reenactment of this section during the 2019 regular session of the Legislature.~~

§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.

(a) The recipient of an Underwood-Smith ~~Teacher Scholarship~~ Teaching Scholars award is eligible for scholarship renewal only during those periods when the recipient meets the following conditions:

(1) Is enrolled as a full-time student in an accredited institution of higher education in this state;

(2) Is pursuing a ~~course~~ program of study leading to teacher certification in mathematics, science, or special education at the ~~preschool~~ elementary, middle or secondary level; ~~in this state~~

(3) Is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending; ~~and~~

(4) Is maintaining a cumulative grade point average of at least 3.25 on a 4.0 scale; and

(5) Is complying with such other standards as the commission may establish by rule.

(b) Recipients found to be in noncompliance with the agreement entered into under ~~section three of this article~~ §18C-4-3 of this code shall be required to repay the amount of the scholarship awards received, plus interest, and, where applicable, reasonable collection fees, on a schedule and at a rate of interest prescribed in the program guidelines. Guidelines also shall provide for proration of the amount to be repaid by a recipient who teaches for part of the period required under subsection (a), ~~section three of this article~~ §18C-4-3 of this code and for appeal procedures under which a recipient may appeal any determination of noncompliance.

(c) A recipient is not in violation of the agreement entered into under ~~section three of this article~~ §18C-4-3 of this code during any

period in which the recipient is meeting any of the following conditions:

(1) Pursuing a full-time course of study at an accredited institution of higher education;

(2) Serving, not in excess of four years, as a member of the armed services of the United States;

~~(3) Seeking and unable to find full time employment in accordance with paragraph (A), subdivision (2), subsection (a), section three of this article and is fulfilling any of the alternatives specified in paragraph (B) or (C) of that subdivision;~~

(4) Satisfying the provisions of ~~additional~~ any repayment exemptions that may be prescribed by the commission by rule; or

~~(5)~~ (4) Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician.

(d) The rules adopted by the commission may provide guidelines under which the vice chancellor for administration may extend the time period for beginning or fulfilling the teaching obligation to ~~fifteen years~~ if extenuating circumstances exist.

§18C-4-5. Amount and duration of scholarship; relation to other assistance.

~~(a) Subject to subsection (b) of this section, each recipient of An Underwood-Smith teacher scholarship is eligible to receive assistance of up to \$5,000 for each academic year of higher education~~ Teaching Scholars award shall be used in preparation for becoming a preschool an elementary, middle or secondary mathematics, science, or special education teacher in the public schools of this state. Each award shall be in an amount equal to the lower of the average annual undergraduate tuition and mandatory fee rates charged to state resident students among all baccalaureate state institutions of higher education, or the actual tuition and mandatory fee rates charged to all students at that institution. An institution that accepts any moneys from the Underwood-Smith

Teaching Scholars Fund may not charge an Underwood-Smith Teaching Scholar any tuition or fees in excess of the amount of the scholarship award. No individual may receive scholarship assistance for more than

(b) An Underwood-Smith Teaching Scholars award is available for a maximum of four academic years for the completion of a bachelor's degree and two additional academic years for completion of a master's degree certification in special education that meets the requirements set by the State Board of Education.

~~(b) No individual shall~~

(c) An individual may not receive a scholarship award under this article which exceeds the cost of attendance at the institution the individual is attending. The cost of attendance shall be based upon the actual cost of tuition and fees, and reasonable allowances for books, educational supplies, room and board and other expenses necessitated by individual circumstances, in accordance with the program guidelines. For the purposes of establishing an award amount, the ~~senior administrator~~ vice chancellor for administration shall take into account the amount of financial aid assistance the recipient has or will receive from all other sources. If the amount of the Underwood-Smith ~~teacher scholarship assistance~~ Teaching Scholars award and the amount of assistance awards which the recipient has received from all other sources exceed the cost of attendance, the institution's financial aid officer, in consultation with the scholar, will determine what aid is to be reduced and shall do so in a manner to the best advantage of the scholar.

(d) The amendments to this article during the 2019 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this article existing immediately prior to the 2019 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

ARTICLE 4A. UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE PROGRAM.

§18C-4A-1. Selection criteria and procedures for loan assistance.

(a) The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter to select recipients to receive Underwood-Smith Teacher Loan Assistance Awards.

(b) To be eligible for a loan award, a teacher shall agree to teach, or shall currently be teaching, a subject area of critical need or in a school or geographic area of the state identified as an area of critical need. The advisory board shall make decisions regarding loan assistance pursuant to section one, article four of this chapter.

(c) In accordance with the rule promulgated pursuant to section one, article four of this chapter, the Vice Chancellor for Administration shall develop additional eligibility criteria and procedures for the administration of the loan program.

(d) The Vice Chancellor for Administration shall make available program application forms to public and private schools in the state via the website of the commission and the State Department of Education and in other locations convenient to potential applicants.

(e) The provisions of this section expire effective July 1, 2019.

§18C-4A-2. Loan assistance agreement.

(a) Before receiving an award, each eligible teacher shall enter into an agreement with the Vice Chancellor for Administration and shall meet the following criteria:

(1) Provide the commission with evidence of compliance with subsection (b), section four, article four of this chapter;

(2) Teach in a subject area of critical need or in a school or geographic area of critical need full time under contract with a county board for a period of two school years for each year for which loan assistance is received pursuant to this article. The Vice Chancellor for Administration may grant a partial award to an

eligible recipient whose contract term is for less than a full school year pursuant to criteria established by commission rule.

(3) Acknowledge that an award is to be paid to the recipient's student loan institution, not directly to the recipient, and only after the commission determines that the recipient has complied with all terms of the agreement; and

(4) Repay all or part of an award received pursuant to this article if the award is not paid to the student loan institution or if the recipient does not comply with the other terms of the agreement.

(b) Each loan agreement shall disclose fully the terms and conditions under which an award may be granted pursuant to this article and under which repayment may be required. The agreement also is subject to and shall include the terms and conditions established by section five, article four of this chapter.

(c) The provisions of this section expire effective July 1, 2019.

§18C-4A-3. Amount and duration of loan assistance; limits.

(a) Each award recipient is eligible to receive loan assistance of up to \$3,000 annually, subject to limits set forth in subsection (b) of this section:

(1) If the recipient has taught for a full school year under contract with a county board in a subject area of critical need or in a school or geographic area of critical need; and

(2) If the recipient otherwise has complied with the terms of the agreement and with applicable provisions of this article and article four of this chapter, and any rules promulgated pursuant thereto.

(b) The recipient is eligible for renewal of loan assistance only during periods when the recipient is under contract with a county board to teach in a subject area of critical need or in a school or geographic area of critical need and complies with other criteria and conditions established by rule, except that a teacher who is

teaching under a contract in a position that no longer meets the definition of critical need under rules established in accordance with section one, article four of this chapter is eligible for renewal of loan assistance until the teacher leaves his or her current position.

(c) A recipient may not receive loan assistance pursuant to this article which accumulates in excess of \$15,000.

(d) The provisions of this section expire effective July 1, 2019.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 12. STATE INSURANCE.

§29-12-5a. Liability insurance for county boards of education, their employees and members, the county superintendent of schools, public charter schools electing to obtain coverage, and for employees and officers of the state Department of Corrections. written notice of coverage to insureds.

(a) In accordance with the provisions of this article, the state Board of Risk and Insurance Management shall provide appropriate professional or other liability insurance for all county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members and for all employees and officers of the state ~~Department of Corrections~~ Division of Corrections and Rehabilitation: *Provided*, That the Board of Risk and Insurance Management is not required to provide insurance for every property, activity, or responsibility of county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members, and for all employees and officers of the state ~~Department of Corrections~~ Division of Corrections and Rehabilitation.

(b) Insurance provided by the Board of Risk and Insurance Management pursuant to the provisions of §29-12-5a(a) of this code shall cover claims, demands, actions, suits, or judgments by

reason of alleged negligence or other acts resulting in bodily injury or property damage to any person within or without any school building or correctional institution if, at the time of the alleged injury, the teacher, supervisor, administrator, service personnel employee, county superintendent, school board member, or employee or officer of the ~~Department of Corrections~~ Division of Corrections and Rehabilitation was acting in the discharge of his or her duties, within the scope of his or her office, position or employment, under the direction of the county board of education, or Commissioner of Corrections, or in an official capacity as a county superintendent or as a school board member or as Commissioner of Corrections.

(c) Insurance coverage provided by the Board of Risk and Insurance Management pursuant to §29-12-5a(a) of this code shall be in an amount to be determined by the state Board of Risk and Insurance Management, but in no event less than ~~\$1 million~~ for each occurrence. In addition, each county board of education shall purchase, through the Board of Risk and Insurance Management, excess coverage of at least \$5 million for each occurrence. The cost of this excess coverage will be paid by the respective county boards of education. Any insurance purchased under this section shall be obtained from a company licensed to do business in this state.

(d) The insurance policy provided by the Board of Risk and Insurance Management pursuant to §29-12-5a(a) of this code shall include comprehensive coverage, personal injury coverage, malpractice coverage, corporal punishment coverage, legal liability coverage, as well as a provision for the payment of the cost of attorney's fees in connection with any claim, demand, action, suit, or judgment arising from such alleged negligence or other act resulting in bodily injury under the conditions specified in this section.

(e) The county superintendent and other school personnel shall be defended by the county board or an insurer in the case of suit, unless the act or omission shall not have been within the course or scope of employment or official responsibility or was motivated by malicious or criminal intent.

(f) At least annually, beginning with the 2019-2020 school year, the county board shall provide written notice of insurance coverage to each of its insureds, including teachers, supervisors, administrators, service personnel employees, county superintendent, and school board members. The notice shall identify the coverages, monetary limits of insurance, and duty to defend for each occurrence as provided to insureds by the Board of Risk and Insurance Management under this section. The written notice may be sent via email, or via first-class mail to the insured's last mailing address known to the county board. The written notice shall also include contact information for the Board of Risk and Insurance Management.

(g) The provisions of this section apply to public charter schools that have been authorized pursuant to §18-5G-1 et seq. of this code and have included in their approved charter application a determination to obtain insurance coverage from the Board of Risk and Insurance Management pursuant to this section. If a public charter school elects to obtain coverage pursuant to this section:

(1) Any provision in this section applicable to a county board also applies to a charter school governing board;

(2) Any provision in this section applicable to a school board member also applies to a member of a charter school governing board; and

(3) Any provision of this section applicable to teachers, supervisory and administrative staff members, and service personnel employed by a county board also applies to teachers, supervisory or administrative staff members, and service personnel employed by a public charter school.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 451—A Bill to amend and reenact §5-16-2 and §5-16-22 of the Code of the West Virginia, 1931, as amended; to amend and reenact §11-8-6f of said code; to amend

said code by adding thereto a new section, designated §11-21-25; to amend and reenact §18-5-16, §18-5-16a, §18-5-18b, and §18-5-46 of said code; to amend said code by adding thereto a new section, designated §18-5-45a; to amend said code by adding thereto a new section, designated §18-5-48; to amend said code by adding thereto a new article, designated §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-7, §18-5G-8, §18-5G-9, §18-5G-10, §18-5G-11, §18-5G-12, and §18-5G-13; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-8-4 of said code; to amend and reenact §18-9A-2, §18-9A-8, §18-9A-9, and §18-9A-12 of said code; to amend said code by adding thereto a new section, designated §18-9A-10a; to amend and reenact §18-20-5 of said code; to amend said code by adding thereto a new article, designated §18-31-1, §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, and §18-31-9; to amend and reenact §18A-2-8 of said code; to amend and reenact §18A-3-6 of said code; to amend and reenact §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a, §18A-4-8a, and §18A-4-10 of said code; to amend said code by adding thereto a new section, designated §18A-4-2d; to amend and reenact §18A-5-2 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3, §18C-4-4, and §18C-4-5 of said code; to amend and reenact §18C-4A-1, §18C-4A-2, and §18C-4A-3 of said code; and to amend and reenact §29-12-5a of said code, all relating generally to comprehensive education reform; allowing public charter schools to participate in the Public Employees Insurance program; allowing county boards of education to increase their regular levy rates subject to voter approval; creating personal income tax credits for educational expenses incurred by certain school employees for the purchase of supplementary educational materials or professional development costs; requiring county boards to establish attendance zones; addressing the transfer and enrollment policies for students in public schools; modifying minimum percentage of work time school counselors are required to spend in a direct counseling relationship with pupils; prohibiting accrued or equivalent instructional time to cancel days lost and the delivery of instruction through alternative methods from being used to cancel days lost due to concerted work stoppage or strike; prohibiting participation in any extracurricular activity during any instructional day canceled; requiring teacher recommendation be primary consideration when

considering student promotion; requiring safety and security measures of each school facility be upgraded when necessary to ensure the safety of students; creating a “Safe Schools Fund”; authorizing the establishment of charter schools; providing legislative purpose and intent; defining terms; establishing requirements and powers for public charter schools; providing for the creation of governing boards; setting requirements for enrollment in public charter schools; creating process and requirements for application to establish public charter schools; providing duties and responsibilities for authorizers; limiting liability of authorizer, county boards of education, and the State; requiring an oversight fee be paid to authorizer; establishing requirements for charter school contracts and the process for renewal, nonrenewal, and revocation of contracts, including required rules by the State Board of Education; creating the West Virginia Charter Public School Commission; establishing membership of the commission; providing for appointment of members; setting meeting requirements; setting forth prohibitions for public charter schools; requiring or authorizing State Board of Education rules relating to public charter school funding, to clarify certain requirements, to address certain unforeseen issues, for ensuring accountability for meeting certain standards of student performance, and to allow the schools for the deaf and blind to apply for authorization to become a public charter school; allowing charter schools access to public facilities; establishing reporting requirements; allowing charter schools to elect to participate in the State Teachers Retirement System and the Teachers’ Defined Contribution Retirement System; modifying the contact requirements for a student’s guardians upon accrual of unexcused absences; including professional personnel providing direct social and emotional support services to students within the definition of “professional student support personnel”; modifying definition of “net enrollment” to promote establishment of Advanced Career Education programs and establish a minimum net enrollment level of 1,400 for purpose of determining basic foundation program; clarifying definition of “levies for general current expense purposes”; modifying allowance for professional student support personnel; increasing the county allowance for current expense to 71.25 percent of the county’s state average costs per square footage per student for operations and maintenance amount; creating an allowance for education savings accounts; setting local share

maximum at 2015-2016 level; including public charter schools in provisions pertaining to an appropriation to serve certain exceptional children; enacting an Educational Savings Account Program for certain eligible students; providing a short title and definitions; providing basic elements of an Educational Savings Account (ESA) which includes depositing funds into an ESA to pay qualifying education expenses; establishing ESA application requirements; setting forth responsibilities of the Treasurer; establishing a Parent Review Committee; providing eligibility requirements applicable to education service providers; providing for the responsibilities of resident school districts; addressing legal proceedings; adding to reasons for which a county board of education may suspend or dismiss an employee; requiring the state superintendent to maintain a database of all individuals suspended or dismissed for certain causes; adding to grounds for revocation of a teaching certificate and automatic revocation; increasing salaries for teachers; increasing salaries for certain classroom teachers providing math instruction; requiring that certain classroom teachers providing math instruction and who complete a specialized mathematics course be paid a one-time salary supplement; removing definition of salary equity among the counties; removing requirement that Department of Education include in its budget request a request for funding sufficient to meet the objective of salary equity; allowing counties to provide additional compensation to certain teachers; permitting a county board of education to base its reductions in force determinations on an individual's qualifications as defined in county board policy; modifying provisions pertaining to the preferred recall list and posting of position openings; increasing salaries for service personnel; providing for accrual of personal leave at the end of each pay period; increasing leave without cause days from three to four; requiring a bonus for classroom teachers who have not been absent for more than four days during the employment term; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance programs as the Underwood-Smith Teaching Scholars Program; modifying program purpose to target certain academic disciplines in a geographic area of critical need; preserving eligibility under prior enactment for individual pursuing a teaching career in music education; requiring recipients receive additional academic support and training from certain mentors; requiring each recipient to be distinguished as an "Underwood-Smith Teaching Scholar";

modifying award eligibility, service agreement, and renewal criteria to reflect modified program purpose; preserving eligibility and service agreement criteria for current award recipients; modifying the amount of an award and limiting tuition and fee charges for program recipients; abolishing the Underwood-Smith Teacher Loan Assistance Program; requiring at least annual written notice of Board of Risk and Insurance Management insurance coverages by county boards to employee insureds; and allowing public charter schools to obtain insurance coverage from the Board of Risk and Insurance Management.

Following discussion and a point of inquiry to the President, with resultant response thereto,

Senator Prezioso moved that the Senate adjourn until tomorrow, Tuesday, February 19, 2019.

The question being on the adoption of Senator Prezioso's aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—15.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Prezioso's aforestated motion had not prevailed.

Following extended discussion,

At 4:07 p.m., Senator Carmichael (Mr. President) declared the Senate in recess for five minutes.

The Senate reconvened at 4:23 p.m. and, on motion of Senator Takubo, the Senate recessed until 6 p.m. today.

The Senate reconvened at 6:14 p.m.

At the request of Senator Woelfel, unanimous consent being granted, Senator Woelfel addressed the Senate apologizing for questions asked earlier during the discussion of Engrossed Committee Substitute for Senate Bill 451 which some members found offensive.

The Senate then resumed consideration of

Eng. Com. Sub. for Senate Bill 451, Comprehensive education reform.

Following extended discussion,

Senator Romano moved to amend Senator Rucker's amendments to the House of Delegates amendments to the bill.

Which motion, the President ruled out of order.

Senator Romano then appealed the ruling of the Chair.

Following points of inquiry to the President, with resultant responses thereto,

The question being "Shall the Chair be sustained?"

On this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—20.

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

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the Chair sustained.

Following discussion,

The question being on the adoption of Senator Rucker's amendments to the House of Delegates amendments to the bill, and on this question, Senator Unger demanded the yeas and nays.

Senator Roberts requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senator Roberts would be as a member of a class of persons and that he would be required to vote on all matters pertaining to Engrossed Committee Substitute for Senate Bill 451.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Rucker's amendments to the House of Delegates amendments to the bill adopted.

Senator Takubo moved that the Senate concur in the House of Delegates amendments, as amended.

The question being on the adoption of Senator Takubo's aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

Senator Palumbo requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as his wife is a high school math teacher.

The Chair replied that any impact on Senator Palumbo would be as a member of a class of persons and that he would be required to vote on all matters pertaining to Engrossed Committee Substitute for Senate Bill 451.

Senator Mann requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senator Mann would be as a member of a class of persons and that he would be required to vote on all matters pertaining to Engrossed Committee Substitute for Senate Bill 451.

Senator Ihlenfeld requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is married to a public school employee.

The Chair replied that any impact on Senator Ihlenfeld would be as a member of a class of persons and that he would be required to vote on all matters pertaining to Engrossed Committee Substitute for Senate Bill 451.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Takubo's aforesated motion had prevailed.

Engrossed Committee Substitute for Senate Bill 451, as amended, was then put upon its passage.

Pending extended discussion,

Senator Beach moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the passage of Engrossed Committee Substitute for Senate Bill 451, as amended.

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

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 451) passed with its Senate amended title.

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

Thereafter, at the request of Senator Blair, and by unanimous consent, the remarks by Senator Takubo regarding the passage of Engrossed Committee Substitute for Senate Bill 451 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 8:03 p.m. tonight:

Eng. House Bill 2351, Relating to regulating prior authorizations.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Maroney, the name of Senator Maroney was removed as a sponsor of **Senate Bill 309** (*Relating to civil asset forfeiture*).

At the respective requests of Senators Facemire and Ihlenfeld, the names of Senators Facemire and Ihlenfeld were removed as sponsors of **Engrossed Senate Bill 618** (*Relating to effect on levy rate when appraisal results in tax increase*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 8:04 p.m., the Senate adjourned until tomorrow, Tuesday, February 19, 2019, at 11 a.m.

TUESDAY, FEBRUARY 19, 2019

The Senate met at 11:03 a.m.

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

Prayer was offered by Pastor Wayne Crozier, Abundant Life Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Roman W. Prezioso, Jr., a senator from the thirteenth district.

Pending the reading of the Journal of Monday, February 18, 2019,

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

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

The Clerk presented the following communications from various state agencies as required by the provisions of law:

Housing Development Fund (Audited Financial Statements) (§31-18-24)

State Tax Department (Annual Preliminary Statewide Aggregate Tax Revenue Projection) (§11-1C-5)

Tax Appeals, Office of (§11-10A-7)

Transportation, Department of (Office of Administrative Hearings) (§17C-5C-2)

The Senate proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2768—A Bill to amend and reenact §16-54-1, §16-54-3, §16-54-4, §16-54-5, §16-54-6, §16-54-7, and §16-54-8, of the Code of West Virginia, 1931, as amended, all relating to reducing the use of certain prescription drugs; defining terms; clarifying types of examinations; requiring certain information in a narcotics contract; clarifying that the drug being regulated is a Schedule II opioid drug; providing exceptions; and requiring coverage for certain procedures to treat chronic pain.

Referred to the Committee on Health and Human Resources.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2834—A Bill to amend and reenact §22C-9-4 of the Code of West Virginia, 1931, as amended, relating to updating and modernizing the minimum spacing provisions for the drilling of horizontal deep wells, which will

allow exploration and production companies to implement evidence based best practices; establishing no spacing limitations on horizontal deep wells that are operated by the same operator or different operators pursuant to written agreement; establishing setbacks from unit boundaries between different operators; establishing the spacing between the wells of different operators; and limiting certain distances that may be established to only those between the producing portions of horizontal deep wells and not the entire well bore.

Referred to the Committee on Energy, Industry, and Mining.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2849—A Bill to amend and reenact §30-5-11 and §30-5-12 of the Code of West Virginia, 1931, as amended, all relating to establishing different classes of pharmacy technicians; establishing an application process for a registered pharmacy technician to obtain an endorsement as a pharmacy technician; establishing an application process for a nuclear pharmacy technician endorsement; expanding the scope of practice for a registered pharmacy technician endorsement; and defining the scope of practice for a nuclear pharmacy technician endorsement.

Referred to the Committee on Health and Human Resources.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 613, Requiring DNR include election of organ donation on hunting licenses.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 613 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §16-19-3, §16-19-5, and §16-19-19 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-31 of said code, all relating to permitting individuals to make an anatomical gift on a hunting or fishing license; adding definition; permitting the Division of Natural Resources to provide donor registrant records collected to the donor registry; requiring the Division of Natural Resources to provide information on the election of organ donation on hunting or fishing licenses; and requiring the Division of Natural Resources to include the election of organ donation on hunting or fishing licenses.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 300, Relating to adoption records.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 300 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §48-22-803, relating to adoption records; authorizing adult adoptees access to certain records, including adoption records and medical history; requiring birth parents to provide certain

health information; allowing birth parents to designate a contact preference and allowing them to provide certain information; allowing birth parents to request name redaction, providing for a name redacting process; directing the Department of Health and Human Resources to administer records, require additional information, and charge a reasonable fee; providing a procedure for the collection and dissemination of information; providing for the tracking of information and reporting to the Legislative Oversight Commission on Health and Human Resources Accountability; and authorizing the Department of Health and Human Resources to promulgate legislative rules.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael J. Maroney,
Chair.

The bill (Com. Sub. for S. B. 300), under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 583, Creating financial technology sandbox program for testing of financial products and services.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 583 (originating in the Committee on Banking and Insurance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31A-9-1, §31A-9-2, §31A-9-3, §31A-9-4, §31A-9-5,

§31A-9-6, §31A-9-7, §31A-9-8, and §31A-9-9, all relating to creating the Financial Technology Sandbox Act and program for the testing of financial products and services; defining terms; authorizing waivers of certain statutes and rules covering the regulation of financial products and services offered to consumers in this state; providing for service of process; specifying responsibilities and authority of Commissioner of Financial Institutions; establishing standards and procedures related to applicants and applications for participation in the program; requiring application fee and reimbursement of costs incurred by Division for Financial Institutions; setting forth requirements concerning criminal history background checks and considerations regarding participation in the program; requiring posting of bond; creating the Financial Technology Innovation Account; specifying limits of program and standards for the suspension and revocation of an applicant's authorization under the program; requiring written statement of disclosures to consumers; requiring retention of certain records and exempting them from Freedom of Information Act; authorizing reciprocity agreements with other regulators; permitting potential extension of the program; authorizing rulemaking and orders; and permitting the creation of a new unit under the Division of Financial Institutions with staff for administration of the program.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael T. Azinger,
Chair.

The bill (Com. Sub. for S. B. 583), under the original double committee reference, was then referred to the Committee on the Judiciary.

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

The Senate proceeded to the sixth order of business.

Senators Trump, Baldwin, Swope, Plymale, Stollings, Ihlenfeld, Maroney, and Rucker offered the following resolution:

Senate Concurrent Resolution 39—Requesting the Joint Committee on Government and Finance to create a Joint Select Committee on Requirements Governing Water Quality Standards.

Whereas, There is disagreement on what water quality standards should be; and

Whereas, Industry representatives and environmentalists disagree on what standards are adequate to protect the public health and well-being while still allowing businesses to be successful in their endeavors; and

Whereas, Federal standards must also be considered in determining the state's water quality standards; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to create a Joint Select Committee on Requirements Governing Water Quality Standards; and, be it

Further Resolved, That the Legislature hereby authorizes the Joint Select Committee on Requirements Governing Water Quality Standards to study the issues concerning water quality standards, while maintaining compliance with federal regulations, specifically the proposed Triennial Review of Water Quality Standards; and, be it

Further Resolved, That the Joint Select Committee on Requirements Governing Water Quality Standards shall be composed of five members of the Senate appointed by the President of the Senate and five members of the House of Delegates appointed by the Speaker of the House of Delegates. No more than three of the five members appointed by the President of the Senate and the Speaker of the House of Delegates, respectively, may be members of the same political party. In addition, the

President of the Senate and Speaker of the House of Delegates shall be ex officio nonvoting members of the Joint Select Committee on Requirements Governing Water Quality Standards and shall designate the co-chairpersons; and, be it

Further Resolved, That the Joint Select Committee on Requirements Governing Water Quality Standards may meet at any time, both during sessions of the Legislature and in the interim, or as often as may be necessary to receive information and testimony, and report on its findings and conclusions. All members of the committee are entitled to compensation and reimbursement for expenses as authorized for members of the Legislature in accordance with the performance of their interim duties; and, be it

Further Resolved, That, at the conclusion of its study, the Joint Select Committee on Requirements Governing Water Quality Standards report to the Joint Committee on Government and Finance its findings, conclusions, and recommendations together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Tarr, Baldwin, Jeffries, Stollings, and Swope offered the following resolution:

Senate Concurrent Resolution 40—Requesting the Division of Highways name bridge number 2657, S-242(17), (40A030), located on Rt. 34 within the city limits of Hurricane, Putnam County, the “U. S. CPL Roy E. Clark Memorial Bridge”.

Whereas, Roy Edward Clark was born 22 March 1946 in Hurricane, West Virginia, the son of Lawrence Willard Clark and Mazy Ann Woodard; and

Whereas, Roy E. Clark graduated from Hurricane High School in 1966, where he was known by his friends as a “kind, humble, honest, and caring young man”. Roy loved athletics and was a member of both the basketball and track teams; and

Whereas, After graduating high school, CPL Roy E. Clark served with the U. S. Army in Vietnam, Company C, 5th Battalion, 46th Infantry, 198th Infantry Brigade; and

Whereas, On 24 May 1969, CPL Roy E. Clark was mortally wounded when his company came under heavy enemy fire near the village of Tra Binh, Vietnam. With complete disregard for his own safety, CPL Roy E. Clark continued to expose himself to intense enemy fire, laying down a suppressive fire that provided cover to his comrades, enabling them to reach a safe position; and

Whereas, CPL Roy E. was posthumously awarded the Bronze star with “V” for valor for saving the lives of many of his fellow soldiers through his timely and courageous actions; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Roy E. Clark and his sacrifice for his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 2657, S-242(17), (40A030), located on Rt. 34 within the city limits of Hurricane, Putnam County, the “U. S. Army CPL Roy E. Clark Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army CPL Roy E. Clark Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senators Lindsay, Azinger, Facemire, Hardesty, Ihlenfeld, Jeffries, Palumbo, Plymale, Prezioso, Romano, Stollings, Takubo, Unger, Woelfel, Baldwin, Hamilton, and Maroney offered the following resolution:

Senate Concurrent Resolution 41—Requesting the Joint Committee on Government and Finance to study the implementation, costs, and benefits of creating a paid family and medical leave insurance program in West Virginia.

Whereas, Eighty-seven percent of workers do not have access to paid family leave through their employers, less than 40 percent have personal medical leave through an employer-provided temporary disability program, and the federal Family and Medical Leave Act (FMLA) leaves out 40 percent of the workforce and guarantees only unpaid leave; and

Whereas, In 1970, about half of married couples with children under the age of 18 lived in a household in which the father was the primary earner, compared to two-thirds living in dual-earner households by 2015. The share of children living with a single mother or single father also increased, and more children than ever are living in households in which all parents work and are unlikely to have access to paid leave to care for a sick child or stay home with an infant; and

Whereas, The State of West Virginia has the nation's lowest labor force participation rate for both men and women. The lack of paid leave means workers often choose between staying attached to the workforce, their families, or their health and this can result in lost wages, lower labor force participation, and reduced lifetime earnings; and

Whereas, There is no strong evidence that businesses suffer when workers have paid leave. Paid family leave can improve worker retention, reduce business costs, reduce turnover, and increase productivity while reducing the need for public assistance, which creates significant taxpayer savings; and

Whereas, Establishing a paid family and medical leave program can reduce health and economic disparities experienced by women and people of color; and

Whereas, Six states and the District of Columbia have enacted paid family and medical leave. The United States is the only industrialized country in the world that does not guarantee paid family and medical leave for its citizens; and

Whereas, Paid family leave has bipartisan support in the US Congress and President Trump called for at least six weeks of paid family leave during his 2019 State of the Union address, saying that every new parent should have a “chance to bond with their newborn child”; and

Whereas, Children are better off when their parents can take paid leave, including increased rates of breastfeeding, reduced rates of low birth-weights, improved parent bonding, and cognitive development and improved infant and child mortality; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the implementation, costs, and benefits of creating a paid family and medical leave insurance program in West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Trump, Woelfel, Boso, Beach, Stollings, Takubo, Rucker, Lindsay, Baldwin, Palumbo, Jeffries, Romano, Hamilton, Plymale, Swope, Maroney, and Prezioso offered the following resolution:

Senate Resolution 51—Designating February 19, 2019, as Nurses’ Policy Day at the Legislature.

Whereas, One in 43 West Virginians is a nurse; and

Whereas, Nurses make a significant contribution of time, energy, heart, and care toward the healing of our residents who are ill and suffering; and

Whereas, Nurses are powerful advocates for the health and well-being of all West Virginians, providing education, screening, nursing intervention, evaluation, and research to improve the health of our residents throughout their life span, from pre-birth to the end of life; and

Whereas, Nurses meet the health needs of West Virginians, not only in hospitals and long-term care facilities but conveniently in their homes, at school, at work, at church, in community health centers, on the phone, and on the Internet; and

Whereas, The Institute of Medicine recognizes nurses as key to solving our current rising cost of chronic illness through their expanding leadership as coordinators and collaborators of interdisciplinary health care teams; and

Whereas, The expanding roles of advanced practice registered nurses as nurse anesthetists, nurse midwives, and certified nurse practitioners in a variety of specialties provide improved, cost-effective access to health services in our rural state; and

Whereas, The American public has voted to acknowledge nurses as the Most Trusted Professional for 12 years; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 19, 2019, as Nurses' Policy Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of West Virginia Nurses' Policy Day.

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

On motion of Senator Takubo, at 11:15 a.m., the Senate recessed to present Senate Resolution 51.

The Senate reconvened at 11:19 a.m. and proceeded to the seventh order of business.

Senate Concurrent Resolution 36, US Army CPL Cory M. Hewitt Memorial Bridge.

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

Senate Concurrent Resolution 37, Urging Bureau for Public Health designate Alzheimer's disease and other dementias as public health issue.

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

Senate Concurrent Resolution 38, Urging CSX support New River Train.

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

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

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

Thereafter, on motion of Senator Plymale, the resolution (S. C. R. 38) was then referred to the Committee on Rules.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 29, Creating ten-year tax credits for businesses locating on post-coal mine sites.

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

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

The nays were: None.

Absent: Cline and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 29) passed with its title.

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

Eng. Com. Sub. for Senate Bill 117, Relating to incentives for consolidating local governments.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 117) passed with its title.

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

Com. Sub. for Senate Bill 147, Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 18, 2019, for amendments to be received on third reading, was reported by the Clerk.

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

On page one, section twenty-two, line eight, after the word “duties” by changing the period to a colon and inserting the following proviso: *Provided, That any monofill landfill regulated under §22-15-21 of this code shall be exempt from such county or regional solid waste assessment fee.*;

On page one, before article sixteen, by inserting a new section, designated section eleven, to read as follows:

ARTICLE 15. SOLID WASTE MANAGEMENT ACT.

§22-15-11. Solid waste assessment fee; penalties.

(a) *Imposition.* — A solid waste assessment fee is hereby imposed upon the disposal of solid waste at any solid waste disposal facility in this state in the amount of \$1.75 per ton or part

thereof of solid waste. The fee imposed by this section is in addition to all other fees and taxes levied by law and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility: Provided, That any monofill landfill regulated under §22-15-21 of this code shall be exempt from such solid waste assessment fee.

(b) *Collection, return, payment and records.* — The person disposing of solid waste at the solid waste disposal facility shall pay the fee imposed by this section, whether or not such person owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner.

(1) The fee imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility.

(2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or before the fifteenth day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator is required to file returns on forms and in the manner as prescribed by the Tax Commissioner.

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until remitted to the Tax Commissioner.

(4) If any operator fails to collect the fee imposed by this section, he or she is personally liable for such amount as he or she failed to collect, plus applicable additions to tax, penalties and interest imposed by article ten, chapter eleven of this code.

(5) Whenever any operator fails to collect, truthfully account for, remit the fee or file returns with the fee as required in this section, the Tax Commissioner may serve written notice requiring such operator to collect the fees which become collectible after service of such notice, to deposit such fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner and to keep the amount of such fees in such account until remitted to the Tax Commissioner. Such

notice remains in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner.

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the fee imposed by this section and the owner is secondarily liable for remittance of the fee imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are jointly and severally responsible and liable for compliance with the provisions of this section.

(7) If the operator or owner responsible for collecting the fee imposed by this section is an association or corporation, the officers thereof are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the fee and any additions to tax, penalties and interest imposed by article ten, chapter eleven of this code may be enforced against them as against the association or corporation which they represent.

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the fee imposed by this section shall keep complete and accurate records in such form as the Tax Commissioner may require in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section and section twenty-two, article five, chapter seven of this code is considered a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under chapter twenty-four-a of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within fourteen days, reflect the cost of said fee in said motor carrier's rates for solid waste removal service. In calculating the amount of said fee to said motor carrier, the commission shall use the national average of pounds of waste generated per person per day as determined by the United States Environmental Protection Agency.

(d) *Definition of solid waste disposal facility.* — For purposes of this section, the term “solid waste disposal facility” means any approved solid waste facility or open dump in this state, and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste disposal facility within this state that collects the fee imposed by this section. Nothing herein authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the fee imposed by this section:

(1) Disposal of solid waste at a solid waste disposal facility by the person who owns, operates or leases the solid waste disposal facility if the facility is used exclusively to dispose of waste originally produced by such person in such person’s regular business or personal activities or by persons utilizing the facility on a cost-sharing or nonprofit basis;

(2) Reuse or recycling of any solid waste;

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on such days and times as designated by the secretary is exempt from the solid waste assessment fee; and

(4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which disposes of thirty percent or less of the total waste it processes for recycling. In order to qualify for this exemption each commercial recycler must keep accurate records of incoming and outgoing waste by weight. Such records must be made available to the appropriate inspectors from the division, upon request.

(f) *Procedure and administration.* — Notwithstanding section three, article ten, chapter eleven of this code, each and every provision of the “West Virginia Tax Procedure and Administration Act” set forth in article ten, chapter eleven of this code shall apply to the fee imposed by this section with like effect as if said act were

applicable only to the fee imposed by this section and were set forth in extenso herein.

(g) *Criminal penalties.* — Notwithstanding section two, article nine, chapter eleven of this code, sections three through seventeen, article nine, chapter eleven of this code shall apply to the fee imposed by this section with like effect as if said sections were applicable only to the fee imposed by this section and were set forth in extenso herein.

(h) *Dedication of proceeds.* — The net proceeds of the fee collected by the Tax Commissioner pursuant to this section shall be deposited at least monthly in an account designated by the secretary. The secretary shall allocate \$0.25 for each ton of solid waste disposed of in this state upon which the fee imposed by this section is collected and shall deposit the total amount so allocated into the “Solid Waste Reclamation and Environmental Response Fund” to be expended for the purposes hereinafter specified. The first \$1 million dollars of the net proceeds of the fee imposed by this section collected in each fiscal year shall be deposited in the “Solid Waste Enforcement Fund” and expended for the purposes hereinafter specified. The next \$250,000 of the net proceeds of the fee imposed by this section collected in each fiscal year shall be deposited in the “Solid Waste Management Board Reserve Fund”, and expended for the purposes hereinafter specified: *Provided*, That in any year in which the Water Development Authority determines that the Solid Waste Management Board Reserve Fund is adequate to defer any contingent liability of the fund, the Water Development Authority shall so certify to the secretary and the secretary shall then cause no less than \$50,000 nor more than \$250,000 to be deposited to the fund: *Provided, however*, That in any year in which the water development authority determines that the Solid Waste Management Board Reserve Fund is inadequate to defer any contingent liability of the fund, the Water Development Authority shall so certify to the secretary and the secretary shall then cause not less than \$250,000 nor more than \$500,000 to be deposited in the fund: *Provided further*, That if a facility owned or operated by the state of West Virginia is denied site approval by a county or regional solid waste authority, and if such denial

contributes, in whole or in part, to a default, or drawing upon a reserve fund, on any indebtedness issued or approved by the Solid Waste Management Board, then in that event the Solid Waste Management Board or its fiscal agent may withhold all or any part of any funds which would otherwise be directed to such county or regional authority and shall deposit such withheld funds in the appropriate reserve fund. The secretary shall allocate the remainder, if any, of said net proceeds among the following three special revenue accounts for the purpose of maintaining a reasonable balance in each special revenue account, which are hereby continued in the State Treasury:

(1) The “Solid Waste Enforcement Fund” which shall be expended by the secretary for administration, inspection, enforcement and permitting activities established pursuant to this article;

(2) The “Solid Waste Management Board Reserve Fund” which shall be exclusively dedicated to providing a reserve fund for the issuance and security of solid waste disposal revenue bonds issued by the solid waste management board pursuant to article three, chapter twenty-two-c of this code;

(3) The “Solid Waste Reclamation and Environmental Response Fund” which may be expended by the secretary for the purposes of reclamation, cleanup and remedial actions intended to minimize or mitigate damage to the environment, natural resources, public water supplies, water resources and the public health, safety and welfare which may result from open dumps or solid waste not disposed of in a proper or lawful manner.

(i) *Findings.* — In addition to the purposes and legislative findings set forth in section one of this article, the Legislature finds as follows:

(1) In-state and out-of-state locations producing solid waste should bear the responsibility of disposing of said solid waste or compensate other localities for costs associated with accepting such solid waste;

(2) The costs of maintaining and policing the streets and highways of the state and its communities are increased by long distance transportation of large volumes of solid waste; and

(3) Local approved solid waste facilities are being prematurely depleted by solid waste originating from other locations.

(j) The “Gas Field Highway Repair and Horizontal Drilling Waste Study Fund” is hereby created as a special revenue fund in the State Treasury to be administered by the West Virginia Division of Highways and to be expended only on the improvement, maintenance, and repair of public roads of three lanes or less located in the watershed from which the revenue was received that are identified by the Commissioner of Highways as having been damaged by trucks and other traffic associated with horizontal well drilling sites or the disposal of waste generated by such sites, and that experience congestion caused, in whole or in part, by such trucks and traffic that interferes with the use of said roads by residents in the vicinity of such roads: *Provided*, That up to \$750,000 from such fund shall be made available to the Department of Environmental Protection from the same fund to offset contracted costs incurred by the Department of Environmental Protection while undertaking the horizontal drilling waste disposal studies mandated by the provisions of subsection (j), section eight of this article. Any balance remaining in the special revenue account at the end of any fiscal year shall not revert to the General Revenue Fund but shall remain in the special revenue account and shall be used solely in a manner consistent with this section. The fund shall consist of the fee provided for in subsection (k) of this section.

(k) *Horizontal drilling waste assessment fee.* — An additional solid waste assessment fee is hereby imposed upon the disposal of drill cuttings and drilling waste generated by horizontal well sites in the amount of \$1 per ton, which fee is in addition to all other fees and taxes levied by this section or otherwise and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility: *Provided*, That the horizontal drilling waste assessment fee shall be collected and administered in the same manner as the solid waste assessment fee

imposed by this section, but shall be imposed only upon the disposal of drill cuttings and drilling waste generated by horizontal well sites.;

And,

On page two, section four, line nine, after the word “facility” by changing the period to a colon and inserting the following proviso: Provided further, That any monofill landfill regulated under §22-15-21 of this code shall be exempt from such county or regional solid waste assessment fee.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 147 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Cline and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 147) passed.

On motion of Senator Sypolt, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Senate Bill 147—A Bill to amend and reenact §7-5-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-15-11 of said code; and to amend and reenact §22-16-4 of said code, all relating to shifting funding from the Landfill

Closure Assistance Fund to local solid waste authorities and setting out an exemption from the fees for certain monofill landfills.

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

Eng. Senate Bill 333, Exempting automobiles 25 years or older from personal property taxes.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 333 pass?”

Senators Romano, Blair, Boso, Weld, and Prezioso respectively requested a ruling from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate as they are owners of antique cars.

The Chair replied that any impact on Senators Romano, Blair, Boso, Weld, and Prezioso would be as members of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Hamilton, Jeffries, Maroney, Maynard, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Boso, Clements, Facemire, Hardesty, Ihlenfeld, Lindsay, Palumbo, Prezioso, Romano, Sypolt, Weld, and Woelfel—13.

Absent: Cline and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 333) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

Following discussion,

The question being on the adoption of Senator Takubo's aforestated motion.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: Woelfel—1.

Absent: Cline and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 333) takes effect July 1, 2019.

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

Eng. Senate Bill 617, Relating to method of payment to Municipal Pensions Security Fund.

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

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

The nays were: None.

Absent: Cline and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 617) passed.

On motion of Senator Azinger, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Senate Bill 617—A Bill to amend and reenact §8-22-19 of the Code of West Virginia, 1931, as amended, relating to method of payment of municipal contributions to municipality's pension trust funds.

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

Eng. Senate Bill 618, Relating to effect on levy rate when appraisal results in tax increase.

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

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Hamilton, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Takubo, Trump, Weld, and Carmichael (Mr. President)—16.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Tarr, Unger, and Woelfel—16.

Absent: Cline and Mann—2.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. S. B. 618) rejected on a tie vote.

The Senate proceeded to the ninth order of business.

Com. Sub. for Com. Sub. for Senate Bill 310, Establishing certain requirements for dental insurance.

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

Com. Sub. for Senate Bill 326, Reorganizing state agencies involved in emergency and disaster planning.

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

On motion of Senator Takubo, the bill was referred to the Committee on Rules.

Com. Sub. for Senate Bill 344, Relating to operation of state-owned farms.

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

Com. Sub. for Senate Bill 360, Relating to third-party litigation financing.

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

Com. Sub. for Senate Bill 512, Regulating pawnbrokers.

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

On motion of Senator Weld, the following amendment to the bill was reported by the Clerk and adopted:

On page two, section one, line two, after the word “transactions” by inserting the following: “except for refinance pawn transactions or merchandise bought from a manufacturer or wholesaler with an established place of business”.

The bill (Com. Sub. for S. B. 512), as amended, was then ordered to engrossment and third reading.

Senate Bill 519, Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation.

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

Com. Sub. for Senate Bill 553, Relating to federal funds for land-grant institutions.

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

Senate Bill 587, Relating to PEIA reimbursement of air ambulance providers.

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

Com. Sub. for Senate Bill 601, Relating to mandatory supervision of adult inmates.

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

Senate Bill 635, Relating generally to coal mining activities.

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

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

Senate Bill 636, Authorizing legislative rules for Higher Education Policy Commission.

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

Eng. Com. Sub. for House Bill 2324, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

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

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

Eng. Com. Sub. for House Bill 2607, Relating to the licensure of nursing homes.

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

Eng. House Bill 2666, Supplemental appropriation to the Department of Veterans' Assistance.

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

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

On page two, line thirteen, before the word "Veterans" by striking out the "6" and inserting in lieu thereof "7";

And,

On page two, line fourteen, before the word "Veterans" by striking out the "9" and inserting in lieu thereof "12".

The bill (Eng. H. B. 2666), as amended, was then ordered to third reading.

Eng. House Bill 2668, Supplemental appropriation to the Department of Administration, Public Defender Services.

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

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

On page one, line thirteen, before the word "Appointed" by striking out "5" and inserting in lieu thereof "6".

The bill (Eng. H. B. 2668), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Com. Sub. for Senate Bill 340, Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company.

Com. Sub. for Com. Sub. for Senate Bill 402, Authorizing Division of Forestry investigate and enforce timber theft violations.

Com. Sub. for Com. Sub. for Senate Bill 510, Relating to medical professional liability.

And,

Eng. Com. Sub. for House Bill 2083, Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Tarr, Romano, Rucker, Takubo, Azinger, and Facemire.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Tarr were ordered printed in the Appendix to the Journal.

At the request of Senator Prezioso, unanimous consent being granted, the remarks by Senators Romano and Facemire were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the respective requests of Senators Palumbo, Prezioso, and Stollings, the names of Senators Palumbo, Prezioso, and Stollings were removed as sponsors of **Engrossed Senate Bill 618** (*Relating to effect on levy rate when appraisal results in tax increase*).

At the request of Senator Takubo, and by unanimous consent, a leave of absence for the day was granted Senator Mann.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:14 p.m., the Senate adjourned until tomorrow, Wednesday, February 20, 2019, at 11 a.m.

WEDNESDAY, FEBRUARY 20, 2019

The Senate met at 11:13 a.m.

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

Prayer was offered by the Reverend Mark Wood, First Baptist Church, Spencer, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert H. Plymale, a senator from the fifth district.

Pending the reading of the Journal of Tuesday, February 19, 2019,

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

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

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for Senate Bill 61, Adding certain crimes for which prosecutor may apply for wiretap.

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

Eng. Senate Bill 377, Relating to minimum wage and maximum hour standards.

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

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

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

ARTICLE 5C. MINIMUM WAGE AND MAXIMUM HOURS STANDARDS FOR EMPLOYEES.

§21-5C-1. Definitions.

As used in this article:

(a) “Commissioner” means the Commissioner of Labor or his or her duly authorized representatives.

(b) “Wage and hour director” means the wage and hour director appointed by the Commissioner of Labor as Chief of the Wage and Hour Division.

(c) “Wage” means compensation due an employee by reason of his or her employment.

(d) “Employ” means to hire or permit to work.

(e) “Employer” includes the State of West Virginia, its agencies, departments, and all its political subdivisions, any individual, partnership, association, public or private corporation, or any person or group of persons acting directly or indirectly in the interest of any employer in relation to an employee; and who employs during any calendar week six or more employees as herein defined in any one separate, distinct, and permanent location or business establishment: *Provided*, That prior to January 1, 2015, the term “employer” does not include any individual, partnership, association, corporation, person or group of persons, or similar unit if 80 percent of the persons employed by him or her are subject to any federal act relating to minimum wage, maximum hours, and overtime compensation: *Provided, however*, That after December 31, 2014, for the purposes of §21-5C-3 of this code, the term “employer” does not include any individual, partnership, association, corporation, person or group of persons, or similar unit if 80 percent of the persons employed by him or her are subject to any federal act relating to maximum hours and overtime compensation.

(f) “Employee” includes any individual employed by an employer but shall not include: (1) Any individual employed by the United States; (2) any individual engaged in the activities of an educational, charitable, religious, fraternal, or nonprofit organization where the employer-employee relationship does not in fact exist, or where the services rendered to such organizations are on a voluntary basis; (3) newsboys, shoeshine boys, golf caddies, pinboys, and pin chasers in bowling lanes; (4) traveling salesmen and outside salesmen; (5) services performed by an individual in the employ of his or her parent, son, daughter, or spouse; (6) any individual employed in a bona fide professional, executive, or administrative capacity; (7) any person whose employment is for the purpose of on-the-job training; (8) any person having a physical or mental handicap so severe as to prevent his or her employment or employment training in any training or employment facility other than a nonprofit sheltered workshop; (9) any individual employed in a boys or girls summer camp; (10) any

person 62 years of age or over who receives old-age or survivors benefits from the Social Security Administration; (11) any individual employed in agriculture as the word “agriculture” is defined in the Fair Labor Standards Act of 1938, as amended; (12) any individual employed as a firefighter by the state or agency thereof; (13) ushers in theaters; (14) any individual employed on a part-time basis who is a student in any recognized school or college; (15) any individual employed by a local or interurban motorbus carrier; (16) so far as the maximum hours and overtime compensation provisions of this article are concerned, any salesman, parts man, or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, farm implements, or aircraft if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; (17) any employee with respect to whom the United States Department of Transportation has statutory authority to establish qualifications and maximum hours of service; (18) any person employed on a per diem basis by the Senate, the House of Delegates, or the Joint Committee on Government and Finance of the Legislature of West Virginia, other employees of the Senate or House of Delegates designated by the presiding officer thereof, and additional employees of the Joint Committee on Government and Finance designated by such joint committee; ~~or~~ (19) any person employed as a seasonal employee of a commercial whitewater outfitter where the seasonal employee works less than seven months in any one calendar year and, in such case, only for the limited purpose of exempting the seasonal employee from the maximum ~~wage~~ hours provisions of §21-5C-3 of this code; or (20) any person employed as a seasonal employee of an amusement park where the seasonal employee works less than seven months in any one calendar year and, in such case, only for the limited purpose of exempting the seasonal employee from the maximum hours provisions of §21-5C-3 of this code.

(g) “Workweek” means a regularly recurring period of 168 hours in the form of seven consecutive 24-hour periods, need not coincide with the calendar week, and may begin any day of the calendar week and any hour of the day.

(h) “Hours worked” means the hours for which an employee is employed: *Provided*, That in determining hours worked for the purposes of §21-5C-2 and §21-5C-3 of this code, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday, time spent in walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which ~~such~~ the employee is employed to perform and activities which are preliminary to ~~said~~ the principal activity or activities, subject to such exceptions as the commissioner may by rules ~~and regulations~~ define.

(i) “Amusement park” means any person or organization which holds a permit for the operation of an amusement ride or amusement attraction under §21-10-1 et seq. of this code.

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

Engrossed Senate Bill 377, as amended by the House of Delegates, was then put upon its passage.

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

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

Absent: Cline—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 377) passed with its title.

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

A message from the Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report with its conference amended title, to take effect from passage, and requested the concurrence of the Senate in the adoption thereof, as to

Eng. House Bill 2351, Relating to regulating prior authorizations.

Whereupon, Senator Maroney, from the committee of conference on matters of disagreement between the two houses, as to

Eng. House Bill 2351, Relating to regulating prior authorizations.

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 and the House of Delegates to Eng. House Bill No. 2351 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the House and Senate recede from their positions, and agree to the same 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 16. WEST VIRGINIA PUBLIC EMPLOYEES
INSURANCE ACT.**

§5-16-7f. Prior authorization.

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, procedures and rehabilitation initially requested by health care practitioner, to be performed at, the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from the Public Employees Insurance Agency about the coverage of a service or medication.

(b) The Public Employees Insurance Agency is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on the Public Employees Insurance Agency’s webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else for which the Public Employees Insurance Agency requires a prior authorization. This list shall delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based

using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;

(4) Inform the patient if the Public Employees Insurance Agency requires a plan member to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the Public Employees Insurance Agency and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The Public Employees Insurance Agency shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The Public Employees Insurance Agency is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the Public Employees Insurance Agency is currently accepting electronic prior authorization requests, the Public Employees Insurance Agency shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the Public Employees Insurance Agency shall respond to the prior authorization request within seven days from the day on the electronic receipt of the prior authorization request, except that the Public Employees Insurance Agency shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the Public Employees Insurance Agency shall identify all deficiencies and within two business days from the day on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the day the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the Public Employees Insurance Agency wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by the Public Employees Insurance Agency is carried over to all other managed care organizations and health insurers for three months, if the services are provided within the state.

(h) The Public Employees Insurance Agency shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the Public Employees Insurance Agency and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The Public Employees Insurance Agency's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the health care practitioner shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the Public Employees Insurance Agency shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing, at any time, by the Public Employees Insurance Agency and may be rescinded if the Public Employees Insurance Agency determines the health care practitioner is not performing the procedure in conformity with the Public Employees Insurance Agency's benefit plan based upon the results of the Public Employees Insurance Agency's internal audit.

(l) The Public Employees Insurance Agency must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the Public Employees Insurance Agency is currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The Public Employees Insurance Agency shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to

this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4s. Prior authorization.

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, procedures and rehabilitation initially requested by health care practitioner, to be performed at the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b)The health insurer is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on the health insurer’s webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else for which the health insurer requires a prior authorization. This list shall delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;

(4) Inform the patient if the health insurer requires a plan member to use step therapy protocols, as set forth in this chapter. This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurer shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurer is currently accepting electronic prior authorization requests, the health insurer shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the day on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request

within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical condition would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days from the day on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the time the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a health insurer is carried over to all other managed care organizations, health insurers and the Public Employees Insurance Agency for three months, if the services are provided within the state.

(h) The health insurer shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and

the health care practitioner has the option to consult with the medical director after the peer-to- peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing, at any time, by the health insurer and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(l) The health insurer must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurer is currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurer shall accept and respond to prior authorizations though a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section

applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3dd. Prior authorization.

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, procedures, and rehabilitation initially requested by the health care practitioner, to be performed at the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b)The health insurer is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on the health insurer’s webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment, and anything else for which the health insurer requires a prior authorization. This list shall delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;

(4) Inform the patient if the health insurer requires a plan member to use step therapy protocols. ~~as set forth in this chapter.~~ This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurer shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurer is currently accepting electronic prior authorization requests, the health insurer shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the day on the electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request

within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days from the day on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the time the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a managed care organization is carried over to health insurers, the public employees insurance agency and all other managed care organizations for three months if the services are provided within the state.

(h) The health insurer shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and

the health care practitioner has the option to consult with the medical director after the peer-to- peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing by the health insurer at any time and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(l) The health insurer must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurer is currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurer shall accept and respond to prior authorizations though a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section

applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

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

§33-24-7s. Prior authorization.

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, procedures and rehabilitation initially requested by health care practitioner, to be performed at the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b)The health insurer is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily

identifiable and accessible place on the health insurer's webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment and anything else for which the health insurer requires a prior authorization. This list shall delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;

(4) Inform the patient if the health insurer requires a plan member to use step therapy protocols. ~~as set forth in this chapter.~~ This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurer shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurer is currently accepting electronic prior authorization requests, the health insurer shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the day on the

electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days from the day on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the day the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a health insurer is carried over to all other managed care organizations, health insurers and the Public Employees Insurance Agency for three months if the services are provided within the state.

(h) The health insurer shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty,

education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing, at any time, by the health insurer and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(l) The health insurer must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurer is currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurer shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8p. Prior authorization.

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, procedures and rehabilitation initially requested by health care practitioner, to be performed at the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from a health insurer about the coverage of a service or medication.

(b)The health insurer is required to develop prior authorization forms and portals and shall accept one prior authorization for an episode of care. These forms are required to be placed in an easily

identifiable and accessible place on the health insurer's webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment and anything else for which the health insurer requires a prior authorization. This list shall delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;

(4) Inform the patient if the health insurer requires a plan member to use step therapy protocols. ~~as set forth in this chapter.~~ This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health insurer and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health insurer shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health insurer is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health insurer is currently accepting electronic prior authorization requests, the health insurer shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health insurer shall respond to the prior authorization request within seven days from the day on the

electronic receipt of the prior authorization request, except that the health insurer shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the health insurer shall identify all deficiencies and within two business days from the day on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the day the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health insurer wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a health insurer is carried over to all other managed care organizations, health insurers and the Public Employees Insurance Agency for three months if the services are provided within the state.

(h) The health insurer shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health insurer and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty,

education, and background. The health insurer's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health insurer shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing, at any time, by the health insurer and may be rescinded if the health insurer determines the health care practitioner is not performing the procedure in conformity with the health insurer's benefit plan based upon the results of the health insurer's internal audit.

(l) The health insurer must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the health insurer is currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health insurer shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8s. Prior authorization.

(a) As used in this section, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

“Episode of Care” means a specific medical problem, condition, or specific illness being managed including tests, procedures and rehabilitation initially requested by health care practitioner, to be performed at the site of service, excluding out of network care: *Provided*, That any additional testing or procedures related or unrelated to the specific medical problem, condition, or specific illness being managed may require a separate prior authorization.

“National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard” means the NCPDP SCRIPT Standard Version 201310 or the most recent standard adopted by the United States Department of Health and Human Services. Subsequently released versions may be used provided that the new version is backward compatible with the current version approved by the United States Department of Health and Human Services;

“Prior Authorization” means obtaining advance approval from a health maintenance organization about the coverage of a service or medication.

(b)The health maintenance organization is required to develop prior authorization forms and portals and shall accept one prior

authorization for an episode of care. These forms are required to be placed in an easily identifiable and accessible place on the health maintenance organization's webpage. The forms shall:

(1) Include instructions for the submission of clinical documentation;

(2) Provide an electronic notification confirming receipt of the prior authorization request if forms are submitted electronically;

(3) Contain a comprehensive list of all procedures, services, drugs, devices, treatment, durable medical equipment and anything else for which the health maintenance organization requires a prior authorization. This list shall also delineate those items which are bundled together as part of the episode of care. The standard for including any matter on this list shall be science-based using a nationally recognized standard. This list is required to be updated at least quarterly to ensure that the list remains current;

(4) Inform the patient if the health maintenance organization requires a plan member to use step therapy protocols. ~~as set forth in this chapter.~~ This must be conspicuous on the prior authorization form. If the patient has completed step therapy as required by the health maintenance organization and the step therapy has been unsuccessful, this shall be clearly indicated on the form, including information regarding medication or therapies which were attempted and were unsuccessful; and

(5) Be prepared by October 1, 2019.

(c) The health maintenance organization shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. The health maintenance organization is required to accept an electronically submitted prior authorization and may not require more than one prior authorization form for an episode of care. If the health maintenance organization is currently accepting electronic prior authorization requests, the health maintenance organization shall have until January 1, 2020, to implement the provisions of this section.

(d) If the health care practitioner submits the request for prior authorization electronically, and all of the information as required is provided, the health maintenance organization shall respond to the prior authorization request within seven days from the day on the electronic receipt of the prior authorization request, except that the health maintenance organization shall respond to the prior authorization request within two days if the request is for medical care or other service for a condition where application of the time frame for making routine or non-life-threatening care determinations is either of the following:

(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state; or

(2) In the opinion of a health care practitioner with knowledge of the patient's medical condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(e) If the information submitted is considered incomplete, the health maintenance organization shall identify all deficiencies and within two business days from the day on the electronic receipt of the prior authorization request return the prior authorization to the health care practitioner. The health care practitioner shall provide the additional information requested within three business days from the day the return request is received by the health care practitioner or the prior authorization is deemed denied and a new request must be submitted.

(f) If the health maintenance organization wishes to audit the prior authorization or if the information regarding step therapy is incomplete, the prior authorization may be transferred to the peer review process.

(g) A prior authorization approved by a health maintenance organization is carried over to all other managed care organizations, health insurers and the Public Employees Insurance Agency for three months if the services are provided within the state.

(h) The health maintenance organization shall use national best practice guidelines to evaluate a prior authorization.

(i) If a prior authorization is rejected by the health maintenance organization and the health care practitioner who submitted the prior authorization requests an appeal by peer review of the decision to reject, the peer review shall be with a health care practitioner similar in specialty, education, and background. The health maintenance organization's medical director has the ultimate decision regarding the appeal determination and the health care practitioner has the option to consult with the medical director after the peer-to-peer consultation. Time frames regarding this appeal process shall take no longer than 30 days.

(j) (1) Any prescription written for an inpatient at the time of discharge requiring a prior authorization shall not be subject to prior authorization requirements and shall be immediately approved for not less than three days: *Provided*, That the cost of the medication does not exceed \$5,000 per day and the physician shall note on the prescription or notify the pharmacy that the prescription is being provided at discharge. After the three-day time frame, a prior authorization must be obtained.

(2) If the approval of a prior authorization requires a medication substitution, the substituted medication shall be as required under §30-5-1 et seq.

(k) In the event a health care practitioner has performed an average of 30 procedures per year and in a six-month time period has received a 100 percent prior approval rating, the health maintenance organization shall not require the health care practitioner to submit a prior authorization for that procedure for the next six months. At the end of the six-month time frame, the exemption shall be reviewed prior to renewal. This exemption is subject to internal auditing, at any time, by the health maintenance organization and may be rescinded if the health maintenance organization determines the health care practitioner is not performing the procedure in conformity with the health maintenance organization's benefit plan based upon the results of the health maintenance organization's internal audit.

(l) The health maintenance organization must accept and respond to electronically submitted prior authorization requests for pharmacy benefits by July 1, 2020, or if the health maintenance organization are currently accepting electronic prior authorization requests, it shall have until January 1, 2020, to implement this provision. The health maintenance organizations shall accept and respond to prior authorizations through a secure electronic transmission using the NCPDP SCRIPT Standard ePA transactions.

(m) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article, that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

(n) The timeframes in this section are not applicable to prior authorization requests submitted through telephone, mail, or fax.;

And by amending the title by inserting a new title to read as follows:

“Eng. House Bill No. 2351—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-7f; to amend said code by adding thereto a new section, designated §33-15-4s; to amend said code by adding thereto a new section, designated §33-16-3dd; to amend said code by adding thereto a new section, designated §33-24-7s; to amend said code by adding thereto a new section, designated §33-25-8p; and to amend said code by adding thereto a new section, designated §33-25A-8s, all relating to prior authorizations; requiring health insurers to develop prior authorization forms; requiring health insurers to develop prior authorization portals; defining terms; providing for electronically transmitted prior authorization forms; establishing procedures for submission and acceptance of forms; establishing form requirements; establishing deadlines for approval of prior authorizations; providing for a process of an incomplete prior authorization submission; providing for an audit; setting forth peer review procedures; requiring health insurers to accept a prior authorization from other health insurers for a period

of time; requiring health insurers to use certain standards when reviewing a prior authorization; providing an exemption for medication provide upon discharge; requiring an exemption for health care practitioners meeting specified criteria; requiring certain information to be included on the health insurer's web page; establishing deadlines for pharmacy benefit prior authorization; establishing submission format for pharmacy benefits; setting forth an effective date; providing for implementation applicability; and setting deadlines.”

Respectfully submitted,

Michael J. Maroney (*Chair*), Tom Takubo, Ron Stollings,
Conferees on the part of the Senate.

Joe Ellington (*Chair*), Ray Hollen, Margaret Staggers,
Conferees on the part of the House of Delegates.

On motions of Senator Maroney, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed House Bill 2351, as amended by the conference report, was then put upon its passage.

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

The nays were: None.

Absent: Cline—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2351) passed with its conference amended title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Cline—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2351) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2439—A Bill to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; to amend and reenact §12-4-14 of said code; to amend said code by adding thereto a new section, designated §12-4-14b; and to amend and reenact §29-3-5f of said code, all relating to fire service equipment and training funds for volunteer and part-volunteer fire companies and departments; authorizing fire departments to file bank statements and check images instead of sworn statements of expenditures; prohibiting the commingling of funds; requiring retention of payment records; defining terms; changing deadline dates; authorizing forfeiture and redistribution of funds of delinquent fire departments; prohibiting the conversion of funds through returns or refunds of goods or services; providing for deductions from quarterly distributions to offset improper expenditures by a fire company or department; clarifying the responsibility for proposing legislative rules; requiring written notifications of delinquencies and misapplications of funds; providing a procedure to contest findings of Legislative Auditor;

removing certain criminal penalties; and updating outdated language.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, to take effect from passage, of

Eng. Com. Sub. for House Bill 2481, Permitting retail sale of alcoholic beverages on Sundays after 1 p.m.

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

Eng. House Bill 2492, Relating to mandatory reporting procedures of abuse and neglect of adults and children.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2019, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2542—A Bill to amend and reenact §24-6-5 of the Code of West Virginia, 1931, as amended, relating to permitting directors of county emergency phone systems to obtain mobile-phone emergency lines and enter into service provider contracts; establishing payment of emergency mobile-phone contracts; and requiring a report.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2947—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 telemedicine prescription practice requirements; providing

exceptions; allowing for physician submitted Schedule II telemedicine prescriptions for immediate administration in a hospital.

Referred to the Committee on Health and Human Resources.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2958—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-15-7a relating to authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies; authorizing the Auditor to establish a schedule of examinations; and defining the scope of the Auditor's examinations.

Referred to the Committee on Government Organization.

Executive Communications

The Clerk then presented communications from His Excellency, the Governor, advising that on February 19, 2019, he had approved **Enr. Committee Substitute for Senate Bill 240, Enr. Senate Bill 267, Enr. Senate Bill 324, Enr. Senate Bill 354, Enr. Committee Substitute for House Bill 2307, and Enr. House Bill 2462.**

Senator Carmichael (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:



Jim Justice
Governor of West Virginia

February 11, 2019

VIA HAND DELIVERY

The Honorable Mitch Carmichael
President, West Virginia Senate
Room 229M, Building 1
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Senate Bill 272

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 272. This bill purports to update the composition, powers and procedures of the Commission on Special Investigations. In addition, the bill purports to create misdemeanor offenses for the impersonation and obstruction of Commissions members or staff.

Many state agencies have confidential data that is required to be protected from disclosure, including the WV Department of Health and Human Resources, Workforce WV, and the Office of the West Virginia Tax Commissioner. With regard to West Virginia tax information, West Virginia Code §11-10-5d prohibits the unauthorized disclosure of tax information, by the tax department, under the penalty of misdemeanor. The Tax Commissioner and/or his staff would be in the untenable position of choosing which offense to violate in misdemeanor; either violate WV tax code by disclosing confidential tax information or violate the Commission on Special Investigations state code that makes obstruction of their request for information a misdemeanor.

The Tax Commissioner and his staff, as well as other state agencies, would be forced to have to litigate over the manner and disclosure of the information in each instance, creating a pointless waste of state resources. I ask that you work with Executive branch agencies to rectify these issues so that state agencies may be able to comply with West Virginia Code to ensure transparency, while protecting the privacy and confidentiality of protected information.

As a result of these issues, I disapprove and return Enrolled Senate Bill 272.

Sincerely,

A handwritten signature in blue ink that reads "Jim Justice".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mac Warner
Secretary of State

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

Senator Takubo moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate proceed to reconsider

Enr. Senate Bill 272, Updating code relating to Commission on Special Investigations.

Heretofore disapproved and returned by His Excellency, the Governor, with his objections.

The question being on the adoption of Senator Takubo's motion that the Senate reconsider Enrolled Senate Bill 272, the same was put and prevailed.

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

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

ARTICLE 5. COMMISSION ON SPECIAL INVESTIGATIONS.

§4-5-1. ~~Commission continued~~ as Commission on Special Investigations continued; composition; appointment and terms of members.

The ~~purchasing practices and procedures commission, heretofore created, shall continue in existence but on and after the effective date of this section shall be named and designated the~~ Commission on Special Investigations is continued. The commission shall continue to be composed of ~~five~~ the President of the Senate and four members of the Senate, to be appointed by the ~~president thereof~~ President of the Senate, no more than ~~three~~ two of whom shall be from the same political party; and ~~five~~ the Speaker of the House of Delegates and four members of the House of Delegates, to be appointed by the ~~speaker thereof~~ Speaker of the House of Delegates, no more than ~~three~~ two of whom shall be appointed from the same political party; *Provided*, That in the event the membership of a political party is less than 15 percent in the House of Delegates or Senate, then the membership of that

political party from the legislative house with less than 15 percent membership may be one from that house. The commission shall be ~~headed chaired by two co-chairmen, one to be selected by and from the members appointed from the Senate, and one to be selected by and from the members appointed from the House of Delegates~~ the President of the Senate and the Speaker of the House of Delegates. All members ~~of the commission shall~~ appointed to the commission by the commission chairs serve until their successors ~~shall have been~~ are appointed as heretofore provided in this section.

§4-5-2. Powers and duties generally.

(a) The Commission on Special Investigations ~~shall have the power, duty and responsibility~~ may, upon a by majority vote: of the members appointed, to

(1) Conduct a comprehensive and detailed investigation into the purchasing practices and procedures of the state;

(2) Determine if there is reason to believe that the laws or public policy of the state in connection with purchasing practices and procedures have been violated or are inadequate;

(3) Determine if any criminal or civil statutes relating to the purchasing practices and procedures in this state are necessary to protect and control the expenditures of money by the state;

(4) Investigate or examine any matter involving conflicts of interest, bribery of state officials, malfeasance, misfeasance, or nonfeasance in office by any employee or officer of the state;

(5) Conduct comprehensive and detailed investigations to determine if any criminal or civil statutes have been violated at any level of state government;

(6) Determine whether to recommend criminal prosecution or civil action for any violation, either criminal or civil, at any level of state government and, if it is determined that action is necessary, to make appropriate recommendation to the Attorney General, prosecuting attorney, or other authority empowered to act on ~~such~~ the recommendation; and

(7) Make ~~such~~ written reports deemed advisable by the commission to the members of the Legislature between its sessions. ~~thereof as the commission may deem advisable and on~~ On the first day of each regular session of the Legislature, the commission shall make an annual report on its activities to the Legislature containing the commission's findings and recommendations including in such report drafts of for any proposed legislation which it deems considers necessary to carry ~~such~~ the recommendations into effect.

(b) The commission ~~is also expressly empowered and authorized to~~ may also:

(1) Sit during any recess of the Senate and House of Delegates;

(2) Recommend to the judge of any circuit court that a grand jury be convened pursuant to the provisions of §52-2-14 of this code to consider any matter which the commission ~~may deem~~ considers in the public interest and, in support thereof, make available to ~~such~~ the court and ~~such~~ the grand jury the contents of any reports, files, transcripts of hearings, or other evidence pertinent ~~thereto~~ to the matter;

(3) Employ ~~such~~ necessary legal, technical, investigative, clerical, stenographic, advisory, and other personnel ~~as it deems needed~~ and, within the appropriation ~~herein~~ specified in §4-5-4 of this code, fix reasonable compensation of ~~such~~ any persons and firms ~~as may be~~ that are employed. The commission's investigative staff may consist of a director, deputy director, senior investigators, and investigators as approved by the cochairs: Provided, That ~~such personnel as the commission may determine shall have the authority~~ authorize certain employees of the commission to administer oaths and take affidavits and depositions anywhere in the state;

(4) Consult and confer with all public and private persons and agencies organizations, public (whether federal, state or local) and private any entity of federal or state government or of any political subdivision of the state, that have information and data pertinent to an investigation; and all state ~~and local governmental~~ personnel

~~and~~ agencies and state political subdivisions shall cooperate to the fullest extent with the commission;

(5) Call upon any ~~department or agency of state or local government or entity of state government or of any political subdivision of the state~~ for ~~such~~ any services, information, and assistance ~~as it may deem~~ the commission considers advisable; ~~and~~

(6) Refer ~~such~~ appropriate matters ~~as are appropriate~~ to the office of the United States ~~attorney~~ Attorney, or other appropriate state or federal law-enforcement entity, and cooperate with such office in the disposition of matters so referred; and

(7) Interview witnesses and require production from any entity of state government, or of any political subdivision of the state, of books, records, documents, papers, computers, laptops, computer hard drives, electronic records including, but not limited to, emails, electronic files, electronic documents and metadata, or any other thing, in any form in which it may exist, as the commission believes should be examined to make a complete investigation, except where the records, documents, data, or items are protected from disclosure by state or federal law or privilege recognized by state or federal courts: *Provided*, That a request for production pursuant to this subdivision may be in the form of a written letter from the director of the commission in lieu of a subpoena.

(c) Notwithstanding any provision of this code to the contrary, specific personnel may be designated by the commission to carry a firearm in the course of performing his or her official duties: *Provided*, That as a precondition of being authorized to carry a concealed weapon in the course of their official duties, any such designated personnel ~~must have~~ shall first successfully ~~completed~~ complete a firearms training and certification program which is equivalent to that which is required of members of the State Police. ~~The designated persons must~~ A person so designated shall also possess a license to carry a concealed deadly weapon in the manner prescribed in §61-7-1 *et seq.* of this code.

§4-5-3. Executive sessions; hearings; subpoena power; enforcement provisions.

The commission shall have the power and authority to hold executive sessions may conduct proceedings in a confidential executive session for the purpose of establishing business, establishing policy, an agenda and the interrogation of reviewing investigations, and interrogating a witness or witnesses: *Provided*, That if a witness desires a public or open hearing ~~he shall have the right to demand the same~~ the witness may demand an open hearing and shall not be heard otherwise: *Provided, however*, That if a witness desires a hearing in an executive session, ~~he shall have the right to demand the same~~ the witness may so request and shall not be heard otherwise. However, members of the staff of the commission may be permitted to attend executive sessions ~~with permission of the commission.~~

~~The commission is hereby empowered and authorized to examine witnesses and to subpoena such persons and books, records, documents, papers or any other tangible things as it believes should be examined to make a complete investigation. All witnesses appearing before the commission shall testify under oath or affirmation, and any member of the commission or its staff may administer oaths or affirmations to such witnesses. To compel the attendance of witnesses at such hearings to attend a hearing or the production of produce any books, records, documents, or papers, or any other tangible thing except where the records, documents, data, or items are protected from disclosure by state or federal law or privilege recognized by state or federal courts, the commission is hereby empowered and authorized to may issue subpoenas, signed by one of the co-chairmen in accordance with section five, article one, chapter four of this code cochairs: Provided, That the commission may specifically authorize, or delegate the power to its director to sign subpoenas on its behalf. Such~~ The subpoenas shall be served by any person authorized by law to serve and execute legal process, and service shall be made without charge. Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury in this state.

If any person subpoenaed to appear at any hearing shall refuse to appear or to answer inquiries there propounded, or shall fail or

refuse to produce books, records, documents, papers, or any other tangible thing within his or her control when the same are demanded, the commission shall report the facts to the circuit court of Kanawha County or any other court of competent jurisdiction and such court may compel obedience to the subpoena as though such subpoena had been issued by such court in the first instance: Provided, That prior to seeking circuit court relief, the commission may, in its discretion, first demand the head of the public agency in which an employee has failed to appear or which has failed to produce requested or subpoenaed material to appear before the commission and address the basis for the failure to comply and whether compliance will be forthcoming.

§4-5-4. Compensation and expenses of members; other expenses; how paid. ~~joint committee approval~~

The members of the commission shall receive travel, interim, and out-of-state expenses, as authorized in §4-2A-6, and §4-2A-8 ~~and §4-2A-9~~ of this code. Such expenses and all other expenses, including those incurred in the employment of legal, technical, investigative, clerical, stenographic, advisory and other personnel, shall be paid from the appropriation ~~under Account No. 103~~ for Joint Expenses. ~~but no expense of any kind whatever shall be incurred unless the approval of the Joint Committee on Government and Finance therefor is first had and obtained by the commission~~

§4-5-5. Investigations exempt from public disclosure requirements.

(a) The investigations conducted by the commission and the materials, in any medium, including hard copy and electronic, placed in the files custody of the commission as a result of any such investigation are exempt from public disclosure under the provisions of chapter 29B of this code.

(b) Notwithstanding any other provision of this code to the contrary, the commission may dispose of printed materials placed in its files upon a vote of the commission: *Provided, That the*

commission shall save copies of materials filed on or after January 1, 2010, in electronic form prior to their disposal.

(c) When the commission receives information, in any form, from any office, agency, department, or branch of state or local government that is bound by state or federal law to maintain the confidentiality, privacy, or security of the information, that governmental body shall identify to the commission what information and materials are so protected and identify the law or laws governing the confidentiality, privacy, or security of the information. The commission shall protect the confidentiality, privacy, or security of the protected information in like manner and to the same level as is required of the governmental body providing the information to the commission. When the commission has completed an investigation and no longer has a need to maintain the confidential or protected information or materials, the commission shall notify the entity from whom the information was received and, unless requested to return the information or materials, shall destroy the same in a secure fashion and notify the entity from whom the information was received of this destruction.

§4-5-7. Impersonation or obstruction of commission member or staff.

(a) A person is guilty of impersonating a member or employee of the Commission on Special Investigations when he or she does one of the following:

(1) Falsely represents himself or herself to be a member or employee of the commission;

(2) Falsely represents himself or herself to be acting under the order or direction, or to have the authority, of the commission or its staff; or

(3) Falsely presents a badge, credentials, other insignia or likeness thereof, used by the commission for identification as a member of the commission or its staff.

(b) Any person who, by threats, menaces, or acts, or who forcibly or illegally hinders or obstructs or attempts to hinder or

obstruct a Commission on Special Investigations member or employee acting in his or her official capacity, is guilty of obstruction: *Provided*, That failure to produce information or records at the request of a member or employee of the commission is not obstruction when such disclosure is prohibited by state or federal law.

(c) Any person who violates any provision of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not less than \$500 nor more than \$2,500, or confined in jail for not more than one year, or both fined and confined.

§4-5-8. Award of duty weapon upon retirement; disposal of other weapons used by staff.

(a) Upon the retirement of a member of the commission's investigative staff, the cochairs of the commission shall award to the retiring employee a duty weapon used by the employee when that employee retires honorably after having served:

(1) At least 20 years of actual service on the commission's investigative staff;

(2) At least 20 years in law enforcement and an additional 10 years of service on the commission's investigative staff; or

(3) Any period of service on the commission's investigative staff and retires due to total physical disability resulting from his or her service to the commission.

(b) The award of the duty weapon shall be without charge to the employee or other condition: *Provided*, That the cochairs shall not award a duty weapon to any retiring employee whom the cochairs find to be mentally incapacitated or to be a danger to any person or to the community.

(c) The commission has the sole authority to determine the manner of disposition of duty weapons of members of the commission's investigative staff when replaced due to age or routine wear. The commission may offer these surplus weapons for sale at fair market value to any active or retired member of the

commission's investigative staff who has been designated to carry a firearm in the course of duties with the commission, with the proceeds of any sales to be used to offset the cost of new weapons. Surplus duty weapons may also be included as trade-ins toward the purchase of new weapons.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Enr. Senate Bill 272—An Act to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, and §4-5-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §4-5-7 and §4-5-8, all relating to the Commission on Special Investigations; continuing the commission; clarifying composition and chairmanship of the commission and terms of members; redefining what constitutes a quorum for voting procedures of the commission; specifying contents of the commission's annual report; authorizing the employment of staff and the creation of certain staff positions; granting power to conduct interviews and request production from agencies of the state and its political subdivisions of books, records, documents, papers, and tangible things, but exempting items deemed confidential under state or federal law; authorizing the issuance of written requests for production in lieu of subpoenas; authorizing the director to issue subpoenas on the commission's behalf; authorizing the commission to require an agency head to appear before the commission to answer for an agency's failure to appear or produce requested or subpoenaed material or other failure to comply with a commission investigation; providing for executive session and confidentiality rights of witnesses; updating exemption of investigative materials from public disclosure; removing requirement for pre-approval of expenses of the commission by the Joint Committee on Government and Finance; requiring that protected information provided to the commission be kept confidential, private, and secure in the same manner required of the government entity from which the information was received; providing procedures and requirements for the commission's retention and disposal of records; establishing new offenses of

impersonating a commission member or staff member and of threatening or otherwise obstructing a commission member or staff; establishing criminal penalties; allowing the commission to award duty weapons to certain members on retirement; exempting the commission from the jurisdiction of the agency for surplus property within the Purchasing Division of the Department of Administration with respect to the disposal of the commission's primary and secondary duty weapons; authorizing sale of surplus weapons to active and retired members of the commission's investigative staff; and updating language and terms for clarity throughout.

The question now being on the passage of the bill, disapproved by the Governor and amended by the Senate.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Baldwin, Lindsay, Romano, and Unger—4.

Absent: Cline—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. S. B. 272) passed with its title, as amended, as a result of the objections of the Governor.

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

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 19th day of February, 2019, 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. 18), Relating to crimes committed on State Capitol Complex.

(Com. Sub. for S. B. 323), Establishing revenue fund and source to support Department of Agriculture's improvement to facilities.

(Com. Sub. for H. B. 2191), Relating generally to limited video lottery.

And,

(Com. Sub. for H. B. 2446), Blue Alert Plan.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Committee on Finance has had under consideration

Senate Bill 11, Relating to retirement and pension benefits of certain PERS and Teachers Retirement System members who serve in Legislature.

And,

Com. Sub. for Senate Bill 546, Relating to health care provider taxes.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 80, Establishing tax credit for practicing physicians locating in WV.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 80 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-1, §11-13EE-2, §11-13EE-3, §11-13EE-4, §11-13EE-5, §11-13EE-6, §11-13EE-7, §11-13EE-8, and §11-13EE-9, all relating to establishing a tax credit for certain physicians who locate in this state to practice; providing for criteria for the tax credit; establishing education requirements; setting forth a time limit to claim the tax credit; setting forth length of residency requirements; setting forth findings; defining terms; authorizing the credit; specifying the amount of the tax credit; providing how the credit may be asserted; specifying no tax credit carryover; allowing forms and schedules to be established by the Tax Commissioner in rule; setting maximum amount per taxpayer per year; authorizing the Tax Commissioner to promulgate rules; and setting effective date.

Senate Bill 564, Expanding comprehensive coverage for pregnant women through Medicaid.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 564 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §5-16B-6d of the Code of West Virginia, 1931, as amended; and to amend and reenact §9-5-12 of said code, all relating to expanding comprehensive coverage for pregnant women through Medicaid to 185 percent of the federal poverty level; providing coverage for 60 days postpartum; providing an effective date; and expanding comprehensive coverage for pregnant women between 185 percent and 300 percent of the federal poverty level including prenatal care, delivery, and 60 days postpartum through the Children’s Health Insurance Program.

And,

Senate Bill 641, Relating to Primary Care Support Program.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 641 (originating in the Committee on Health and Human Resources)—A Bill to repeal §16-2H-3 and §16-2H-4 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-2H-2 of said code, relating to the Primary Care Support Program; eliminating loan fund; and creating grant fund.

With the recommendation that the three committee substitutes do pass; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

Michael J. Maroney,
Chair.

The bills (Com. Sub. for S. B. 80 and 564), under the original double committee references, were then referred to the Committee on Finance.

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the

second committee reference of Committee Substitute for Senate Bill 641 contained in the foregoing report from the Committee on Health and Human Resources.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 86 (originating in the Committee on Health and Human Resources), Requiring county boards provide free feminine hygiene products in grades six to 12.

And reports back a committee substitute for same with the following title:

Com. Sub. for Com. Sub. for Senate Bill 86 (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22e, relating to county boards of education; requiring boards to provide free feminine hygiene products in grades six through 12 to female students not otherwise having access to the products; and defining terms.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 330, Requiring contact information be listed on agency's online directory and website.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 330 (originating in the Committee on Government Organization)—A Bill to amend and reenact §5F-1-5 of the Code of West Virginia, 1931, as amended, relating to requiring that contact information of an official or employee of the state, who uses a mobile phone either furnished by the employer, or whose service is paid by the employer for the official's or employee's personal phone use in state business, be listed on an agency's online directory and agency's website with certain exceptions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 383 (originating in the Committee on Agriculture and Rural Development), Creating WV Healthy Food Crop Block Grant Program.

And reports back a committee substitute for same with the following title:

Com. Sub. for Com. Sub. for Senate Bill 383 (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, §19-37-2, §19-37-3, §19-37-4, §19-37-5, §19-37-6, and §19-37-7, all relating to creating West Virginia Healthy Food Crop Block Grant Program; stating findings; defining terms; creating fund; partnering with nonprofit food and farm organizations; establishing grant selection committee and membership; providing method for

allocating grants; limiting grants; providing for rulemaking; and establishing program review reports.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 396, Waiving occupational licensing fees for low-income individuals, military families, and young workers.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 396 (originating in the Committee on Government Organization)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22, relating to waiver of initial occupational licensing fees for certain individuals; requiring boards and licensing authorities to waive certain initial occupational licensing fees for low-income individuals and military families; defining terms; requiring individuals seeking waiver of initial occupational licensing fees to apply on a form provided by the board or licensing authority; and granting rule-making authority.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Gregory L. Boso,
Chair.

The bill (Com. Sub. for S. B. 396), under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

Com. Sub. for Senate Bill 404, Relating generally to sediment control during commercial timber harvesting operations.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 415, Creating Timber Cotenancy Modernization and Majority Protection Act and Unknown and Unlocatable Timber Interest Owners Act.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 415 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §37D-1-1, §37D-1-2, §37D-1-3, §37D-1-4, §37D-1-5, §37D-1-6, §37D-2-1, §37D-2-2, §37D-2-3, §37D-2-4, §37D-2-5, §37D-2-6, §37D-2-7, and §37D-2-8, all relating to creating the Timber Cotenancy Modernization and Majority Protection Act and the Unknown and Unlocatable Timber Interest Owners Act; permitting the harvest of timber by fewer than all the interest owners under

certain conditions; providing an exception to waste and trespass; providing short titles; providing declarations of public policy and legislative findings; providing definitions; providing that consent for the lawful use and harvesting of timber by the persons owning an undivided three fourths of the royalty interests, as defined, in the timber estate is permissible, is not waste, and is not trespass; providing that nonconsenting cotenants may elect a harvest royalty interest or a working interest share of harvest; providing that interests owned by unknown or unlocatable owners be reserved, reported, and deposited in a fund hereby created, known as the Unknown and Unlocatable Timber Interest Owners Fund to be administered by the State Treasurer in conjunction with the West Virginia Uniform Unclaimed Property Act; providing methods for determination of leasehold and contractual terms, including reviews and determinations; providing liability protection for damages resulting from the lawful use or harvesting of timber; requiring surface use agreements in specified circumstances; providing a mechanism for surface owners to acquire title to certain harvested timber interests; preserving common law rights; providing reporting requirements and administrative duties, including civil penalties for noncompliance under the West Virginia Uniform Unclaimed Property Act; providing for rule-making authority; providing crediting of interest to owner's accounts; and providing an effective date of July 1, 2019.

And,

Senate Bill 585, Defining “stalking” as repeated course of conduct.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 585 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §61-2-9a of the Code of West Virginia, 1931, as amended, relating generally to the criminal offenses of stalking and harassment; clarifying essential elements of harassment; defining terms; and continuing criminal penalties.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 485, Defining reduction in coverage and clarifying termination for property insurance.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 485 (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §33-17A-3 and §33-17A-4 of the Code of West Virginia, 1931, as amended, all relating to clarifying notification requirements for property insurance purposes.

And,

Senate Bill 506, Relating to guaranty associations.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 506 (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §33-26A-19 of the Code of West Virginia, 1931, as amended, relating to guaranty associations; and updating language to increase consistency with the Life and Health Insurance Guaranty Association Model Act of the National Association of Insurance Commissioners.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Michael T. Azinger,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 493, Correcting terminology referring to racing vehicles illegally on street.

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

Respectfully submitted,

Charles H. Clements,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 529, Clarifying provisions of Nonintoxicating Beer Act.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 529 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §11-16-3, §11-16-5, §11-16-6a, §11-16-6b, §11-16-8, §11-16-9, §11-16-10, §11-16-12, and §11-16-17a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §11-16-6c and §11-16-11b, all relating to

nonintoxicating beer generally; creating a temporary license for nonintoxicating beer floorplan extensions of existing licensee floorplans; implementing a fee for the license; removing the two growler limit per patron per day for licensees who sell growlers for off premises consumption; increasing allowable growler size to no larger than 128 ounces; providing for certain growler licensees to conduct complimentary samplings; providing a 30-day requirement to issue or deny a license application once the application is completed; implementing a \$100 beer license operations fee and establishing a special revenue account; implementing a reactivation fee for licensees that fail to timely file their renewal applications and pay their license fees; creating a one-day special license for certain nonprofit and tax exempt entities hosting artistic, athletic, charitable, educational, or religious events to purchase and sell nonintoxicating beer and nonintoxicating craft beer; allowing nonintoxicating beer and nonintoxicating craft beer to have a maximum alcohol content of 15 percent by volume and 11.9 percent by weight; providing limitations on special licenses; setting forth requirements for special licenses; providing for a Class B licensee privilege for nonintoxicating beer or nonintoxicating craft beer sales at a designated parking area; implementing a license fee; licensing brewers, resident brewers, and distributor representatives; providing for transportation permits for nonintoxicating beer and nonintoxicating craft beer; requiring nonintoxicating beer label registration; implementing an operational fee for licensed representatives, transportation permits, and container label registration; removing the bond requirements for brewers, resident brewers, distributors, and Class S licenses; and defining terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 531, Relating generally to workers' compensation claims.

And has amended same.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 593, Permitting critical access hospital become community outpatient medical center.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Bill 596, Adjusting voluntary contribution amounts on certain DMV forms.

Eng. House Bill 2036, Permitting vehicles displaying disabled veterans' special registration plates to park in places where persons with mobility impairments may park.

And,

Eng. Com. Sub. for House Bill 2821, Updating provisions for command, clerical and other pay.

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

Respectfully submitted,

Ryan W. Weld,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 624, Relating to administering ACT or SAT tests to 11th grade students.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 624 (originating in the Committee on Education)—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to allowing county boards of education to use an alternative assessment, such as the ACT assessment, pursuant to the locally selected assessment option provided for in the Every Student Succeeds Act; and directing the department to distribute a per student assessment allocation equal to the per student assessment cost as determined by the statewide assessment contract to any county board that chooses to utilize the alternative assessment.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Education.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 664 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §48-2-406, relating to authorizing certain members of the federal judiciary to perform marriages.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Senate Concurrent Resolution 35, Designating days for displaying Honor and Remember Flag at WV Veterans Memorial.

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

Respectfully submitted,

Ryan W. Weld,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2612, Proposing rules related to the completion or updating of source water protection plans.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2740, Barring a parent from inheriting from a child in certain instances.

And,

Eng. House Bill 2746, Relating to administration of estates.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2759, Providing for the ancillary administration of West Virginia real estate owned by nonresidents by affidavit and without administration.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the sixth order of business.

Senators Weld, Ihlenfeld, Prezioso, Hardesty, Stollings, Roberts, Jeffries, Lindsay, Sypolt, Romano, Swope, Baldwin, Hamilton, and Plymale offered the following resolution:

Senate Resolution 52—Recognizing the West Virginia State Police on the occasion of its 100th anniversary.

Whereas, During the coal mine wars of the early 20th century, Governor John Jacob Cornwell advocated for the formation of a statewide police force that would be a neutral agency between business and labor; and

Whereas, On March 29, 1919, in an extraordinary session of the West Virginia Legislature, after hours of negotiation and heated debate, a bill was passed creating the Department of Public Safety, also known as the West Virginia State Police. It was signed by Governor Cornwell on March 31, 1919; and

Whereas, The West Virginia State Police is the sixth-oldest State Police agency in the country; and

Whereas, The West Virginia State Police's mission is the statewide enforcement of criminal and traffic laws, with emphasis on providing basic enforcement and citizen protection from criminal depredation throughout the state and maintaining the safety of the state's public streets, roads, and highways; and

Whereas, In 1948, the West Virginia State Police Academy was constructed in Institute, West Virginia. All West Virginia law-enforcement officers are trained and certified at the academy; and

Whereas, The West Virginia State Police houses and maintains different statewide law-enforcement entities, such as: The West Virginia State Police Forensic Crime Laboratory, the West Virginia Criminal Identification Bureau, the West Virginia Automated Police Network System, and the West Virginia Intelligence Exchange; and

Whereas, It is fitting that the Senate honor the West Virginia State Police as it celebrates 100 years of serving the citizens of West Virginia with integrity, fairness, respect, honesty, courage, and compassion; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the West Virginia State Police on the occasion of its 100th anniversary; and, be it

Further Resolved, That the Senate extends its most heartfelt thanks to the men and women of the West Virginia State Police for their dedication and commitment to protecting the citizens of West Virginia; and, be it

Further Resolved, That the Senate extends its sincere gratitude and appreciation to the West Virginia State Police for the sacrifices they make everyday to ensure our safety; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia State Police.

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

The question being on the adoption of the resolution (S. R. 52), and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 52) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Weld, Facemire, Tarr, Smith, Ihlenfeld, Boso, Hardesty, and Beach regarding the adoption of Senate Resolution 52 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:56 a.m., the Senate recessed to present Senate Resolution 52.

The Senate reconvened at 11:59 a.m. and resumed business under the sixth order.

Senators Stollings, Hardesty, Prezioso, Jeffries, Lindsay, Romano, Baldwin, Hamilton, and Plymale offered the following resolution:

Senate Resolution 53—Recognizing the recent increase in black lung cases in West Virginia.

Whereas, It is important to raise awareness of the recent rise in black lung, particularly progressive massive fibrosis, the deadliest form of black lung in West Virginia; and

Whereas, It has been established that many individuals during the course of their lives, and in pursuit of their livelihoods in order to raise their families in West Virginia, have been exposed to the hazard of inhaling minute particles of coal dust and silica, and, as a result, have sustained chronic respiratory disabilities; and

Whereas, Occupational pneumoconiosis, also known as black lung, in these affected miners has resulted in loss of employment opportunities, increased medical costs, and considerable pain and suffering to them and their families; and

Whereas, In a recent study from the American Journal of Public Health, published in September 2018, it was discovered that over 20 percent of miners with 25 years or more of tenure, have black lung; and

Whereas, Half of the 4,679 black lung cases determined by the U. S. Department of Labor between 1970 and 2016 have occurred since the year 2000; and

Whereas, Two thousand cases of progressive massive fibrosis have been discovered since 2010; and

Whereas, West Virginia has seen an 11 percent increase in progressive massive fibrosis since 1972; and

Whereas, Nationally, the percentage of miners diagnosed with black lung increased from zero percent in 1972 to 8.3 percent in 2014; and

Whereas, There have been 62 black lung related lung transplants in the United States, seven percent of which have occurred in the last decade; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the recent increase in black lung cases in West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives black lung awareness.

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

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senators Stollings, Takubo, and Smith regarding the adoption of Senate Resolution 53 were ordered printed in the Appendix to the Journal.

At the request of Senator Boso, unanimous consent being granted, the remarks by Senator Hamilton regarding the adoption of Senate Resolution 53 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 12:09 p.m., the Senate recessed to present Senate Resolution 53.

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

Senators Stollings, Hardesty, Prezioso, Jeffries, Lindsay, Romano, Baldwin, Hamilton, and Plymale offered the following resolution:

Senate Resolution 54—Recognizing the West Virginia Freedom Festival on the occasion of its 20th anniversary.

Whereas, The West Virginia Freedom Festival, which started as a small three-hour festival, has grown throughout the years and is now celebrated over a four-day period every July; and

Whereas, The West Virginia Freedom Festival, pioneered by then council and mayor, Serafino Nolletti, and partner, Amber Miller, has grown through the years as a labor of love between the two; and

Whereas, From the beginning, the West Virginia Freedom Festival has formed a family dynamic, with the backbone being the City of Logan employees, in which all departments take pride and ownership of the festival; and

Whereas, Anyone who has attended the West Virginia Freedom Festival has a sense of family in Logan, from the entertainers to the booth vendors, and many who have come to the Logan area over the past 20 years are still with the festival; and

Whereas, Serving over 20,000 event goers in 2018, the City of Logan witnessed the biggest festival to date, creating Logan County's largest outdoor festival that celebrates our military, our heritage, and our freedom; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the West Virginia Freedom Festival on the occasion of its 20th anniversary; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the City of Logan.

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

On motion of Senator Takubo, at 12:15 p.m., the Senate recessed to present Senate Resolution 54.

The Senate reconvened at 12:19 p.m. and proceeded to the seventh order of business.

Senate Concurrent Resolution 39, Requesting creation of Joint Select Committee on Requirements Governing Water Quality Standards.

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

Senate Concurrent Resolution 40, US Army CPL Roy E. Clark Memorial Bridge.

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

Senate Concurrent Resolution 41, Requesting study creating paid family and medical leave insurance program.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Com. Sub. for Senate Bill 310, Establishing certain requirements for dental insurance.

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

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

The nays were: None.

Absent: Cline and Weld—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 310) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Weld—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 310) takes effect July 1, 2019.

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

Eng. Com. Sub. for Senate Bill 344, Relating to operation of state-owned farms.

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

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

Eng. Com. Sub. for Senate Bill 360, Relating to third-party litigation financing.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, and Carmichael (Mr. President)—31.

The nays were: Woelfel—1.

Absent: Cline and Weld—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 360) passed with its title.

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

Eng. Com. Sub. for Senate Bill 512, Regulating pawnbrokers.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 512 pass?”

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boley, Boso, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Takubo, Trump, Unger, and Carmichael (Mr. President)—23.

The nays were: Azinger, Clements, Hamilton, Maynard, Roberts, Rucker, Sypolt, Tarr, and Woelfel—9.

Absent: Cline and Weld—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 512) passed.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for Senate Bill 512—A Bill to amend and reenact §47-26-1, §47-26-2, and §47-26-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §47-26-2a, all relating to the regulation of pawnbrokers; requiring all pawnbrokers to be equipped with certain surveillance equipment and signage effective January 1, 2021; prohibiting pawnbrokers from doing business with certain persons; prohibiting pawnbrokers from purchasing certain items or transacting with certain items from anyone; creating misdemeanor offenses for certain violations; and increasing the penalties for existing criminal offenses related to pawnbrokers.

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

Eng. Senate Bill 519, Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation.

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

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

The nays were: None.

Absent: Cline and Weld—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 519) passed with its title.

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

Eng. Com. Sub. for Senate Bill 553, Relating to federal funds for land-grant institutions.

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

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

The nays were: None.

Absent: Cline and Weld—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 553) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Weld—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 553) takes effect July 1, 2019.

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

Eng. Senate Bill 587, Relating to PEIA reimbursement of air ambulance providers.

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

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

The nays were: None.

Absent: Cline and Weld—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 587) passed with its title.

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

Eng. Com. Sub. for Senate Bill 601, Relating to mandatory supervision of adult inmates.

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

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

The nays were: None.

Absent: Cline and Weld—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 601) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Weld—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 601) takes effect from passage.

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

Eng. Senate Bill 636, Authorizing legislative rules for Higher Education Policy Commission.

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

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

The nays were: None.

Absent: Cline and Weld—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 636) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Weld—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 636) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2607, Relating to the licensure of nursing homes.

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

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

The nays were: None.

Absent: Cline and Weld—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2607) passed with its title.

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

Eng. House Bill 2666, Supplemental appropriation to the Department of Veterans' Assistance.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Weld—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2666) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Weld—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2666) takes effect from passage.

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

Eng. House Bill 2668, Supplemental appropriation to the Department of Administration, Public Defender Services.

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

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as some attorneys in his practice currently accept appointments in indigent criminal cases although he currently does not.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

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

The nays were: None.

Absent: Cline and Weld—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2668) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Cline and Weld—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2668) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 340, Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company.

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

Com. Sub. for Com. Sub. for Senate Bill 402, Authorizing Division of Forestry investigate and enforce timber theft violations.

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

Com. Sub. for Com. Sub. for Senate Bill 510, Relating to medical professional liability.

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

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

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

ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.

§55-7B-6. Prerequisites for filing an action against a health care provider; procedures; sanctions.

(a) Notwithstanding any other provision of this code, no person may file a medical professional liability action against any health care provider without complying with the provisions of this section.

(b) At least 30 days prior to the filing of a medical professional liability action against a health care provider, the claimant shall serve by certified mail, return receipt requested, a notice of claim on each health care provider the claimant will join in litigation. For the purposes of this section, where the medical professional liability claim against a health care facility is premised upon the act or failure to act of agents, servants, employees, or officers of the health care facility, such agents, servants, employees, or officers

shall be identified by area of professional practice, or role in the health care at issue. The notice of claim shall include a statement of the theory or theories of liability upon which a cause of action may be based, and a list of all health care providers and health care facilities to whom notices of claim are being sent, together with a screening certificate of merit. The screening certificate of merit shall be executed under oath by a health care provider who:

(1) Is qualified as an expert under the West Virginia rules of evidence and shall state with particularity;

(2) Meets the requirements of §55-7B-7(a)(5) and §55-7B-7(a)(6) of this code; and

(3) Devoted, at the time of medical injury, 60 percent of his or her professional time annually to the active clinical practice in his or her medical field or specialty, or to teaching in his or her medical field or specialty in an accredited university.

If the health care provider executing the screening certificate of merit meets the qualifications of subdivisions (1), (2), and (3) of this subsection, there shall be a presumption that the health care provider is qualified as an expert for the purpose of executing a screening certificate of merit. The screening certificate of merit shall state with particularity, and include: (1) (A) The basis for the expert's familiarity with the applicable standard of care ~~in~~ at issue; (2)(B) the expert's qualifications; (3)(C) the expert's opinion as to how the applicable standard of care was breached; and (4)(D) the expert's opinion as to how the breach of the applicable standard of care resulted in injury or death; and (E) a list of all medical records and other information reviewed by the expert executing the screening certificate of merit. A separate screening certificate of merit must be provided for each health care provider against whom a claim is asserted. The ~~person~~ health care provider signing the screening certificate of merit shall have no financial interest in the underlying claim, but may participate as an expert witness in any judicial proceeding. Nothing in this subsection ~~may be construed to limit~~ limits the application of Rule 15 of the Rules of Civil Procedure. No challenge to the notice of claim may be raised prior

to receipt of the notice of claim and the executed screening certificate of merit.

(c) Notwithstanding any provision of this code, if a claimant or his or her counsel believes that no screening certificate of merit is necessary because the cause of action is based upon a well-established legal theory of liability which does not require expert testimony supporting a breach of the applicable standard of care, the claimant or his or her counsel shall file a statement specifically setting forth the basis of the alleged liability of the health care provider in lieu of a screening certificate of merit. The statement shall be accompanied by the list of medical records and other information otherwise required to be provided pursuant to subsection (b) of this section.

(d) Except for medical professional liability actions against a nursing home, assisted living facility, their related entities or employees, or a distinct part of an acute care hospital providing intermediate care or skilled nursing care or its employees, if a claimant or his or her counsel has insufficient time to obtain a screening certificate of merit prior to the expiration of the applicable statute of limitations, the claimant shall comply with the provisions of subsection (b) of this section except that the claimant or his or her counsel shall furnish the health care provider with a statement of intent to provide a screening certificate of merit within 60 days of the date the health care provider receives the notice of claim. The screening certificate of merit shall be accompanied by a list of the medical records otherwise required to be provided pursuant to subsection (b) of this section.

(e) In medical professional liability actions against a nursing home, assisted living facility, their related entities or employees, or a distinct part of an acute care hospital providing intermediate care or skilled nursing care or its employees, if a claimant or his or her counsel has insufficient time to obtain a screening certificate of merit prior to the expiration of the applicable statute of limitations, the claimant shall comply with the provisions of subsection (b) of this section except that the claimant or his or her counsel shall furnish the health care provider with a statement of intent to

provide a screening certificate of merit within 180 days of the date the health care provider receives the notice of claim.

(f) Any health care provider who receives a notice of claim pursuant to the provisions of this section may respond, in writing, to the claimant or his or her counsel within 30 days of receipt of the claim or within 30 days of receipt of the screening certificate of merit if the claimant is proceeding pursuant to the provisions of subsection (d) or (e) of this section. The response may state that the health care provider has a bona fide defense and the name of the health care provider's counsel, if any.

(g) Upon receipt of the notice of claim or of the screening certificate of merit, if the claimant is proceeding pursuant to the provisions of subsection (d) or (e) of this section, the health care provider is entitled to prelitigation mediation before a qualified mediator upon written demand to the claimant.

(h) If the health care provider demands mediation pursuant to the provisions of subsection (g) of this section, the mediation shall be concluded within 45 days of the date of the written demand. The mediation shall otherwise be conducted pursuant to rule 25 of the trial court rules, unless portions of the rule are clearly not applicable to a mediation conducted prior to the filing of a complaint or unless the Supreme Court of Appeals promulgates rules governing mediation prior to the filing of a complaint. If mediation is conducted, the claimant may depose the health care provider before mediation or take the testimony of the health care provider during the mediation.

(i)(1) Except for medical professional liability actions against a nursing home, assisted living facility, their related entities or employees, or a distinct part of an acute care hospital providing intermediate care or skilled nursing care or its employees, and except as otherwise provided in this subsection, any statute of limitations applicable to a cause of action against a health care provider upon whom notice was served for alleged medical professional liability shall be tolled from the date of mail of a notice of claim to 30 days following receipt of a response to the notice of claim, 30 days from the date a response to the notice of claim would

be due, or 30 days from the receipt by the claimant of written notice from the mediator that the mediation has not resulted in a settlement of the alleged claim and that mediation is concluded, whichever last occurs.

(2) In medical professional liability actions against a nursing home, assisted living facility, their related entities or employees, or a distinct part of an acute care hospital providing intermediate care or skilled nursing care or its employees, except as otherwise provided in this subsection, any statute of limitations applicable to a cause of action against a health care provider upon whom notice was served for alleged medical professional liability shall be tolled 180 days from the date of mail of a notice of claim to 30 days following receipt of a response to the notice of claim, 30 days from the date a response to the notice of claim would be due, or 30 days from the receipt by the claimant of written notice from the mediator that the mediation has not resulted in a settlement of the alleged claim and that mediation is concluded, whichever last occurs.

(3) If a claimant has sent a notice of claim relating to any injury or death to more than one health care provider, any one of whom has demanded mediation, then the statute of limitations shall be tolled with respect to, and only with respect to, those health care providers to whom the claimant sent a notice of claim to 30 days from the receipt of the claimant of written notice from the mediator that the mediation has not resulted in a settlement of the alleged claim and that mediation is concluded.

(j) Notwithstanding any other provision of this code, a notice of claim, a health care provider's response to any notice claim, a screening certificate of merit, and the results of any mediation conducted pursuant to the provisions of this section are confidential and are not admissible as evidence in any court proceeding unless the court, upon hearing, determines that failure to disclose the contents would cause a miscarriage of justice.

The bill (Com. Sub. for Com. Sub. for S. B. 510), as amended, was then ordered to engrossment and third reading.

Senate Bill 635, Relating generally to coal mining activities.

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

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

Eng. Com. Sub. for House Bill 2083, Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license.

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

On motion of Senator Takubo, the bill was referred to the Committee on Rules.

Eng. Com. Sub. for House Bill 2324, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

Having been read a second time on yesterday, Tuesday, February 19, 2019, and now coming up in regular order, was reported by the Clerk.

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

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

ARTICLE 36. ACUPUNCTURISTS.

§30-36-2. Definitions.

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

(1) "Acupuncture" means a form of health care, based on a theory of energetic physiology, that describes the interrelationship of the body organs or functions with an associated point or combination of points.

(2) “Auricular acudetox” means auricular detoxification therapy, as approved by the board or as stipulated by the National Acupuncture Detoxification Association (NADA) for the treatment of substance abuse, alcoholism, chemical dependency, detoxification, behavioral therapy, or trauma recovery.

~~(2)~~ (3) “Board” means the West Virginia Acupuncture Board.

(4) “Certificate holder” means an authorization issued by the board to persons trained in auricular acudetox who meet the qualifications, established pursuant to this article and by board rules, to be certified as an auricular detoxification specialist (ADS).

~~(3)~~ (5) “License” means a license issued by the board to practice acupuncture.

~~(4)~~ (6) “Moxibustion” means the burning of mugwort on or near the skin to stimulate the acupuncture point.

(7) “NADA” means the National Acupuncture Detoxification Association.

(8) “NADA protocol” means the National Acupuncture Detoxification Association protocol for auricular detoxification therapy.

~~(5)~~ (9) “Practice acupuncture” means the use of oriental medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance, and restoration of health.

(b) (1) “Practice acupuncture” includes:

(A) Stimulation of points of the body by the insertion of acupuncture needles;

(B) The application of moxibustion; and

(C) Manual, mechanical, thermal, or electrical therapies only when performed in accordance with the principles of oriental acupuncture medical theories.

~~(2) The practice of acupuncture does not include the procedure of auricular acupuncture when used in the context of a chemical dependency treatment program when the person is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.~~

§30-36-7. Rule-making authority; miscellaneous powers and duties.

(a) The board may propose for promulgation legislative rules to carry out the provisions of this article in accordance with the provisions of §29A-3-1 *et seq.* of this code.

(b) The board may adopt a code of ethics for licensure.

(c) In addition to the powers set forth elsewhere in this article, the board shall keep:

(1) Records and minutes necessary for the orderly conduct of business; and

(2) A list of each currently licensed acupuncturist.

(d) The board may propose emergency legislative rules upon the effective date of the reenactment of this article during the 2019 regular session of the Legislature to effectuate the provisions necessary to issue certificates to persons trained in auricular acudetox, and to establish fees for certificate holders pursuant to this article.

§30-36-9. License or certificate required; exemptions.

(a) Except as otherwise provided in this article, an individual shall be licensed or certified by the board before he or she may practice acupuncture or auricular acudetox in this state.

(b) This section does not apply to:

(1) An individual employed by the federal government as an acupuncturist while practicing within the scope of that employment; or

(2) A student, trainee, or visiting teacher who is designated as a student, trainee, or visiting teacher while participating in a course of study or training under the supervision of a licensed acupuncturist in a program that is approved by the board or the State Board of Education.

§30-36-10. Qualifications of applicants for licensure; and qualifications for certificate holders.

(a) To qualify for a license, an applicant shall:

~~(a)~~ (1) Be of good moral character;

~~(b)~~ (2) Be at least 18 years of age;

~~(c)~~ (3) Demonstrate competence in performing acupuncture by meeting one of the following standards for education, training, or demonstrated experience:

~~(1)~~ (A) Graduation from a course of training of at least 1,800 hours, including 300 clinical hours, that is:

~~(A)~~ (i) Approved by the national accreditation commission for schools and colleges of acupuncture and oriental medicine; or

~~(B)~~ (ii) Found by the board to be equivalent to a course approved by the national accreditation commission for schools and colleges of acupuncture and oriental medicine;

~~(2)~~ (B) Achievement of a passing score on an examination that is:

~~(A)~~ (i) Given by the national commission for the certification of acupuncturists; or

~~(B)~~ (ii) Determined by the board to be equivalent to the examination given by the national commission for the certification of acupuncturists;

~~(3)~~ (C) Successful completion of an apprenticeship consisting of at least 2,700 hours within a five-year period under the direction

of an individual properly approved by that jurisdiction to perform acupuncture; or

(4) (D) Performance of the practice of acupuncture in accordance with the law of another jurisdiction or jurisdictions for a period of at least three years within the five years immediately prior to application that consisted of at least 500 patient visits per year; and

(4) (4) Achievement of any other qualifications that the board establishes in rules.

(b) Notwithstanding any other provisions of this code to the contrary, to qualify for a certificate as an auricular detoxification specialist, an applicant shall:

(1) Be at least 18 years old;

(2) Be authorized in this state to engage in any of the following:

(A) Physician assistant, pursuant to §30-3E-1 et seq. of this code;

(B) Dentist, pursuant to §30-4-1 et seq. of this code;

(C) Registered professional nurse, pursuant to §30-7-1 et seq. of this code;

(D) Practical nurse, pursuant to §30-7A-1 et seq. of this code;

(E) Psychologist, pursuant to §30-21-1 et seq. of this code;

(F) Occupational therapist, pursuant to §30-28-1 et seq. of this code;

(G) Social worker, pursuant to §30-30-1 et seq. of this code;

(H) Professional counselor, pursuant to §30-31-1 et seq. of this code;

(I) Emergency medical services provider, pursuant to §16-4C-1 et seq. of this code; or

(J) Corrections medical providers, pursuant to 15A-1-1 et seq. of this code.

(3) Provide evidence of successful completion of a board-approved auricular acudetox program;

(4) Submit a completed application as prescribed by the board; and

(5) Submit the appropriate fees as provided for by legislative rule.

(c) A certificate may be issued to a retired or inactive professional as described in §30-36-10(b) of this code: *Provided*, That the professional meets the qualifications for a certificate holder and the last three years of professional activity were performed in good standing: *Provided, however*, That a person who holds a certificate or its equivalent in another jurisdiction as an auricular detoxification specialist may be approved by the board to practice auricular acudetox during a public health emergency or state of emergency for a duration to be provided for in legislative rules of the board.

§30-36-14. Term and renewal of licenses and certificates; restrictions; and advertisements.

(a) Terms of license and certificate:

(1) The board shall provide for the term and renewal of licenses and certificates under this section;

(2) The term of a license or certificate may not be more than three years;

(3) A license or a certificate expires at the end of its term, unless the license or certificate is renewed for a term as provided by the board.

(b) Renewal notice. At least one month before the license or certificate expires, the board shall send to the licensee or certificate

holder, by first-class mail to the last known address of the licensee, a renewal notice that states:

(1) The date on which the current license or certificate expires;

(2) The date by which the renewal application must be received by the board for the renewal to be issued and mailed before the license or certificate expires; and

(3) The amount of the renewal fee.

(c) Applications for renewal. Before the license or certificate expires, the licensee or certificate holder periodically may renew it for an additional term, if the licensee or certificate holder:

(1) Otherwise is entitled to be licensed or certified;

(2) Pays to the board a renewal fee set by the board; and

(3) Submits to the board:

(A) A renewal application on the form that the board requires; and

(B) Satisfactory evidence of compliance with any continuing education requirements set under this section for license or certificate renewal.

(d) In addition to any other qualifications and requirements established by the board, the board may establish continuing education requirements as a condition to the renewal of licenses and certificates under this section.

(e) The board shall renew the license of and issue a renewal certificate to each licensee and certificate holder who meets the requirements of this section.

(f) A licensee may advertise only as permitted by rules adopted by the board.

(g) A certificate holder recognized as an auricular detoxification specialist is prohibited from needing any

acupuncture body points beyond the scope of auricular acudetox, and may not advertise themselves as an acupuncturist: *Provided*. That nothing contained in this section prohibits a person from practicing within his or her scope of practice as authorized by law.

§30-36-17. Surrender of license by licensee or certificate by certificate holder.

(a) Unless the board agrees to accept the surrender of a license or certificate, a licensee or certificate holder may not surrender the license or certificate nor may the license or certificate lapse by operation of law while the licensee or certificate holder is under investigation or while charges are pending against the licensee or certificate holder.

(b) The board may set conditions on its agreement with the licensee or certificate holder under investigation or against whom charges are pending to accept surrender of the license or certificate.

§30-36-18. Reprimands, probations, suspensions and revocations; grounds.

The board, on the affirmative vote of a majority of its full authorized membership, may reprimand any licensee or certificate holder, place any licensee or certificate holder on probation, or suspend or revoke a license or certificate if the licensee or certificate holder:

~~(a)~~ (1) Fraudulently or deceptively obtains or attempts to obtain a license or certificate for the applicant or licensee or certificate holder or for another;

~~(b)~~ (2) Fraudulently or deceptively:

~~(1)~~ (A) Uses a license or certificate; or

~~(2)~~ (B) Solicits or advertises.

~~(c)~~ (3) Is guilty of immoral or unprofessional conduct in the practice of acupuncture or auricular acudetox;

~~(d)~~ (4) Is professionally, physically, or mentally incompetent;

~~(e)~~ (5) Provides professional services while:

~~(4)~~ (A) Under the influence of alcohol; or

~~(2)~~ (B) Using any narcotic or controlled substance, as defined in §60A-1-101 of this code, or other drug that is in excess of therapeutic amounts or without a valid medical indication;

~~(f)~~ (6) Knowingly violates any provision of this article or any rule of the board adopted under this article;

~~(g)~~ (7) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

~~(h)~~ (8) Practices acupuncture or auricular detoxification therapy with an unauthorized person or assists an unauthorized person in the practice of acupuncture or auricular detoxification therapy;

~~(i)~~ (9) Is disciplined by the licensing or disciplinary authority of this state or any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;

~~(j)~~ (10) Willfully makes or files a false report or record in the practice of acupuncture or auricular detoxification therapy;

~~(k)~~ (11) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

~~(l)~~ (12) Submits a false statement to collect a fee; or

~~(m)~~ (13) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the person is licensed and qualified to render because the individual is HIV positive, in conformity with standards established for treatment by physicians, dentists and other licensed health care professionals in cases of this nature.

The bill (Com. Sub. for H. B. 2324), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

Com. Sub. for Senate Bill 613, Requiring DNR include election of organ donation on hunting licenses.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Blair, Maynard, and Tarr.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Hamilton, the name of Senator Hamilton was removed as a sponsor of **Engrossed Senate Bill 618** (*Relating to effect on levy rate when appraisal results in tax increase*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:15 p.m., the Senate adjourned until tomorrow, Thursday, February 21, 2019, at 11 a.m.

THURSDAY, FEBRUARY 21, 2019

The Senate met at 11:13 a.m.

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

Prayer was offered by Dr. D. W. Cummings, Senior Pastor, Bethlehem Apostolic Temple, Wheeling, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael A. Woelfel, a senator from the fifth district.

Pending the reading of the Journal of Wednesday, February 20, 2019,

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

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

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. House Bill 2459, Exercising authority to exempt individuals domiciled within the state from certain restrictions contained in federal law.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2486—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22; and to amend and reenact §30-5-11, §30-5-11a, §30-10-8, §30-10-10, §30-13A-9, §30-13A-12, §30-14-11, §30-20-8, §30-20-10, §30-20A-5, §30-21-7, §30-22-10, §30-23-9, §30-23-15, §30-23-17, §30-23-20, §30-25-8, §30-26-5, §30-26-13, §30-30-8, §30-30-10, §30-30-12, §30-30-14, §30-30-26, §30-31-8, §30-31-9, §30-38-12 and §30-39-6 of said code, all relating to using records of criminal conviction to disqualify a person from receiving a license for a profession or occupation; requiring criminal offenses that can be used as a basis for disqualifying a person from initially applying for a license, certification or registration to bear a rational nexus to the occupation requiring licensure, limiting the time of disqualification for criminal offense; providing exceptions; providing petition process for individual with a criminal record to obtain determination of effect of a criminal record on ability to obtain a

license; and requiring boards and licensing authorities to update legislative rules.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2975—A Bill to amend and reenact §61-8B-10 of the Code of West Virginia, 1931, as amended, relating to imposition of sexual acts on persons incarcerated or under supervision; providing for prohibition against sexual acts for any person working at an alternative sentence program who has supervisory duties; and providing that employees working at an alternative sentence program who engage in sexual acts with a person said employee is charged as part of his or her employment with supervising, is guilty of a felony.

Referred to the Committee on the Judiciary.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 21st day of February, 2019, 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:

(S. B. 27), Removing restrictions on where certain traditional lottery games may be played.

(S. B. 268), Updating meaning of federal taxable income in WV Corporation Net Income Tax Act.

And,

(S. B. 269), Updating terms used in WV Personal Income Tax Act.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 238, Increasing fines for passing stopped school bus.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 238 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to increasing certain penalties for illegally passing a stopped school bus; increasing driver's license suspension periods for violators; and requiring forward and rear-facing exterior cameras on all county school buses purchased after July 1, 2019.

And,

Senate Bill 547, Limiting landowner liability for recreational use of lands.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 547 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §19-25-2, §19-25-3, §19-25-4, §19-25-5, and §19-25-6 of the Code of West Virginia, 1931, as amended, all relating generally to limiting landowner liability for injuries to, or caused by persons entering or going upon land for noncommercial recreational purposes, wildlife propagation purposes, military training purposes, law-enforcement

training purposes, or homeland defense training purposes; clarifying that limitation on liability and duty to warn applies only to landowner permitting the general public to enter or go upon such land for recreational or wildlife propagation purposes; providing that a landowner is not liable for, and has no duty to warn of, dangerous or hazardous wild animals on the land; deleting obsolete language providing that a landowner does not confer invitee or licensee status on persons invited or permitted upon land; substituting the term “fee” for the term “charge”; defining the term “fee”; providing that for the purposes of limiting landowner liability, a fee does not include a fee for an annual event or occurrence, if the total of such fees in a year do not exceed \$25 per individual; providing that for the purposes of limiting landowner liability, a fee does not include voluntary donations to certain charitable entities; amending the term “land” to include premises; amending the definition of the term “owner of land” to specifically include any person holding legal possession, ownership, or partial ownership of an interest in land or a person sponsoring land or premises for volunteer improvement or maintenance purposes; amending the definition of the term “recreational purposes” to specifically include parking on or traversing land to engage in recreational activities and maintaining, or making improvements to, land for the purpose of making recreational activities accessible; naming the activities of rock climbing, bouldering, and kayaking as being activities within the definition of “recreational purposes”; and making numerous technical corrections.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 400, Allowing Board of Dentistry create specialty licenses.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 400 (originating in the Committee on Government Organization)—A Bill to amend and reenact §30-4-3, §30-4-8, and §30-4-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-4-8a, all relating generally to dentistry; permitting the West Virginia Board of Dentistry to create specialty licenses; setting forth those specialty licenses; changing the specific examination an applicant must pass before being issued a license to practice dentistry; changing the type of exam an applicant must pass before being issued a license to practice dental hygiene; and defining terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 432, Enacting Recognition of Emergency Medical Services Personnel Licensure Interstate Compact.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Azinger, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Senate Bill 472, Exempting retirement income of certain uniformed services members from state income tax.

And,

Eng. House Bill 2743, Eliminating reference to municipal policemen's pension and relief funds and firemen's pension and relief funds in section restricting investment.

And reports the same back with the recommendation that they each do pass; but under the original double committee references first be referred to the Committee on Finance.

Respectfully submitted,

Michael T. Azinger,
Chair.

The bills, under the original double committee references, were then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 539, Relating to accrued benefit of retirees in WV State Police Retirement System Plan B.

Senate Bill 544, Increasing salaries for members of WV State Police over three-year period.

And,

Senate Bill 656, Relating to electronic filing of tax returns.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Maynard, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Senate Bill 602, Creating matching program for Small Business Innovation and Research Program and Small Business Technology Transfer Program.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator Sypolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 627, Relating generally to Rural Rehabilitation Loan Program.

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

Respectfully submitted,

Dave Sypolt,
Chair.

Senator Sypolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 629, Regulating hemp production.

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

Respectfully submitted,

Dave Sypolt,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Senate Bill 665 (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend and reenact §22-6A-7 of the Code of West Virginia, 1931, as amended, relating to allowing for expedited oil and gas well permitting and expedited oil and gas well permit modifications upon the payment of applicable expedited fees; designating the proceeds of such expedited fees; providing for the daily pro rata refund of the expedited fees if the permit is not approved between day 45 and day 60 after the submission of a permit application; providing for the daily pro rata refund of one half of the modification fees between day 10 and day 20 after the submission of a permit modification application; and relating generally to horizontal well oil and gas permitting.

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

Respectfully submitted,

Randy E. Smith,
Chair.

Senator Maynard, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Senate Bill 666 (originating in the Committee on Economic Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2, §11-28-3, §11-28-4, and §11-28-5, all relating to creating the West Virginia Motorsports Entertainment Complex Investment Act.

And reports the same back with the recommendation that it do pass; but with the further recommendation that it first be referred to the Committee on Finance.

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Maynard, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Senate Bill 667 (originating in the Committee on Economic Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-17, relating to creating the West Virginia Motorsport Committee; setting forth who serves on the committee; setting forth its duties; requiring meetings and hearings; and requiring reports.

And reports the same back with the recommendation that it do pass; but with the further recommendation that it first be referred to the Committee on Government Organization.

Respectfully submitted,

Mark R. Maynard,
Chair.

The Senate proceeded to the sixth order of business.

Senators Maynard, Baldwin, Palumbo, Beach, Stollings, Jeffries, and Plymale offered the following resolution:

Senate Concurrent Resolution 42—Requesting the Division of Highways name bridge number 30-2/5-14.73, (30A137), locally known as Kirk Thru Truss, carrying County Route 3/5 over the West Fork of Twelvepole Creek in Mingo County, the “Tom and Cindy Mae Marcum Memorial Bridge”.

Whereas, Tom Marcum was born January 26, 1928, and died September 4, 2014; and

Whereas, Tom Marcum was a veteran of the U. S. Army, where he honorably served from November 13, 1950, until July 4, 1953; and

Whereas, Tom Marcum had served as the Mingo County DOH Supervisor, the Mingo County Highways Superintendent (when he had lights put in the Dingess Tunnel), and also as an assistant to the DOH Commissioner; and

Whereas, Tom Marcum also served as a Mingo County Constable and a member of the Mingo County Board of Education; and

Whereas, Tom Marcum was a retired coal miner of the Princess Coal Company at Man, West Virginia; and

Whereas, Cindy Mae Marcum was born on March 19, 1917, and died on November 26, 2013; and

Whereas, Cindy Mae Marcum was a cook for the Mingo County Board of Education for several years at the Dingess Grade School; and

Whereas, She was the mother of seven children, and had fourteen grandchildren, great-grandchildren, and great-great grandchildren; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 30-2/5-14.73, (30A137), locally known as Kirk Thru Truss, carrying County Route 3/5 over the West Fork of Twelvepole Creek in Mingo County, the “Tom and Cindy Mae Marcum Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Tom and Cindy Mae Marcum Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senators Clements, Baldwin, Plymale, Stollings, Beach, Jeffries, Palumbo, and Sypolt offered the following resolution:

Senate Resolution 55—Recognizing Mike Webb for more than 50 years of dedicated public service as a teacher, coach, administrator, and contest official.

Whereas, Mike Webb is a graduate of St. Mary’s High School in St. Mary’s, West Virginia, and was a teacher, coach, and administrator at St. Mary’s High School, Bruceton Mills, and Parkersburg High for 30 years; and

Whereas, Mike Webb has been a contest official in the sports of football, basketball, and baseball since 1955 in West Virginia

and Ohio. He officiated baseball for 15 years, basketball for 23 years, and football for 48 years; and

Whereas, Since 1978, Mike Webb has served the West Virginia Secondary School Activities Commission (WVSSAC) as a clinician and rules interpreter and has been directly responsible for the education and training component for new officials; and

Whereas, Mike Webb currently assists in assigning officials for all 45 football playoff games and is continually developing guidelines for such topics as recruiting new officials, evaluations of game officials, and training; and

Whereas, On the national level, Mike Webb has served as West Virginia's voting representative and as an advisory committee member on the National Federation of High School Football Rules Committee since 1977; and

Whereas, Mike Webb has been a member of both the National Federation of High School Football Manual Committee and National Federation of High School Football Editorial Committee. He was a charter member (1982) of the National Federation Interscholastic Officials Association (now NFHS Officials Association) and served one term (1988-1992) on the association's board of directors; and

Whereas, Mike Webb has been a football clinician in the state of New Mexico. He is vice-president of the WVSSAC Officials Advisory Committee. He is a member of the Ohio-West Virginia Football Officials Association. In addition to his duties with the WVSSAC, Mike Webb has served in a similar capacity at the college level. From 1967 to 1993, he was an official, interpreter, and observer for the West Virginia Intercollegiate Athletic Conference; and

Whereas, For his dedicated service, Mike Webb received the 1982 Dale McKensie Award for Active Officials from the Ohio-West Virginia Officials Association and the Little Kanawha Conference Distinguished Service Award. He also received the Distinguished Service Award from the NFHS Officials Association

(then NFIOA) in 1993. He was inducted into the National Federation High School Hall of Fame on July 5, 2004. In 2005, he was inducted into the Mid-Ohio Valley Sports Hall of Fame; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes Mike Webb for more than 50 years of dedicated public service as a teacher, coach, administrator, and contest official; and, be it

Further Resolved, That the Senate extends its most sincere gratitude and appreciation to Mike Webb for his dedicated public service; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Mike Webb.

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Clements regarding the adoption of Senate Resolution 55 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:30 a.m., the Senate recessed to present Senate Resolution 55.

The Senate reconvened at 11:34 a.m. and resumed business under the sixth order.

Senators Blair, Takubo, Baldwin, Prezioso, Plymale, Stollings, Unger, Romano, Beach, Hamilton, Jeffries, Rucker, Tarr, Palumbo, Maynard, Swope, Lindsay, Roberts, Trump, Cline, and Sybolt offered the following resolution:

Senate Resolution 56—Reaffirming the sister-state relationship between the State of West Virginia and Taiwan.

Whereas, The Republic of China (Taiwan) and the United States have enjoyed a long-standing partnership and share the common values of freedom, democracy, and human rights. In 2019, Taiwan ranked as the second-freest country in Asia by Freedom House, and ranked 10th among 180 world economies in terms of economic freedom by the Heritage Foundation, demonstrating the strength and vitality of its democratic system and showcasing Taiwan as a beacon of democracy in the world; and

Whereas, The Taiwan Relations Act (TRA) was signed into law on April 10, 1979, codifying the historically close relations with Taiwan that had existed prior to January 1, 1979, and which serves as the foundation to preserve and promote continued bilateral bonds; and

Whereas, In 1982, President Ronald Reagan further clarified the importance and resilience of the U.S.-Taiwan relationship with the issuance of the Six Assurances, which together with the TRA, are the cornerstones of U.S. policy with respect to Taiwan; and

Whereas, The United States and Taiwan have forged ever closer economic and security relations over the last four decades based on their shared commitment to democracy, the rule of law, and free market principles; with the United States now Taiwan's second-largest trading partner and second-largest destination of Taiwanese outward investment; and with Taiwan the 11th-largest trading partner of the United States and a key destination for United States agricultural exports; and

Whereas, The State of West Virginia is proud of the sister-state relationship it has enjoyed with Taiwan since August 4, 1980, marked by strong bilateral trade, education, and cultural exchange. In 2017, the bilateral trade between West Virginia and Taiwan amounted to nearly \$64 million, making Taiwan our seventh-largest Asian trading partner, demonstrating that Taiwan is not only a friendly sister-state of West Virginia but also an important trading partner; and

Whereas, In the 2017-2018 academic year, 22,454 students from Taiwan studied in the U.S., making Taiwan the seventh-leading place of origin for students coming to the U.S. and contributed more than \$824 million to the U.S. economy, through their spending on tuition, accommodation, and living expenses; and

Whereas, West Virginia welcomes all opportunities for an even closer economic partnership to increase the trade and investment and endorses Taiwan's effort to secure the signing of a U.S.-Taiwan Bilateral Trade Agreement, to boost greater West Virginia exports to Taiwan, and to bring in more Taiwanese investments, such as the \$34 million project which Far Eastern New Century Corporation introduced in 2018; and

Whereas, Taiwan has been proven to be a very valuable contributor in a broad range of global issues, and it is necessary to be granted access to meaningfully participate in various international organizations including the World Health Organization (WHO), International Civil Aviation Organization (ICAO), United Nation Framework Convention on Climate Change (UNFCCC), and International Criminal Police Organization (INTERPOL); therefore, be it

Resolved by the Senate:

That the Senate hereby reaffirms the sister-state relationship between the State of West Virginia and Taiwan; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Mr. Stanley Kao, Representative of the Taipei Economic and Cultural Representative Office in the United States.

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

The question being on the adoption of Senate Resolution 56, and on this question, Senator Blair demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 56) adopted.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 35, Designating days for displaying Honor and Remember Flag at WV Veterans Memorial.

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

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

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 340, Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Cline—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 340) passed with its title.

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

Eng. Com. Sub. for Senate Bill 344, Relating to operation of state-owned farms.

Having been read a third time on yesterday, Wednesday, February 20, 2019, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Engrossed Committee Substitute for Senate Bill 344 pass?”

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

The nays were: None.

Absent: Cline—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 344) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Cline—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 344) takes effect from passage.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 402, Authorizing Division of Forestry investigate and enforce timber theft violations.

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

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

The nays were: None.

Absent: Cline—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 402) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 510, Relating to medical professional liability.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Hamilton, Hardesty, Ihlenfeld, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Facemire, Jeffries, Lindsay, Romano, and Unger—6.

Absent: Cline—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 510) passed with its title.

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

Senate Bill 635, Relating generally to coal mining activities.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, February 20, 2019, for amendments to be received on third reading, was reported by the Clerk.

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

On page thirty-two, section thirty-five, after line one hundred twenty-five, by inserting two new sections, designated sections forty-three and forty-four, to read as follows:

§22A-1-43. Hold harmless clause; decision to enter mine

(a) If any injury or death shall occur to any person who has entered any mine, whether active workings or abandoned workings, without permission, neither

(1) The owner of that mine or property; nor

(2) The State of West Virginia or any of its political subdivisions, or any agency operating under color of law thereunder; nor

(3) Any person, organization, or entity involved in any rescue or attempted rescue of such person who has committed an entry without permission, shall be held liable in any court or other forum for such injury or death.

(b) The Director is authorized to make the decision on whether a mine is too dangerous, and this decision is not subject to review by a court of this state.

(c) A company shall not be required or ordered to conduct rescue operations.

§22A-1-44. Temporary exemption for environmental regulations.

In the event of an unauthorized entry by any person or persons into any mine whether active workings or abandoned workings, neither the owner of that mine or property, nor any other person, organization, or entity involved in any rescue or attempted rescue of such person, may be held liable for any violation of any environmental regulation, if such violation occurred as part of any rescue efforts.;

And,

On page forty-two, section five, after line twenty-one, by striking out the remainder of the bill and inserting in lieu thereof the following:

§22A-8-10. Loss of certification for unlawful trespass.

Upon a conviction under the provisions of §61-3B-6 of this code, the certification of any person certified under the provision of §22A-8-1 *et seq.* of this code, including a safety sensitive certification issued pursuant to 56 CSR 19, shall be deemed

revoked and person shall be permanently barred from holding a certification under the provisions of §22A-8-1 et seq. of this code.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-12. Entry of building other than dwelling; entry of railroad, traction or motorcar, steamboat or other vessel; penalties; counts in indictment.

If any person shall, at any time, break and enter, or shall enter without breaking, any office, shop, ~~underground coal mine~~, storehouse, warehouse, banking house, or any house or building, other than a dwelling house or outhouse adjoining thereto or occupied therewith, any railroad or traction car, propelled by steam, electricity or otherwise, any steamboat or other boat or vessel, or any commercial, industrial or public utility property enclosed by a fence, wall or other structure erected with the intent of the property owner of protecting or securing the area within and its contents from unauthorized persons, within the jurisdiction of any county in this state, with intent to commit a felony or any larceny, he or she shall be deemed guilty of a felony and, upon conviction, shall be confined in a state correctional facility not less than one nor more than ten years. And if any person shall, at any time, break and enter, or shall enter without breaking, any automobile, motorcar or bus, with like intent, within the jurisdiction of any county in this state, he or she shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail not less than two nor more than twelve months and be fined not exceeding \$100.

An indictment for burglary may contain one or more counts for breaking and entering, or for entering without breaking, the house or building mentioned in the count for burglary under the provisions of this section and section eleven of this article.

ARTICLE 3B. TRESPASS.

§61-3B-6. Mine trespass; penalties.

(a) A person who willfully enters an underground coal mine, whether active workings or abandoned workings, without permission, and the underground mine is either: (1) Sealed; or (2) Clearly identified by signage at some conspicuous place near the entrance of the mine that includes a notice that the unauthorized entry into the mine is a felony criminal offense, is guilty of a felony and, upon conviction thereof shall be imprisoned in a correctional facility not less than one year and nor more than ten years and shall be fined not less than \$5,000 nor more than \$10,000.

(b) A person who willfully enters a surface coal mine, whether active workings or abandoned workings, without permission, and with the intent to commit a felony or any larceny, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not less than one week and not more than one month and shall be fined not less than \$1,000 nor more than \$5,000. For a second conviction the person shall be guilty of a felony and shall be confined in a correctional facility not less than one year and not more than five years and shall be fined not less than \$5,000 nor more than \$10,000. For a third or subsequent conviction, the person is guilty of a felony and shall be confined in a correctional facility not less than five year and not more than ten years and shall be fined not less than \$10,000, nor more than \$25,000.

(c) A person who violates subsections (a) or (b), and during any rescue efforts for any such person, there occurs an injury that causes substantial physical pain, illness or any impairment of physical condition to any person other than himself or herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one week and not more than one year and shall be fined not less than \$1,000 nor more than \$5,000: *Provided*, That such jail term shall include actual confinement of not less than seven days.

(d) A person who violates subsections (a) or (b), and during any rescue efforts for any such person, there occurs an injury that creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ to any person other than himself or herself, is guilty of a felony and, upon

conviction thereof, shall be imprisoned in a correctional facility for not less than two nor more than 10 years and shall be fined not less than \$5,000 nor more than \$10,000.

(e) A person who violates subsections (a) or (b), and during any rescue efforts of such person, the death of any person occurs, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than three nor more than 15 years and shall be fined not less than \$10,000 nor more than \$25,000.

(f) Notwithstanding and in addition to any other penalties provided by law, any person who performs or causes damage to property in the course of a willful trespass in violation of this section is liable to the property owner in the amount of twice the amount of such damage.

(g) The terms “mine”, “active workings”, and “abandoned workings” have the same meaning ascribed to such terms as set forth in §22A-1-2 of this code.

(h) Nothing in this section shall be construed to prevent lawful assembly and petition for the lawful redress of grievances, including, but not limited to, activities protected by the West Virginia Constitution or the United States Constitution or any statute of this state or the United States.

Following discussion,

The question being on the adoption of Senator Ihlenfeld’s amendments to the bill, the same was put and prevailed.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Senate Bill 635 was then read a third time and put upon its passage.

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

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

The nays were: Lindsay—1.

Absent: Cline—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 635) passed.

On motion of Senator Ihlenfeld, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Senate Bill 635—A Bill to amend and reenact §5B-2A-5, §5B-2A-6, §5B-2A-8, and §5B-2A-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-3-14 of said code; to amend and reenact §22-11-10 of said code; to amend and reenact §22-30-3 and §22-30-24 of said code; to amend and reenact §22A-1-21 and §22A-1-35 of said code; to amend said code by adding thereto two new sections, designated §22A-1-43 and §22A-1-44; to amend and reenact §22A-1A-1 and §22A-1A-2 of said code; to amend and reenact §22A-2-2, §22A-2-12, and §22A-2-13 of said code; to amend said code by adding thereto a new section, designated, §22A-2-80; to amend and reenact §22A-2A-405 of said code; to amend and reenact §22A-8-5 of said code; to amend said code by adding thereto a new section, designated §22A-8-10; to amend and reenact §61-3-12 of said code; and to amend said code by adding thereto a new section, designated §61-3B-6, all relating generally to coal mining activities; eliminating the requirement for submission of the community impact statement; requiring review of new mining activity for submission to the Office of Coalfield Community Development; eliminating requirements for submission of certain additional information; requiring the submission of certain information related to land and infrastructure needs upon request of the Office of Coalfield Community Development; requiring and authorizing the Secretary of the Department of Environmental Protection to promulgate rules

relating to mine subsidence protection for dwelling owners; authorizing the Secretary of the Department of Environmental Protection to promulgate rules for permit modification and renewal fees for surface mining operations pursuant to the Water Pollution Control Act; authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to exemptions pursuant to the Aboveground Storage Tank Act; requiring a miner who was issued an assessment to either pay the fine or appeal a violation within 30 days; requiring the Office of Miners' Health, Safety, and Training Mine Rescue Team be provided to a coal operation where the operation has no mine rescue team available within one hour's drive; permitting employers to drug test an employee involved in an accident that results in physical injuries or damage to equipment or property; requiring miners testing positive for drug use to undergo a mandatory minimum six-month suspension; eliminating timing requirements for submission of a detailed mine ventilation plan to the Director of the Office of Miners' Health, Safety, and Training; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate emergency rules for establishing a course of instruction for apprentice miners; requiring apprentice miners to work 90 days in a mine within sight and sound of a mine foreman or assistant foreman; permitting the Director of the Office of Miners' Health, Safety, and Training to decertify miners who fail to perform daily examinations; allowing the Director of the Office of Miners' Health, Safety, and Training to use the employer's tracking data of the designated daily examiner; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate rules generally; amending standards for controlling and monitoring exhaust gases for diesel-powered underground coal mining equipment; allowing certified competent miners to supervise up to two apprentice miners; holding mine owners, the state, and person or entities engaged in rescue operations harmless for injury or death; authorizing a temporary exemption from environmental regulations during rescue operations; revoking certifications of persons convicted of mine trespass; removing underground coal mines from those places subject to the crime of unlawful entry of building other than a dwelling; creating the new criminal misdemeanor and felony

offenses of mine trespass; establishing penalties for mine trespass including enhanced penalties for bodily injury or death during rescue operations; authorizing increased liability for damages caused during a mine trespass; and exempting lawful activities under the West Virginia and United States Constitutions, and state and federal law from the operation of the mine trespass criminal statute.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Lindsay—1.

Absent: Cline—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 635) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2324, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

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

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

The nays were: None.

Absent: Cline—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2324) passed with its title.

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

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 613, Requiring DNR include election of organ donation on hunting licenses.

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

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, and by unanimous consent, the following bills on first reading were considered read a first time and ordered to second reading:

Senate Bill 11, Relating to retirement and pension benefits of certain PERS and Teachers Retirement System members who serve in Legislature.

Com. Sub. for Com. Sub. for Senate Bill 86, Requiring county boards provide free feminine hygiene products in grades six to 12.

Com. Sub. for Senate Bill 330, Requiring contact information be listed on agency's online directory and website.

Com. Sub. for Com. Sub. for Senate Bill 383, Creating WV Healthy Food Crop Block Grant Program.

Com. Sub. for Senate Bill 404, Relating generally to sediment control during commercial timber harvesting operations.

Com. Sub. for Senate Bill 415, Creating Timber Cotenancy Modernization and Majority Protection Act and Unknown and Unlocatable Timber Interest Owners Act.

Com. Sub. for Senate Bill 485, Clarifying notification requirements for property insurance purposes.

Senate Bill 493, Correcting terminology referring to racing vehicles illegally on street.

Com. Sub. for Senate Bill 506, Relating to guaranty associations.

Com. Sub. for Senate Bill 529, Clarifying provisions of Nonintoxicating Beer Act.

Senate Bill 531, Relating generally to workers' compensation claims.

Com. Sub. for Senate Bill 546, Relating to health care provider taxes.

Com. Sub. for Senate Bill 585, Relating to criminal offenses of stalking and harassment generally.

Senate Bill 593, Permitting critical access hospital become community outpatient medical center.

Senate Bill 596, Adjusting voluntary contribution amounts on certain DMV forms.

Com. Sub. for Senate Bill 624, Allowing county boards of education use alternative assessment provided in Every Student Succeeds Act.

Com. Sub. for Senate Bill 641, Relating to Primary Care Support Program.

Senate Bill 664, Authorizing certain members of federal judiciary perform marriages.

Eng. House Bill 2036, Permitting vehicles displaying disabled veterans' special registration plates to park in places where persons with mobility impairments may park.

Eng. Com. Sub. for House Bill 2612, Proposing rules related to the completion or updating of source water protection plans.

Eng. Com. Sub. for House Bill 2740, Barring a parent from inheriting from a child in certain instances.

Eng. House Bill 2746, Relating to administration of estates.

Eng. House Bill 2759, Providing for the ancillary administration of West Virginia real estate owned by nonresidents by affidavit and without administration.

And,

Eng. Com. Sub. for House Bill 2821, Updating provisions for command, clerical and other pay.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:13 p.m., the Senate recessed until 6 p.m. today.

The Senate reconvened at 6:30 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

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

Your Committee on Finance has had under consideration

Senate Bill 316, Preserving previously approved state Municipal Policemen's or Firemen's pensions.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 316 (originating in the Committee on Finance)—A Bill to amend and reenact §8-22-27a of the Code of West Virginia, 1931, as amended, relating to municipal options to recalculate or preserve previously approved pensions awarded through the state Municipal Policemen's or Municipal Firemen's Pension and Relief Funds prior to effective date of §8-22-27a as enacted during the regular legislative session of 2017.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Senate Bill 421, Relating to annual legislative review of economic development tax credit.

Senate Bill 535, Allowing City of Buckhannon begin collecting sales and service and use tax on July 1, 2019.

And,

Senate Bill 592, Providing for collection of hotel occupancy tax by marketplace facilitators.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 441, Relating to higher education campus police officers.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 441 (originating in the Committee on Government Organization)—A Bill to amend and reenact §18B-4-5 of the Code of West Virginia, 1931, as amended, relating to campus police officers of state institutions of higher learning; and allowing governing boards of state institutions of higher learning to appoint all qualified individuals to serve as campus police officers.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 511, Creating alternating wine proprietorships.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 511 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-1-5c; to amend and reenact §60-4-3b of said code; to amend

and reenact §60-8-3 and §60-8-17 of said code; and to amend said code by adding thereto two new sections, designated §60-8-3a and §60-8-6b, all relating to wine production and wine sales generally; creating alternating wine proprietorships for wineries and farm wineries and setting forth requirements for the proprietorships; authorizing farm entities in proprietorships to manufacture and sell wine; authorizing certain groceries to sell wine through mobile applications and web-based internet sales with at-store pickup; clarifying tasting, sampling, and sale procedures and requirements for wineries and farm wineries; permitting wineries or farm wineries to sell wine for on-premises and off-premises consumption at festivals and fairs; establishing a wine club license for festivals and fairs and setting forth requirements; permitting certain charitable events to auction wine bottles for off-premises consumption; defining terms; limiting number of charitable auction licenses; permitting the sale of wine in Division II and III college stadiums; authorizing wine specialty shops to obtain an additional license privilege to deliver wine with gift baskets and setting forth requirements; providing a 30-day requirement to issue or deny a completed license application; creating a reactivation fee for licensees that fail to timely file their renewal applications and pay their license fees; and authorizing the commissioner to propose rules for promulgation.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 538, Relating to WV Highway Design-Build Pilot Program.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 538 (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17-2D-2 of the Code of West Virginia, 1931, as amended, relating generally to the West Virginia Highway Design-Build Pilot Program; modifying monetary project limits of the program and terminology; and allowing use of program with limits for projects financed with bonds.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Senate Bill 541, Establishing priorities for expenditures for plugging abandoned gas or oil wells.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 541 (originating in the Committee on Energy, Industry, and Mining)—A Bill to amend and reenact §22-6-26 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §22-6-26a; and to amend and reenact §22-10-6 of said code, all relating to the plugging of orphaned oil and gas wells; providing plugging assurance upon transfer of a well; providing exemptions from plugging assurance where a well is providing free gas and not causing pollution; and requiring money that results from the forfeiture of an oil and gas operator's bond as a result of the

operator's failure to plug a well or otherwise comply with state statutes and rules to first be applied to correct or mitigate an immediate threat to the environment or hindrance or impediment to the development of mineral resources of this state that caused the forfeiture of the bond.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Randy E. Smith,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 541) contained in the preceding report from the Committee on Energy, Industry, and Mining was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Bill 543, Relating generally to automobile warranties and inspections.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 543 (originating in the Committee on Transportation and Infrastructure)—A Bill to amend and reenact §17A-10-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-16-4, §17C-16-5, and §17C-16-6 of said code; and to amend said code by adding thereto a new section, designated §46A-6-107a, all relating generally to

automobile warranties and inspections; changing annual mandatory state inspections of motor vehicles to inspections every two years; adjusting inspection sticker fee and charge for vehicle inspections; providing that a used motor vehicle may be sold “as is” under certain circumstances; providing certain disclosure requirements for “as is” sales of used motor vehicles; providing that a consumer shall sign and date the disclosure for an “as is” sale in order for the disclosure to be effective; providing that a merchant disclose in writing certain defects or malfunctions when selling a used motor vehicle “as is”; providing that the merchant provide the consumer a copy of a nationally recognized vehicle history report for the used motor vehicle; and providing that an “as is” sale of a used motor vehicle waives implied warranties but does not waive any express warranties.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 543) contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration

Senate Bill 554, Removing salary caps for director of State Rail Authority.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 597, Conforming state law to federal law for registration of appraisal management companies.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 597 (originating in the Committee on Government Organization)—A Bill to amend and reenact §30-38A-7, §30-38A-12, and §30-38A-17 of the Code of West Virginia, 1931, as amended, all relating to conforming the state law to the federal law for appraisal management companies' registration; expanding certification requirements; changing requirements for removing appraiser from panel; and imposing disciplinary action reporting requirement.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Bill 603, Exempting certain activities from licensing requirements for engaging in business of currency exchange.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 603 (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §32A-2-3 of the Code of West Virginia, 1931, as amended, relating to persons engaged in the business of currency exchange, transportation, or transmission; and adding exemptions.

And,

Senate Bill 654, Amending definition of “mortgage loan originator”.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 654 (originating in the Committee on Banking and Insurance)—A Bill to amend and reenact §31-17A-2 of the Code of West Virginia, 1931, as amended, relating to amending an exception under the definition of “mortgage loan originator” related to retailers of manufactured or modular homes.

With the recommendation that the two committee substitutes do pass.

Respectfully submitted,

Michael T. Azinger,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 668 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-3E-1, §30-

3E-3, §30-3E-9, §30-3E-11, and §30-3E-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-3E-10a, all relating to physician assistants collaborating with physicians in hospitals; requiring written notice to the appropriate licensing board; requiring rulemaking; and specifying practice requirements.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 6, US Army SP4 Darrell Gregory Triplett Memorial Bridge.

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

Respectfully submitted,

Charles H. Clements,
Chair.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 6:37 p.m., the Senate adjourned until tomorrow, Friday, February 22, 2019, at 11 a.m.

FRIDAY, FEBRUARY 22, 2019

The Senate met at 11:28 a.m.

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

Prayer was offered by Rob Ely, Director of Student Ministries for the West Virginia Baptist Convention, Huntington, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable William J. Ihlenfeld II, a senator from the first district.

Pending the reading of the Journal of Thursday, February 21, 2019,

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

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

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 270, Streamlining process for utilities access to DOH rights-of-way.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 356, Requiring MAPS provide state and federal prosecutors information.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 358, Exempting Purchasing Division purchases for equipment to maintain security at state facilities.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 387, Relating generally to extradition.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 452, Supplemental appropriation to Second Chance Driver's License Program.

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

Eng. Com. Sub. for House Bill 2324, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2515—A Bill to amend and reenact §11-15-9i of the Code of West Virginia, 1931, as amended relating to exempting from state sales and use tax the sale and installation of mobility enhancing equipment installed in a new or used motor vehicle for the use of a person with physical disabilities and the sale and installation for the repair or replacement parts of mobility enhancing equipment; and establishing a definition for mobility enhancing equipment.

Referred to the Committee on Finance.

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

Eng. House Bill 2666, Supplemental appropriation to the Department of Veterans' Assistance.

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

Eng. House Bill 2667—A Bill supplementing and amending by increasing an existing item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Military Affairs and Public Safety, Division of Corrections, Correctional Units, Fund 0450, fiscal year 2019, organization 0608, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

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

Eng. House Bill 2668, Supplemental appropriation to the Department of Administration, Public Defender Services.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2854—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9q, relating to exempting sales by not-for-profit volunteer school support organizations for the purpose of raising funds for their schools from the consumers sales and service tax and use tax; specifying time limitations for fundraisers; specifying that the exemption applies without regard to whether the organization holds, or does not hold, an exemption under §501(c)(3) or §501(c)(4) of the Internal Revenue Code.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2855—A Bill to amend and reenact §12-3-10d of the Code of West Virginia, 1931, as amended, relating to allowing rebate moneys in Purchasing Card Administration Fund to be used for the operation and maintenance of accounting and transparency systems of the State Auditor.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2856—A Bill to amend and reenact §32-4-406 of the Code of West Virginia, 1931, as amended, relating to the administration of the operating fund of the securities division of the Auditor's office; and providing for certain funds to be transferred to the General Revenue Fund.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2886—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §17A-2-26, relating to establishing requirements for a Division of Motor Vehicles office or Division of Motor Vehicles Now kiosk to be present in a county; establishing definitions for this section; establishing conditions for a Division of Motor Vehicles office location to be within a county; establishing exemptions under certain conditions; establishing requirements for a Division of Motor Vehicles Now kiosk to be located in a county; establishing the maximum number of Division of Motor Vehicle Now kiosks are to be determined; and requiring the provisions of this section be implemented by July 1, 2021.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2907—A Bill to amend and reenact §62-7-10 of the Code of West Virginia, 1931, as amended; and to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §62-7-10a, all relating to the requiring a form of a certified commitment order to the Division of Corrections and Rehabilitation; requiring a form for commitments to prisons; requiring a form for commitments from magistrate or circuit courts to jails; requiring that orders sent to prisons must be signed by the circuit judge with jurisdiction over the matter; requiring that orders sent to jails must be signed by the circuit court judge or magistrate with jurisdiction over the matter; requiring the costs of incarceration in jail pending transfer shall be paid by the Commissioner from the calendar date following the date of the conviction forward; and clarifying the method of transmittal of commitment orders.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2924—A Bill to amend and reenact §5B-2I-4 of the Code of West Virginia, 1931, as amended, relating to permitting the West Virginia Tourism Office to decide to contract with the Division of Highways to sell advertising space on the WV511 website to promote in-state tourism and to raise capital for technological improvements to the website; permitting 50 percent of the funds from such sale to be deposited into the Tourism Promotion Fund; and permitting 50 percent of the fund from such sale be remitted to the Division of Highways pursuant to the contract.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2929—A Bill to amend and reenact §5B-2I-4 of the Code of West Virginia, 1931, as amended, relating to authorizing the West Virginia Tourism Office to enter into an agreement with the Division of Highways to provide staff at the welcome centers and highway rest areas; and to create displays promoting in state tourism at the welcome centers and rest areas.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2933—A Bill to amend and reenact §61-8D-3 of the Code of West Virginia, 1931, as amended, relating to modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse resulting in injury and child abuse or neglect creating risk of injury.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2954—A Bill to amend and reenact §33-45-1 of the Code of West Virginia, 1931, as amended, relating to defining certain terms used in insurance.

Referred to the Committee on Banking and Insurance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2982—A Bill to amend and reenact §19-2C-1, §19-2C-2, §19-2C-3, §19-2C-5, §19-2C-5a, §19-2C-6, §19-2C-6a, §19-2C-6c, §19-2C-8, §19-2C-8a, and §19-2C-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-2C-5b, all relating to amending and updating the laws relating to auctioneers by providing for definitions; providing for exemptions to license requirements; providing for June 30 as the date all licenses expire; establishing certain conditions for auctioneers to continue working after license expiration; providing for record retention requirements; providing for exams held twice a year; providing for auctioneers to submit to background checks; providing for authorization to conduct and use information relating to background checks; providing for confidentiality of background checks; providing for penalties for an unlicensed auctioneer; providing for additional circumstances to revoke a license; providing for written contracts with auctioneers and owners of property; and providing for auction houses and business entities to enter into contracts with auctioneers.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 3007—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-3b, relating to authorizing the Commissioner of Agriculture to require background checks as a condition of employment.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3039—A Bill to amend and reenact §48-9-206 and §48-9-402 of the Code of West Virginia, 1931, as

amended, all relating to a court's consideration of the expression of a preference by a child in certain child custody matters; and removing language giving priority to the preference of a 14-year-old.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3083—A Bill to amend and reenact §21A-1A-17 of the Code of West Virginia, 1931, as amended, relating to unemployment compensation and adding temporary work by employees during the legislative session is excluded from the term employment.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3093—A Bill to amend and reenact §8A-11-1 of the Code of West Virginia, 1931, as amended, relating to standards for factory-built homes; providing for building code requirements for manufactured housing to be the same as for requirements for other single-family homes.

Referred to the Committee on Government Organization.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 22nd day of February, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(**H. B. 2459**), Exercising authority to exempt individuals domiciled within the state from certain restrictions contained in federal law.

(**Com. Sub. for H. B. 2481**), Permitting retail sale of alcoholic beverages on Sundays after 1 p.m.

And,

(**H. B. 2492**), Relating to mandatory reporting procedures of abuse and neglect of adults and children.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 248, Creating Prosecuting Attorney's Detectives Act.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 248 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-4A-1, §7-4A-2, §7-4A-3, §7-4A-4, §7-4A-5, §7-4A-6, §7-4A-7, and §7-4A-8, all relating to creating the Prosecuting Attorney's Detectives Act; providing a short title; making legislative findings; providing for law-enforcement titles; setting forth the duties and powers of prosecuting attorney's detectives; providing for compensation of prosecuting attorney's detectives; permitting prosecuting attorneys to hire detectives; establishing arrest power of prosecuting attorney's detectives; setting forth requirements;

limiting off-duty employment; and providing miscellaneous provisions.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 249, Relating to administration of estates and trusts.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 249 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §44-1-6a, relating to the administration of estates and trusts; creating a limited letter of administration that may be issued for estates that do not exceed the value of \$2,000; establishing procedures and responsibilities relating to a limited letter of administration; providing for a cause of action for parties affected by an applicant's failure to carry out distribution as stated in the application; and providing for a \$50 fee for each application regardless of whether the clerk issues a limited letter of administration.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 520, Requiring entities report drug overdoses.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 520 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §16-5T-3 and §16-5T-4 of the Code of West Virginia, 1931, as amended, all relating to drug overdoses; requiring entities report drug overdoses; requiring details for drug overdose reports; eliminating mandatory reporters; and making grammatical corrections.

Senate Bill 640, Regulating sudden cardiac arrest prevention.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 640 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-56-1, §16-56-2, §16-56-3, and §16-56-4, all relating to the regulation of sudden cardiac arrest prevention; training and education; rulemaking; and removal from athletic activity.

And,

Senate Bill 653, Relating generally to practice of medical corporations.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 653 (originating in the Committee on Health and Human Resources)—A Bill to amend and reenact §30-3-15 of the Code of West Virginia, 1931, as amended, relating generally to the practice of medical corporations; eliminating references to podiatry corporations; replacing references to the practice of podiatry with podiatric medicine; providing that authorized medical corporations may only practice medicine and surgery through individual physicians, podiatric physicians, or physician assistants licensed to practice medicine; permitting podiatric physicians and physician assistants to be employees rather than shareholders of a medical corporation; and providing that licensed hospitals do not need to obtain a certificate of authorization from the Board of Medicine so long as the hospital does not exercise control of the independent medical judgment of licensed physicians and licensed podiatric physicians.

With the recommendation that the three committee substitutes do pass.

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 537, Creating workgroup to review hospice need standards.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 537 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-29B-31, relating to creating a workgroup to review the hospice standards in this state; designating members of workgroup; providing for duties of workgroup; providing that the West Virginia Health Care Authority shall provide staff for the workgroup; providing for public hearings; providing for the submission of a final report to the Legislature; establishing a termination date of the workgroup; providing a time frame for the West Virginia Health Care Authority to consider modifying the hospice standards; providing that the hospice standards in effect January 1, 2018, remain in effect until new standards are developed in accordance with this section and approved by the Governor; and providing an effective date for newly developed hospice standards.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Michael J. Maroney,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 565, Relating to residency requirements for deputy assessors.

Senate Bill 566, Relating to compensation for State Athletic Commission members.

And,

Senate Bill 655, Relating to conservation districts generally.

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

Respectfully submitted,

Chandler Swope,
Vice Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Bill 574, Permitting authorized physician order involuntary hospitalization of individual if physician believes addicted or mentally ill.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 574 (originating in the Committee on Health and Human Resources)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-5-2a, relating to permitting an authorized physician to order the involuntary hospitalization of an individual whom the physician believes is addicted or mentally ill; setting forth a procedure; defining terms; limiting liability; and requiring the West Virginia Supreme Court of Appeals to produce information to hospitals regarding contact information for mental hygiene commissioners, designated county magistrates, and circuit judges.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 574) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

Senate Bill 615, Providing ongoing mechanism for county commissioners to allow compensation increases for elected officials every two years.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 615 (originating in the Committee on Government Organization)—A Bill to amend and reenact §7-7-4 of the Code of West Virginia, 1931, as amended, relating to providing county commissioners an ongoing mechanism to consider compensation increases for elected officials every two years.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 622, Relating generally to regulation and control of financing elections.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 622 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §3-8-1a, §3-8-2, §3-8-4, §3-8-5, §3-8-5b, §3-8-5e, §3-8-7, §3-8-8, §3-8-9, and §3-8-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto five new sections, designated §3-8-5c, §3-8-5g, §3-8-9a, §3-8-9b, and §3-8-9c, all relating generally to the regulation and control of elections; modifying and adding definitions; modifying requirements for information to be included in independent expenditure reports; providing that persons or committees required to file federal expenditure reports are not exempt from requirement to file state-level expenditure and electioneering disclosure reports; raising the threshold amounts for required disclosure of independent expenditures occurring within a certain time frame preceding elections; requiring electronic filing of certain financial disclosure statements; removing the deadline before an election for a political action committee or political party committee to file a statement of organization; modifying record-keeping requirements for certain receipts and expenditures made for political purposes and requiring that records be maintained for a period of five years; modifying deadlines for financial disclosure reports; providing that candidates for certain offices may file financial disclosure statements by mail, facsimile, or electronic means; modifying limits on contributions to candidates and candidate committees; modifying limits on contributions to state party executive committees and legislative caucus campaign committees; modifying limits on contributions to political action committees; providing that precandidates may accept contributions for a general election campaign prior to nomination, but may not expend such funds until after nomination is declared; providing that persons receiving precandidacy contributions are subject to certain expenditure reporting requirements; prohibiting foreign nationals from making contributions or donations to candidates, committees, and parties,

and prohibiting receipt of a contribution or donation by a foreign national; modifying daily rate of civil penalty for persons filing late, inaccurate, or incomplete financial statements; requiring the Secretary of State to publish an online list of persons filing late financial statements; providing that membership organizations are subject to certain limitations applying to corporate contributions and solicitation of contributions by corporations; adding certain expenses to the list of permissible expenses of political committees; providing that coordinated expenditures are treated as contributions and providing exceptions thereto; permitting political party committees and legislative caucus campaign committees to make coordinated expenditures up to certain limits in connection with certain state-level candidates; permitting political committees to engage in joint fundraising efforts pursuant to a written agreement filed with the Secretary of State subject to certain requirements; requiring the Secretary of State to promulgate legislative rules pertaining to joint fundraising efforts; permitting unlimited transfers of money between and among state party executive committees, legislative caucus campaign committees, and national committees of the same political party for voter registration and get-out-the-vote initiatives; providing that prohibition against intimidating or coercing certain government employees into engaging in political activity also extends to intimidating or coercing employees into refraining from political activity; eliminating prohibition on a political organization organized under Section 527 of the Internal Revenue Code from soliciting or accepting donations before registering with the Secretary of State; providing that it is unlawful for any person to establish more than one political committee with the intent to evade contribution limitations; and deleting obsolete language.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 632, Requiring video cameras in certain public education classrooms.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 632 (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-48; to amend said code by adding thereto a new section, designated §18-20-11; to amend and reenact §18A-2-8 of said code; and to amend and reenact §18A-3-6 of said code, all relating to improving student safety; requiring safety and security measures of each school facility be upgraded when necessary to ensure, to the best of the county board's ability, the safety of students; creating a Safe Schools Fund; requiring video cameras in certain public special education classrooms; setting forth time requirements for retaining the video; setting forth requirements for video access; adding to justifications for which a school employee can be suspended or dismissed; requiring the State Superintendent to maintain a database of all individuals suspended or dismissed for certain reasons; and adding to justifications for which a teacher's certificate can be revoked and for which a certificate can be automatically revoked.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 632) contained in the

preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 669 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, by adding thereto a new article, designated §39-4A-1, §39-4A-2, §39-4A-3, §39-4A-4, and §39-4A-5, all relating to the appointment of commissioners to acknowledge signatures by persons residing in or out of the State of West Virginia covering deeds, leases, and other writings pertaining to West Virginia property for recordation in the State of West Virginia; qualifications; authority of Secretary of State to appoint a commissioner; authority of Secretary of State to deny, refuse to renew, revoke, suspend, or impose a condition on a commission; fees; powers of commissioners; prohibited acts; rule-making authority; application of Revised Uniform Law on Notarial Acts; and inclusion of commissioners in online database.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 670 (originating in the Committee on Education)—A Bill to amend and reenact §18-30-2, §18-30-3, §18-30-4, and §18-30-7 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia College Prepaid Tuition and Savings

Program; expanding eligible educational institutions to include a private or religious primary, middle, or secondary school; and changing Board of the College Prepaid Tuition and Savings Program membership.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

The Senate proceeded to the sixth order of business.

Senators Jeffries, Lindsay, Palumbo, Takubo, Rucker, Plymale, Hamilton, Beach, Stollings, Romano, Roberts, Maynard, Hardesty, Baldwin, and Swope offered the following resolution:

Senate Resolution 57—Designating February 22, 2019, as West Virginia State University Day.

Whereas, West Virginia State University is a premier regional university that is recognized nationally for its quality education, innovate teaching, and experiential learning; and

Whereas, West Virginia State University was founded as the West Virginia Colored Institute by the West Virginia Legislature on March 17, 1891, as a public, historically black college and university in Institute, West Virginia; and

Whereas, West Virginia State University was one of the original universities among the 1890 land-grant colleges and universities established by the second Morrill Act of 1890; and

Whereas, Along with academic programs, military education became an integral part of the curriculum, with the Legislature passing a bill to admit up to 60 cadets in 1899, graduating more than 900 second lieutenants and 15 generals throughout the university's history; and

Whereas, In 1927, under the leadership of President John W. Davis, West Virginia State University was accredited by the North Central Association (Higher Learning Commission). This makes it the first of 17 original schools to be certified by a regional association, becoming the first public college in West Virginia to be accredited by the North Central Association (Higher Learning Commission) and holding the longest continuous accreditation of any public college or university in West Virginia; and

Whereas, In 1929, the Institution became known as West Virginia State College; and

Whereas, In 1954, the United States Supreme Court gave its historic decision outlawing school segregation and West Virginia State College rapidly transitioned to an integrated institution; and

Whereas, Under the leadership of President William J. L. Wallace, West Virginia State University adopted the motto, “A Living Laboratory of Human Relations”, and garnered national attention hailing, “. . . a tribute to the character and courage of the people of Kanawha Valley” for the substantial enrollment increases after the removal of racial barriers; and

Whereas, In 2004, the West Virginia Legislature approved the transition to University status; and

Whereas, West Virginia State University now offers 72 academic program options leading to 23 baccalaureate and seven master’s degrees, with seven fully online programs; and

Whereas, As one of only two land-grant institutions in the state, West Virginia State University’s Extension Service serves 38 counties and approximately 20,000 people throughout the year; and

Whereas, As a regional research institution, West Virginia State University contributes significantly to state economic development efforts in the areas of biotechnology, plant, microbial, and water quality endeavors, amassing \$17 million in research funding; and

Whereas, With every dollar the state invests in West Virginia State University, the University returns \$16 in economic activity, resulting in an estimated economic output of \$254 million per year; and

Whereas, Prominent alumni from West Virginia State University include scholars, celebrities, politicians, business people, athletes, and leaders who have distinguished themselves across the globe and changed the world, such as: The Tuskegee Airmen; Colonel “Spanky” Roberts; NBA legend, Earl Lloyd; and Presidential Medal of Freedom recipient, Katherine Johnson, who inspired the film, “Hidden Figures”; and

Whereas, West Virginia State University continues to lead the nation, state, and countless local communities spurring essential cultural and economic change for the betterment of all; and

Whereas, Since its founding 128 years ago, West Virginia State University has always proven to be a community of students, outstanding faculty, and staff devoted to helping people excel and gain the education needed to launch successful careers; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 22, 2019, as West Virginia State University Day; and, be it

Further Resolved, That the Senate hereby recognizes West Virginia State University for its tremendous contributions to the State of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Dr. Anthony L. Jenkins, President of West Virginia State University.

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

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Jeffries and Lindsay regarding the adoption of Senate Resolution 57 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:54 a.m., the Senate recessed to present Senate Resolution 57.

The Senate reconvened at 12 Noon and resumed business under the sixth order.

Senators Tarr, Jeffries, and Plymale offered the following resolution:

Senate Resolution 58—Congratulating Tylee Oldham for receiving a 2019 Prudential Spirit of Community Award as a Distinguished Finalist.

Whereas, The Prudential Spirit of Community Awards program is the United States' largest youth recognition program based exclusively on volunteer community service; and

Whereas, Created in 1995 by Prudential and the National Association of Secondary School Principals, the program honors middle level and high school students for outstanding service to others at the local, state, and national level; and

Whereas, Tylee Oldham is a student at Hurricane High School and has demonstrated an extraordinary commitment to serving her community by giving generously of her time as a hospital volunteer, spending hundreds of hours working in registration, lab, and patient support, as well as coordinating stuffed-animal and care-package drives; and

Whereas, Tylee Oldham was inspired to start working in a hospital after spending time with her grandmother in hospice care and hopes to pursue a career as a materials engineer, helping design prosthetics materials to be used in medicine; and

Whereas, The success of the State of West Virginia, the strength of our communities, and the overall vitality of American

society depend, in great measure, upon the dedication of young people like Tylee Oldham, who use their considerable talents and resources to serve others; and

Whereas, For her efforts, Tylee Oldham has achieved national recognition for exemplary volunteer service by receiving a 2019 Prudential Spirit of Community Award as a Distinguished Finalist; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates Tylee Oldham for receiving a 2019 Prudential Spirit of Community Award as a Distinguished Finalist; and, be it

Further Resolved, The Senate extends its sincere gratitude and appreciation to Tylee Oldham for her outstanding record of volunteer service, peer leadership, and community spirit, and wishes her well on a bright future; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Tylee Oldham.

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

On motion of Senator Takubo, at 12:04 p.m., the Senate recessed to present Senate Resolution 58.

The Senate reconvened at 12:07 p.m. and resumed business under the sixth order.

Petitions

Senator Cline presented a petition from Anna Davis-Abel and 155 West Virginia University students, opposing House Bill 2519 (*The Campus Self Defense Act*).

Referred to the Committee on the Judiciary.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 6, US Army SP4 Darrell Gregory Triplett Memorial Bridge.

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

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

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

Senate Concurrent Resolution 42, Tom and Cindy Mae Marcum Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 613, Requiring DNR include election of organ donation on hunting licenses.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 613 pass?”

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

The nays were: None.

Absent: Boso and Romano—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 613) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Boso and Romano—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 613) takes effect from passage.

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

The Senate proceeded to the ninth order of business.

Senate Bill 11, Relating to retirement and pension benefits of certain PERS and Teachers Retirement System members who serve in Legislature.

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

Com. Sub. for Com. Sub. for Senate Bill 86, Requiring county boards provide free feminine hygiene products in grades six to 12.

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

On motion of Senator Beach, the following amendment to the bill was reported by the Clerk:

On page one, section twenty-two-e, line two, by striking out the word “six” and inserting in lieu thereof the word “five”.

Following discussion,

The question being on the adoption of Senator Beach’s amendment to the bill, the same was put and prevailed.

The bill (Com. Sub. for Com. Sub. for S. B. 86), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 330, Requiring contact information be listed on agency’s online directory and website.

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

Com. Sub. for Com. Sub. for Senate Bill 383, Creating WV Healthy Food Crop Block Grant Program.

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

Com. Sub. for Senate Bill 404, Relating generally to sediment control during commercial timber harvesting operations.

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

Com. Sub. for Senate Bill 415, Creating Timber Cotenancy Modernization and Majority Protection Act and Unknown and Unlocatable Timber Interest Owners Act.

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

Com. Sub. for Senate Bill 485, Clarifying notification requirements for property insurance purposes.

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

Senate Bill 493, Correcting terminology referring to racing vehicles illegally on street.

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

Com. Sub. for Senate Bill 506, Relating to guaranty associations.

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

On motion of Senator Takubo, the bill was referred to the Committee on Rules.

Com. Sub. for Senate Bill 529, Clarifying provisions of Nonintoxicating Beer Act.

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

Senate Bill 531, Relating generally to workers' compensation claims.

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

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

On page one, section seven, line six, by striking out the words "term 'occupational'" and inserting in lieu thereof the words "term 'nonorthopedic occupational'".

The bill (S. B. 531), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 546, Relating to health care provider taxes.

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

Com. Sub. for Senate Bill 585, Relating to criminal offenses of stalking and harassment generally.

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

Senate Bill 593, Permitting critical access hospital become community outpatient medical center.

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

Senate Bill 596, Adjusting voluntary contribution amounts on certain DMV forms.

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

Com. Sub. for Senate Bill 624, Allowing county boards of education use alternative assessment provided in Every Student Succeeds Act.

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

On motion of Senator Rucker, the following amendment to the bill was reported by the Clerk and adopted:

On page twelve, section five, line two hundred seventy-eight through three hundred nine, by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision, designated subdivision (2), to read as follows:

(2) Recommend to the appropriate body including, but not limited to, the Legislature, county boards, schools and communities, methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes. When making determinations on recommendations, the state board, or its designee, the West Virginia Department of Education, shall work collaboratively with the county board of education. Recommendations shall include, but

~~are not limited to, the following methods: include, but is not limited to, the following methods:~~

~~The state board, or its designee, the West Virginia Department of Education, and county school systems, shall work collaboratively in:~~

~~(1) (A) Examining reports and electronic strategic improvement plans regarding the performance and progress of students, schools and school systems relative to the standards and identifying the areas in which improvement is needed;~~

~~(2) (B) Determining the areas of weakness and of ineffectiveness that appear to have contributed to the substandard performance and progress of students or the deficiencies of the school or school system;~~

~~(3) (C) Determining the areas of strength that appear to have contributed to exceptional student, school and school system performance and progress and promoting their emulation throughout the system;~~

~~(4) (D) Requesting technical assistance from the School Building Authority in assessing or designing comprehensive educational facilities plans;~~

~~(5) (E) Recommending priority funding from the School Building Authority based on identified needs;~~

~~(6) (F) Recommending special staff development programs from county boards based on identified needs;~~

~~(7) (G) Submitting requests to the Legislature for appropriations to meet the identified needs for improving education;~~

~~(8) (H) Directing educational expertise and support services strategically toward alleviating deficiencies;~~

~~(9)~~ (I) Ensuring that the need for facilities in counties with increased enrollment are appropriately reflected and recommended for funding;

~~(10)~~ (J) Ensuring that the appropriate person or entity is held accountable for eliminating deficiencies; and

~~(11)~~ (K) Ensuring that the needed capacity is available from the state and local level to assist the school or school system in achieving the standards and alleviating the deficiencies.

The bill (Com. Sub. for S. B. 624), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 641, Relating to Primary Care Support Program.

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

Senate Bill 664, Authorizing certain members of federal judiciary perform marriages.

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

Eng. House Bill 2036, Permitting vehicles displaying disabled veterans' special registration plates to park in places where persons with mobility impairments may park.

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

Eng. Com. Sub. for House Bill 2612, Proposing rules related to the completion or updating of source water protection plans.

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

Eng. Com. Sub. for House Bill 2740, Barring a parent from inheriting from a child in certain instances.

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

Eng. House Bill 2746, Relating to administration of estates.

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

Eng. House Bill 2759, Providing for the ancillary administration of West Virginia real estate owned by nonresidents by affidavit and without administration.

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

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

On page twelve, section one, line forty-two, by striking out the words “of \$20 for” and inserting in lieu thereof the words “that is the amount of”.

The bill (Eng. H. B. 2759), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2821, Updating provisions for command, clerical and other pay.

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

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Com. Sub. for Senate Bill 238, Increasing certain penalties for passing stopped school bus.

Com. Sub. for Senate Bill 316, Preserving previously approved state Municipal Policemen’s or Firemen’s pensions.

Com. Sub. for Senate Bill 400, Allowing Board of Dentistry create specialty licenses.

Senate Bill 421, Relating to annual legislative review of economic development tax credit.

Senate Bill 432, Enacting Recognition of Emergency Medical Services Personnel Licensure Interstate Compact.

Com. Sub. for Senate Bill 441, Relating to higher education campus police officers.

Com. Sub. for Senate Bill 511, Creating alternating wine proprietorships.

Senate Bill 535, Allowing City of Buckhannon begin collecting sales and service and use tax on July 1, 2019.

Com. Sub. for Senate Bill 538, Relating to WV Highway Design-Build Pilot Program.

Com. Sub. for Senate Bill 539, Relating to accrued benefit of retirees in WV State Police Retirement System Plan B.

Senate Bill 544, Increasing salaries for members of WV State Police over three-year period.

Com. Sub. for Senate Bill 547, Limiting landowner liability for recreational use of lands.

Senate Bill 554, Removing salary caps for director of State Rail Authority.

Senate Bill 592, Providing for collection of hotel occupancy tax by marketplace facilitators.

Com. Sub. for Senate Bill 597, Conforming state law to federal law for registration of appraisal management companies.

Com. Sub. for Senate Bill 603, Exempting certain activities from licensing requirements for engaging in business of currency exchange.

Senate Bill 627, Relating generally to Rural Rehabilitation Loan Program.

Com. Sub. for Senate Bill 654, Amending definition of “mortgage loan originator”.

Senate Bill 656, Relating to electronic filing of tax returns.

Senate Bill 665, Allowing for expedited oil and gas well permitting.

Senate Bill 666, Creating WV Motorsports Entertainment Complex Investment Act.

Senate Bill 667, Creating WV Motorsport Committee.

And,

Senate Bill 668, Relating to physician assistants collaborating with physicians in hospitals.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Maynard.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:32 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:31 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 22nd day of February, 2019, 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:

(S. B. 272), Updating code relating to Commission on Special Investigations.

And,

(Com. Sub. for H. B. 2521), Relating to permitting fur-bearer parts.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 273, Clarifying information request by Commission on Special Investigations be provided promptly.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 273 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §6-9-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §12-4A-1, §12-4A-2, §12-4A-3, and §12-4A-4 of said code; and to amend said code by adding thereto two sections, designated §12-4A-2a and §12-4A-5, all relating generally to the Commission on Special Investigations and the State Auditor duties; authorizing reporting of evidence of governmental waste, fraud, mismanagement, malfeasance, misfeasance, or nonfeasance to the State Auditor; clarifying that such reports shall relate to all public funds rather than state funds alone; directing that the Commission on Special Investigations have primacy in investigating reports of

possible fraud, misappropriation, mismanagement, or waste of state funds by state agencies, officials, and employees; clarifying applicability of freedom of information law to documents which are part of an investigation; defining terms; establishing time requirement for the delivery of required information or reports from the State Auditor to the commission; clarifying that the State Auditor must share all reports of fraud, misappropriation, mismanagement, or waste of public funds with the commission; authorizing publication of reports of completed investigations and underlying documentation; requiring redaction of certain information from published reports; requiring the State Auditor to track investigations and issue reports; setting dates for reporting; and defining terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 353, Increasing salaries of magistrates, supreme court justices, circuit court judges and family court judges.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 353) contained in the preceding report from

the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Senate Bill 472, Exempting retirement income of certain uniformed services members from state income tax.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 522 (originating in the Committee on Transportation and Infrastructure), Creating Special Road Repair Fund.

And reports back a committee substitute for same with the following title:

Com. Sub. for Com. Sub. for Senate Bill 522 (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-3-11; and to amend said code by adding thereto a new article, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4, and §17-30-5, all relating to enhancing maintenance and repair of the state's roads and highways; creating the Special Road Repair Fund as a sub-account of the State Road Fund; providing for a general revenue allocation for fiscal years 2020 and 2021 into the

fund; creating the Enhanced Road Repair and Maintenance Program; stating legislative finding and purpose of program; requiring Division of Highways county supervisors consult with county commissions and legislators to submit project requests to the Division of Highways; setting forth a funding formula; setting forth requirements concerning bidding, vendors, and contracts with private vendors; specifying uses of Special Road Repair Fund; defining terms; providing requirements for Commissioner of Highways and districts; requiring for rulemaking; and requiring reporting by Division of Highways and Legislative Auditor.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, leaves of absence for the day were granted Senators Boso and Romano.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 5:34 p.m., the Senate adjourned until tomorrow, Saturday, February 23, 2019, at 2 p.m.

SATURDAY, FEBRUARY 23, 2019

The Senate met at 2:46 p.m.

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

Prayer was offered by the Honorable Gregory L. Boso, a senator from the eleventh district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable John R. Unger II, a senator from the sixteenth district.

Pending the reading of the Journal of Friday, February 22, 2019,

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

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

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 13, Relating to distributions from State Excess Lottery Fund.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

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

§29-22-18a. State Excess Lottery Revenue Fund.;

On page nine, section eighteen-a, line two hundred eighteen, by striking out the words “and (i)” and inserting in lieu thereof the words “(i), and (m)”;

On page ten, section eighteen-a, line two hundred forty, by striking out the words “*et seq.*”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 13—A Bill to amend and reenact §29-22-18a of the Code of West Virginia, 1931, as amended, relating to distributions from the State Excess Lottery Revenue Fund to racetrack purse funds.

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

Engrossed Committee Substitute for Senate Bill 13, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 13) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 442, Supplementing, amending, and decreasing appropriation to Insurance Commission.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 443, Supplemental appropriation of federal moneys to DHHR divisions.

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

Eng. Senate Bill 444, Supplemental appropriation to DHHR divisions.

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

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

On page two, line twenty-six, by striking out “885,554” and inserting in lieu thereof “1,138,304”.

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

Engrossed Senate Bill 444, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 444) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Boley and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 444) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2532—A Bill to amend and reenact §17A-2-12a of the Code of West Virginia, 1931, as amended, relating to allowing persons to donate to the West Virginia Farm Bureau, the West Virginia 4 H Program, or the West Virginia Future Farmers of America Education Foundation when renewing a driver's license or vehicle registration.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2540—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-5i, relating to prohibiting the waste of any edible portion of big game or game fish; making it unlawful to take any big game and detach or remove the head, hide, antlers,

tusks, paws, claws, gallbladder, teeth, beards, or spurs only and leave the carcass to waste; setting forth exceptions; and establishing criminal penalties for violations.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2541—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-9F-10, relating to requiring certain safety measures be taken at public schools.

Referred to the Committee on Education.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2019, and requested the concurrence of the Senate in the passage of

Eng. House Bill 2730—A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-4-2 and §18A-4-8a of said code, all relating to increasing salaries of members of the West Virginia State Police, public school teachers and school service personnel.

Referred to the Committee on Education; and then to the Committee on Finance.

Following a point of inquiry to the President, with resultant response thereto,

Senator Plymale requested unanimous consent that Engrossed House Bill 2730 be taken up for immediate consideration.

Which consent was not granted, Senator Blair objecting.

Senator Plymale then moved that Engrossed House Bill 2730 be taken up for immediate consideration.

The question being on the adoption of Senator Plymale's aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

The nays were: Azinger, Blair, Boso, Clements, Cline, Hamilton, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: Boley and Mann—2.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Plymale's aforestated motion had not prevailed.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2807—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12j; and to amend and reenact §11-21-17a of said code, all relating to creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations or members of a limited liability company engaged in business as a financial organization in this state, similar to the modification that presently exists in the code for financial organizations organized as C corporations.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2829—A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating to termination and expiration of the taxes imposed upon persons exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use limestone or sandstone on and after July 1, 2019.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2872—A Bill to amend and reenact §29-3-12 of the Code of West Virginia, 1931, as amended, relating to authorizing any West Virginia State Police Officer, Natural Resources Police Officer, or any county or municipal law-enforcement officer to assist the State Fire Marshal or any of his or her employees in any duties for which the State Fire Marshal has jurisdiction; and to authorizing the State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal to carry a firearm in the course of official duties.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2019, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2901—A Bill to amend and reenact §19-23-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22A-12 of said code and to amend and reenact §29-22C-3 and §29-22C-8 of said code, all relating to allowing for the establishment of a secondary location for pari-mutual wagering on simulcast races, racetrack video lottery terminals, and racetrack table games of licensed racetracks at an alternative location within the current county of the licensed racetrack.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2934—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-22E-1, §29-22E-2, §29-22E-3, §29-22E-4, §29-22E-5, §29-22E-6, §29-22E-7, §29-22E-8, §29-22E-9, §29-22E-10, §29-22E-11, §29-22E-12, §29-22E-13, §29-22E-14, §29-22E-15, §29-22E-16, §29-22E-17, §29-22E-18, §29-22E-19, §29-22E-20, §29-22E-21, §29-22E-22, §29-22E-23, and §29-22E-24, all relating to permitting interactive wagering authorized as West Virginia Lottery interactive wagering activities; providing legislative findings; defining terms; detailing duties and powers of the West Virginia Lottery Commission; providing rule-making authority and emergency rule-making authority; requiring commission to levy and collect all fees, surcharges, civil penalties, and weekly tax on adjusted gross interactive wagering receipts and deposit them into the West Virginia Lottery Interactive Wagering Fund; limiting interactive wagering to existing racetrack casinos and the casino in a historic resort hotel; providing for four types of licenses to be issued related to sports betting; establishing license requirements and prohibitions; authorizing licensing fees; requiring adoption and posting of house rules; defining duties of an operator conducting interactive wagering; requiring the posting of betting limits; authorizing interactive wagering agreements with other governments; providing powers and duties of commission and operators; limiting certain activities of employees; authorizing the West Virginia Lottery to levy and collect a privilege tax in the amount of 10 percent of adjusted gross interactive wagering receipts; requiring reports and submission of taxes; providing for certain carry over and carry back allowances; clarifying that tax is in lieu of certain other taxes; providing that certain expenditures related to interactive wagering are facility modernization improvements eligible for recoupment; providing that credits are not allowed against the privilege tax; creating the West Virginia Lottery Interactive Wagering Fund; authorizing the West Virginia

Lottery to collect an administrative allowance from gross interactive wagering receipts; providing for distribution of moneys deposited in the West Virginia Lottery Interactive Wagering Fund; authorizing certain agreements between the West Virginia Lottery and law enforcement; imposing civil penalties for certain violations, and exception; prohibiting unauthorized interactive wagering in this state; establishing crimes related to unauthorized interactive wagering and imposing criminal penalties; establishing crimes related to authorized interactive wagering and imposing criminal penalties; preempting provisions from state and local law; and establishing certain exemptions from federal law.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2968—A Bill to amend and reenact §31A-8-12b of the Code of West Virginia, 1931, as amended, relating to adding remote service units to the definition of customer bank communications terminal; defining remote service unit; and requiring that operators of remote service units maintain a physical location in this state.

Referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 13—Requesting the Division of Highways name West Virginia State Route 46 in Keyser, Mineral County, West Virginia, from the intersection of WV 46 (Piedmont Street) and US 220 (Mineral Street) west to the Keyser city limit where Route 46 leaves the city as part of Carroll Avenue, the “Chief Robert Edward Dorsey Memorial Highway”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

Com. Sub. for House Concurrent Resolution 32—Requesting the Commissioner of Highways to authorize raising highway speed limits, where appropriate, to 75 miles per hour on Interstate highways in West Virginia and to 70 miles per hour on West Virginia’s Appalachian Corridor highways.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 48—Urging the Commissioner of the Bureau for Public Health to designate Alzheimer’s disease and other dementias as a public health issue.

Referred to the Committee on Health and Human Resources.

The Senate proceeded to the fourth order of business.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 105, Creating enhanced penalty for certain aggravated traffic offenses.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 105 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated

§17C-5-2c, relating to creating the new criminal offense of impaired operation of a motor vehicle placing nonpassengers at risk of physical injury; clarifying that offense is separate and distinct from operating a motor vehicle under the influence; and establishing penalties.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 318, Transferring Medicaid Fraud Control Unit to Attorney General's office.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 318 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §9-7-1, §9-7-3, §9-7-6, and §9-7-6a of the Code of West Virginia, 1931, as amended, all relating to transferring the Medicaid Fraud Control Unit to the Office of the Attorney General; establishing an effective date the Medicaid Fraud Control Unit will transfer to the Office of the Attorney General; establishing the Legislative Auditor to deliver a report on the performance of the Medicaid Fraud Control Unit; establishing investigation powers with the Attorney General; establishing the Secretary of the Department of Health and Human Resources may share documents with the Attorney General; establishing persons able to maintain a civil action; and establishing liability limits for employees acting in good faith.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 329, Relating to agricultural education in high schools.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 329 (originating in the Committee on Education)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-8g, relating to agricultural education in high schools; setting forth findings; encouraging agricultural programs be made available to high school students; requiring State Department of Education to assist in establishing agricultural programs in certain instance; and requiring report to Legislative Oversight Commission on Education Accountability when funding is the primary reason that an agricultural program is not established.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Education.

At the request of Senator Takubo, and by unanimous consent, the bill (Com. Sub. for S. B. 329) was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 348 (originating in the Committee on Health and Human Resources), Relating to tobacco usage restrictions.

And reports back a committee substitute for same with the following title:

Com. Sub. for Com. Sub. for Senate Bill 348 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §16-9A-1, §16-9A-2, §16-9A-3, §16-9A-4, §16-9A-7, and §16-9A-8 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto four new sections, designated §16-9A-11, §16-9A-12, §16-9A-13, and §16-9A-14, all relating to tobacco; providing legislative intent; defining terms; raising the legal age from 18 years of age to 21 years for the selling, furnishing, or distribution of tobacco products and increasing penalties for violations; making it illegal for a person under the age of 21 to purchase tobacco products or tobacco-derived products and providing for suspension of driving privileges or a fine; increasing the penalty for certain tobacco-related offenses on public school property; exempting any active duty military personnel over the age of 18; exempting veterans' organizations from rules regulating smoking in indoor spaces adopted by local boards of health; prohibiting political subdivisions from legislating regarding the sale or marketing of tobacco products or tobacco-related products if contrary to state law; requiring certain facilities to provide for smoking and nonsmoking sections; and providing for a secondary offense of driving and using a tobacco product or a tobacco-derived product with a passenger under the age of 17 and providing for a fine.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 379, Permitting county board of education to include faith-based electives in drug prevention programs.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 379 (originating in the Committee on Education)—A Bill to amend and reenact §18-2-7b of the Code of West Virginia, 1931, as amended, relating to permitting the county boards of education to include faith-based electives in classroom drug prevention programs.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 412, Establishing Katherine Johnson Fair Pay Act of 2019.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 412 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §5-11-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-11-9b, all relating to the Katherine Johnson Fair Pay Act of 2019; honoring Katherine Coleman Johnson; amending definition of “unlawful discriminatory practices”; making it unlawful for an employer to require, as a condition of employment, that an employee refrain from disclosing information about their wages, benefits, or other compensation; and making it unlawful for an employer to require a waiver of employee’s rights to disclose information about their wages, benefits, or other compensation.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 464, Modifying licensing requirements for telemedicine and surgery or podiatry.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 464 (originating in the Committee on Government Organization)—A Bill to amend and reenact §30-3-13 and §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 practice of telemedicine; modifying licensing

requirements for physicians, surgeons, podiatrists, and osteopathic physicians and surgeons relating to telemedicine; defining terms; modifying basis for establishing initial relationship with patient; and providing notice requirements, criminal penalties, and rulemaking.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 487, Relating to admissibility of health care staffing requirements in litigation.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 487 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §55-7B-7a of the Code of West Virginia, 1931, as amended, relating to the admissibility of health care staffing requirements in litigation; providing that compliance with minimum staffing requirements creates a conclusive presumption that appropriate staffing was provided and a rebuttable presumption that adequate supervision of patients to prevent accidents was provided; and requiring that if staffing is less than requirements dictated by applicable regulations then there is a presumption that there was inadequate supervision of patients and that inadequate staffing or inadequate supervision was a contributing cause of the patient's fall and resulting injuries or death.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 530, Relating to state employee merit system.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 530 (originating in the Committee on the Judiciary)—A Bill to repeal §29-6-7a, §29-6-9, §29-6-10a, §29-6-14, and §29-6-25 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-6-1, §29-6-2, §29-6-3, §29-6-4, §29-6-6, §29-6-7, §29-6-8, §29-6-10, §29-6-12, §29-6-16, §29-6-17, §29-6-19, §29-6-20, §29-6-21, §29-6-22, §29-6-23, §29-6-24, and §29-6-27 of said code, all relating to the state employee merit system; defining terms; allowing Governor to make additions to classified service; providing exemptions to classified service; providing makeup and duties of the State Personnel Board; defining a quorum; providing for bimonthly meetings and emergency meetings of the board; revising the Director of Personnel's duties; providing the director may develop programs that include monetary incentives; allowing director to establish pilot projects that may delegate functions to appointing authorities; establishing board will review and approve all classified exempt positions and all classification and pay plans; providing rulemaking for the Division of Personnel; removing classification and compensation determinations from grievance procedure; establishing that no private cause of action exists for violations of the section; authorizing the division prepare, maintain, and revise pay plans; establishing the rates in pay plan be automatically adjusted upon across-the-board raises; providing authority of Governor to restrict the pay plan upon fiscal constraints; establishing that record of performance be considered whether to

extend or withhold a benefit from an employee; revising the process for postings of positions by the agency and DOP; providing appointing authority may reject candidate for criminal background or having been convicted of corruption; providing that an appointing authority may select from top 20 percent of applicants on register and above 80 percent score on examination; modifying term “discharge” to “dismissal”; providing for leave of absence for state employees not working due to work-related injury; clarifying that state employees not eligible for certain offices even if declining to receive compensation; establishing the confidentiality of employee records; allowing local political subdivisions to participate in the classified service system; amending penalties section; and providing that leave donation program be established through rulemaking.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 543 (originating in the Committee on Transportation and Infrastructure), Relating generally to automobile warranties and inspections.

And reports back a committee substitute for same with the following title:

Com. Sub. for Com. Sub. for Senate Bill 543 (originating in the Committee on Finance)—A Bill to amend and reenact §17A-10-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-16-4, §17C-16-5, and §17C-16-6 of said code; and to amend said code by adding thereto a new section, designated §46A-6-107a, all relating generally to automobile warranties and

inspections; changing annual mandatory state inspections of motor vehicles to inspections every two years; adjusting inspection sticker fee and charge for vehicle inspections; providing that a used motor vehicle may be sold “as is” under certain circumstances; providing certain disclosure requirements for “as is” sales of used motor vehicles; allowing cancellation of an “as is” sale within a 48-hour period if the vehicle has mechanical issues; providing that a consumer shall sign and date the disclosure for an “as is” sale in order for the disclosure to be effective; providing that a merchant disclose in writing certain defects or malfunctions when selling a used motor vehicle “as is”; providing that the merchant provide the consumer a copy of a nationally recognized vehicle history report for the used motor vehicle; and providing that an “as is” sale of a used motor vehicle waives implied warranties but does not waive any express warranties.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 555, Relating to authority of Higher Education Policy Commission.

Senate Bill 625, Clarifying and defining authority of State Athletic Commission.

Senate Bill 633, Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses.

And,

Senate Bill 658, Relating to motor vehicle salesperson licenses.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 561, Permitting Alcohol Beverage Control Administration request assistance of local law enforcement.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 561 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-2-17a and §60-2-17b; to amend and reenact §60-6-7, §60-6-8, and §60-6-9 of said code; to amend and reenact §60-7-2, §60-7-3, §60-7-4, §60-7-5, §60-7-6, and §60-7-12 of said code; to amend said code by adding thereto two new sections, designated §60-7-6a and §60-7-8a; and to amend and reenact §61-8-27 of said code, all relating to permitting the Alcohol Beverage Control Administration to request the assistance of law enforcement; implementing a \$100 operations fee and establishing special revenue account and fund; clarifying that consumption of alcoholic liquors in public is unlawful; clarifying that West Virginia licensees can only sell liquor by the drink; clarifying certain licensing requirements for licensure; clarifying prohibition on liquor bottle sales in Class A licenses; providing guidance on certain lawful conduct such as wine bottle sales and frozen drink machines; creating a private fair and festival license; definitions; license requirements; license fee; creating the private hotel license and license fee; creating a private nine-hole golf course license and fee;

definitions; license requirements; license fee; permitting a private resort hotel to have inner-connection with a resident brewer who has a brewpub; providing a 30-day requirement to issue or deny a completed license application; creating a reactivation fee for licensees who fail to timely file their renewal application and pay their annual license fees; permitting a license privilege for certain licensees to operate a connected but separately operated Class A on-premises license and a Class B off-premises license; clarifying that certain state-licensed gaming is permissible in a private club; and permitting minors to attend a private hotel, private nine-hole golf course, and a private fair or festival under certain conditions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 561) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 564, Expanding comprehensive coverage for pregnant women through Medicaid.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 600, Relating to preservation and disposal of biological evidence.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 600 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-1-8, relating generally to preservation of biological evidence obtained through criminal investigations and criminal trials; directing the Secretary of Military Affairs and Public Safety to investigate methods of preservation of biological evidence and developing a proposal for the centralized storage and preservation of biological materials obtained in criminal matters statewide; requiring the Secretary of Military Affairs and Public Safety to supply the Senate President and Speaker of the House of Delegates with proposals for such a plan along with proposed legislation; and defining terms.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 600) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 605, Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 632 (originating in the Committee on Education), Requiring video cameras in certain public education classrooms.

And reports back a committee substitute for same with the following title:

Com. Sub. for Com. Sub. for Senate Bill 632 (originating in the Committee on Finance)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-48; to amend said code by adding thereto a new section, designated §18-20-11; to amend and reenact §18A-2-8 of said code; and to amend and reenact §18A-3-6 of said code, all relating to improving student safety; requiring safety and security measures of each school facility be upgraded when necessary to ensure, to the best of the county board's ability, the safety of students; creating a Safe Schools Fund; requiring video cameras in certain public special education classrooms; setting forth time requirements for retaining the video; setting forth requirements for video access; adding to justifications for which a school employee can be suspended or dismissed; requiring the State Superintendent to maintain a database of all individuals suspended or dismissed for

certain reasons; and adding to justifications for which a teacher's certificate can be revoked and for which a certificate can be automatically revoked.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 637, Relating to revocation, cancellation, or suspension of business registration certificates.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 637 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-12-5b, relating to revocation, cancellation, or suspension of business registration certificates; providing procedures therefor; and specifying effective date.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 642, Providing options in living wills and combined medical powers of attorney and living wills.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 642 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §16-30-3 and §16-30-4 of the Code of West Virginia, 1931, as amended, all relating to providing options in living wills, and combined medical powers of attorney and living wills, that permit the principal to either be provided with medically assisted food and fluids or not to be provided with medically assisted food and fluids if the principal is unable to communicate his or her desires; redefining a term; and clarifying what constitutes a “terminal condition” and a “persistent vegetative state”.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 642) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 650, Protecting consumers from price gouging after state of emergency.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 650 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §46A-6J-2 of the Code of West Virginia, 1931, as amended, relating to the protection of consumers from price gouging and unfair pricing practices during and shortly after a state of emergency; and amending definition of “state of emergency”.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 651, Relating to DNR ability to enter into certain contracts.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 651 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §20-1-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-5-4 of said code, all relating to the ability of the Director of the Division of Natural Resources to authorize repair, renovation, and rehabilitation for existing facilities, buildings, amenities, and infrastructure; and adding state forests to the definition of “recreational facilities”.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 651) contained in the preceding report from the Committee on Natural Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 657, Providing consumer protection regarding self-propelled farm equipment.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 657 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §46A-6A-2 of the Code of West Virginia, 1931, as amended, relating to including certain new self-propelled agricultural vehicles in the definition of motor vehicle for the purpose of consumer protections related to express warranties by manufacturers of agricultural vehicles.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

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

Your Committee on Government Organization has had under consideration

Senate Bill 671 (originating in the Committee on Government Organization)—A Bill to amend and reenact §29-3-8 of the Code of West Virginia, 1931, as amended, relating to eliminating the State Fire Marshal's comprehensive report regarding the transfer

of authority and responsibility of providing fire services to the counties.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 672 (originating in the Committee on Education)—A Bill to amend and reenact §18-9D-21 of the Code of West Virginia, 1931, as amended, relating to authorizing the School Building Authority to promulgate legislative rules; authorizing School Building Authority rules relating to requirements governing the Comprehensive Educational Facility Plan, funding of School Building Authority projects, School Building Authority school planning and design criteria, School Building Authority project administration and review, School Building Authority contract and agreements, School Building Authority reporting procedures, and the School Access Safety Act, by deleting certain provisions in series two through five and series seven that are procedural in nature, and deleting series six in its entirety due to its content being solely procedural.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Bill 673 (originating in the Committee on Education)—A Bill to repeal §18B-1D-2, §18B-1D-3, §18B-1D-4, and §18B-1D-5 of the Code of West Virginia, 1931, as amended; to repeal §18B-7-8 of said code; to amend and reenact §18B-1D-1 and §18B-1D-8 of said code; and to amend and reenact §18C-1-1 of said code, all relating to public higher education accountability and planning; ensuring efficiency in planning and accountability; modifying the data collection and reporting processes; eliminating the requirement for a statewide master plan for public higher education; eliminating the requirement for state and institutional compacts for public higher education; eliminating the requirement for a human resources report card for public higher education; modifying the reporting methods for certain institutional and statewide reports; modifying the reporting method for the student financial aid report card for public higher education; and continuing the accountability system for public higher education.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

The Senate proceeded to the sixth order of business.

Senators Cline, Lindsay, Hamilton, Beach, Jeffries, and Facemire offered the following resolution:

Senate Concurrent Resolution 43—Requesting the Division of Highways name bridge number 55-1-11.62, (55A003), locally known as the Glen Rogers Bridge, carrying County Route 1 over Trough Fork in Wyoming County, the “Governor William Casey Marland Memorial Bridge”.

Whereas, William Casey Marland was born in Johnston City, Illinois, on March 26, 1918, the son of Joseph Wesley and Maude Casey Marland. His father was a mining boss who moved the

family to the coal town of Glen Rogers in Wyoming County, West Virginia, when William Marland was seven years old; and

Whereas, During World War II, U. S. Navy Lt. William Casey Marland served in the Pacific theater, completing four tours; and

Whereas, William Casey Marland attended the University of Alabama, where he was a star football player. He received a law degree from West Virginia University in 1947. He married Valerie Allen Marland in 1942, and they had four children: William Allen, Susan Lynn, John Wesley, and Casey Dixon; and

Whereas, William Casey Marland was appointed law clerk to federal Judge Ben Moore, and in August 1948, he was appointed Assistant Attorney General. Upon resignation of former Attorney General, Ira J. Partlow, on December 1, 1949, he was appointed Attorney General. In November 1950, he was elected to the office. He announced his resignation on January 30, 1952, to run for election as Governor later that year, his resignation taking effect the next day; and

Whereas, Governor William Casey Marland was elected the 24th Governor of the state in 1952, beating former Senator Rush Holt by a small margin; and

Whereas, Governor William Casey Marland advocated the desegregation of schools, expansion of the state parks and other recreational facilities, improved unemployment and workers' compensation laws, and an industrial development program; and

Whereas, Governor William Casey Marland ran for the 1956 special election for Senator. He lost the election to former Senator William Chapman Revercomb. In 1958, he ran for the Democratic primary to another special Senate election, losing to Representative Jennings Randolph. After his second Senate loss, Governor William Casey Marland worked as an attorney, eventually relocating to the Chicago area; and

Whereas, Governor William Casey Marland died November 26, 1965, in Barrington, Illinois; and

Whereas, It is fitting that an enduring memorial be established to commemorate Governor William Casey Marland and his contributions to our state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 55-1-11.62, (55A003), locally known as the Glen Rogers Bridge, carrying County Route 1 over Trough Fork in Wyoming County, the “Governor William Casey Marland Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Governor William Casey Marland Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senators Cline, Beach, Jeffries, Facemire, and Lindsay offered the following resolution:

Senate Concurrent Resolution 44—Requesting the Division of Highways name bridge number 55-5-504.04, (55A010), locally known as Milam Arch, carrying Route 5 over Laurel Fork in Wyoming County, the “Elizabeth Williams, Teacher and Community Advocate Memorial Bridge”.

Whereas, Elizabeth Williams was born January 25, 1911, in Williams, Illinois, to Reuben and Anna Williams; and

Whereas, Reuben Williams was a mining engineer and relocated the family to Glen Rodgers, West Virginia in 1927; and

Whereas, Reuben Williams focused on his children’s ability to continue their education through high school and inspired Elizabeth to advocate for education to all persons; and

Whereas, Elizabeth Williams was one of the first students to graduate from Glen Rodgers High School in 1929; and

Whereas, Elizabeth pursued higher education, enrolling at Concord College, to become a teacher;

Whereas, Elizabeth Williams became a teacher at Glen Rodgers High School in 1932 after graduating from Concord College to teach chemistry, physics, biology, and other general science classes, in addition to teaching two additional classes in public speaking; and

Whereas, Elizabeth Williams was active in her community and in politics, she volunteered during the summers in Senator Robert C. Byrd's Beckley field office as an unpaid staff member; and

Whereas, Elizabeth Williams was President of the Ravencliff-McGraws-Saulsville Public Service District and donated endless hours to help bring suitable water to those towns and areas near Twin Falls State Park; and

Whereas, In 1970, Elizabeth Williams became the secretary to the board of the House of Wonder workshop at Maben, West Virginia, assisting handicapped people learn skills and make furniture, picture frames, and other wood-working products; and

Whereas, Elizabeth Williams was instrumental in establishing the Upper Laurel Volunteer Fire Department; and

Whereas, Elizabeth Williams was an active member of the Eastern Star with years of service including a stint as a state officer; and

Whereas, Elizabeth Williams retired from teaching in 1976 after teaching for 44 years and continued to be a substitute teacher until Glen Rodgers High School closed in 1992; and

Whereas, Elizabeth Williams presented the diplomas to the final graduating class in 1992 prior to the school closing; and

Whereas, It is fitting that an enduring memorial be established to commemorate Elizabeth Williams and her contributions to our state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 55-5-504.04, (55A010), locally known as Milam Arch, carrying Route 5 over Laurel Fork in Wyoming County, the “Elizabeth Williams, Teacher and Community Advocate Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Elizabeth Williams, Teacher and Community Advocate Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

The Senate proceeded to the eighth order of business.

Eng. Senate Bill 11, Relating to retirement and pension benefits of certain PERS and Teachers Retirement System members who serve in Legislature.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Weld—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 11) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 86, Requiring county boards provide free feminine hygiene products in grades five to 12.

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

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

The nays were: Azinger—1.

Absent: Boley, Mann, and Weld—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 86) passed.

On motion of Senator Beach, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for Com. Sub. for Senate Bill 86—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22e, relating to county boards of education; requiring boards to provide free feminine hygiene products in grades five through 12 to female students not otherwise having access to the products; and defining terms.

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

Eng. Com. Sub. for Senate Bill 330, Requiring contact information be listed on agency's online directory and website.

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

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

The nays were: Lindsay—1.

Absent: Boley, Mann, and Weld—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 330) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 383, Creating WV Healthy Food Crop Block Grant Program.

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

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 383) passed with its title.

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

Eng. Com. Sub. for Senate Bill 404, Relating generally to sediment control during commercial timber harvesting operations.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 404 pass?”

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 404) passed with its title.

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

Eng. Com. Sub. for Senate Bill 415, Creating Timber Cotenancy Modernization and Majority Protection Act and Unknown and Unlocatable Timber Interest Owners Act.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 415 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—17.

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

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 415) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Maroney, Maynard, Palumbo, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—21.

The nays were: Baldwin, Beach, Ihlenfeld, Jeffries, Lindsay, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—11.

Absent: Boley and Mann—2.

So, less than two thirds of all the members elected to the Senate having voted in the affirmative, the President declared Senator Takubo’s aforestated motion had not prevailed.

Senator Beach moved that the Senate reconsider its action by which in earlier proceedings today it passed

Eng. Com. Sub. for Senate Bill 415, Creating Timber Cotenancy Modernization and Majority Protection Act and Unknown and Unlocatable Timber Interest Owners Act.

The question being on the adoption of Senator Beach's aforestated motion, and on this question, Senator Beach demanded the yeas and nays.

Following a point of inquiry to the President, with resultant response thereto,

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—15.

The nays were: Azinger, Blair, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—17.

Absent: Boley and Mann—2.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Beach's aforestated motion had not prevailed.

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

Eng. Com. Sub. for Senate Bill 485, Clarifying notification requirements for property insurance purposes.

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

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 485) passed with its title.

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

Eng. Senate Bill 493, Correcting terminology referring to racing vehicles illegally on street.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 493 pass?”

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

The nays were: Facemire, Hardesty, Romano, and Woelfel—4.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 493) passed with its title.

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

Eng. Com. Sub. for Senate Bill 529, Clarifying provisions of Nonintoxicating Beer Act.

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

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 529) passed with its title.

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

Eng. Senate Bill 531, Relating generally to workers' compensation claims.

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

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

The nays were: None.

Absent: Boley and Mann—2.

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

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

Eng. Com. Sub. for Senate Bill 546, Relating to health care provider taxes.

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

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 546) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

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

The nays were: None.

Absent: Boley and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 546) takes effect July 1, 2019.

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

Eng. Com. Sub. for Senate Bill 585, Relating to criminal offenses of stalking and harassment generally.

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

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 585) passed with its title.

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

Eng. Senate Bill 593, Permitting critical access hospital become community outpatient medical center.

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

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 593) passed with its title.

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

Eng. Senate Bill 596, Adjusting voluntary contribution amounts on certain DMV forms.

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

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

Eng. Com. Sub. for Senate Bill 624, Allowing county boards of education use alternative assessment provided in Every Student Succeeds Act.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Trump—1.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 624) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Trump—1.

Absent: Boley and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 624) takes effect July 1, 2019.

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

Eng. Com. Sub. for Senate Bill 641, Relating to Primary Care Support Program.

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

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 641) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: None.

Absent: Boley and Mann—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 641) takes effect from passage.

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

Eng. Senate Bill 664, Authorizing certain members of federal judiciary perform marriages.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Facemire, and Mann—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 664) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Facemire, and Mann—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 664) takes effect from passage.

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

Eng. House Bill 2036, Permitting vehicles displaying disabled veterans' special registration plates to park in places where persons with mobility impairments may park.

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

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

Eng. Com. Sub. for House Bill 2612, Proposing rules related to the completion or updating of source water protection plans.

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

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

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2612) passed with its title.

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

Eng. Com. Sub. for House Bill 2740, Barring a parent from inheriting from a child in certain instances.

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

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

Eng. House Bill 2746, Relating to administration of estates.

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

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

Eng. House Bill 2759, Providing for the ancillary administration of West Virginia real estate owned by nonresidents by affidavit and without administration.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2759) passed with its title.

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

Eng. Com. Sub. for House Bill 2821, Updating provisions for command, clerical and other pay.

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

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 238, Increasing certain penalties for passing stopped school bus.

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

Com. Sub. for Senate Bill 316, Preserving previously approved state Municipal Policemen's or Firemen's pensions.

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

Com. Sub. for Senate Bill 400, Allowing Board of Dentistry create specialty licenses.

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

Senate Bill 421, Relating to annual legislative review of economic development tax credit.

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

Senate Bill 432, Enacting Recognition of Emergency Medical Services Personnel Licensure Interstate Compact.

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

Com. Sub. for Senate Bill 441, Relating to higher education campus police officers.

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

Com. Sub. for Senate Bill 511, Creating alternating wine proprietorships.

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

Senate Bill 535, Allowing City of Buckhannon begin collecting sales and service and use tax on July 1, 2019.

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

Com. Sub. for Senate Bill 538, Relating to WV Highway Design-Build Pilot Program.

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

Com. Sub. for Senate Bill 539, Relating to accrued benefit of retirees in WV State Police Retirement System Plan B.

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

Senate Bill 544, Increasing salaries for members of WV State Police over three-year period.

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

Com. Sub. for Senate Bill 547, Limiting landowner liability for recreational use of lands.

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

Senate Bill 554, Removing salary caps for director of State Rail Authority.

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

Senate Bill 592, Providing for collection of hotel occupancy tax by marketplace facilitators.

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

Com. Sub. for Senate Bill 597, Conforming state law to federal law for registration of appraisal management companies.

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

Com. Sub. for Senate Bill 603, Exempting certain activities from licensing requirements for engaging in business of currency exchange.

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

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

Senate Bill 627, Relating generally to Rural Rehabilitation Loan Program.

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

Com. Sub. for Senate Bill 654, Amending definition of “mortgage loan originator”.

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

Senate Bill 656, Relating to electronic filing of tax returns.

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

Senate Bill 665, Allowing for expedited oil and gas well permitting.

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

On motion of Senator Weld, the following amendment to the bill was reported by the Clerk:

On page five, section seven, beginning on line one-hundred three, by striking out all of subsection (h) and inserting in lieu thereof the following:

(h) An applicant may enter into an expedited permit application process with the secretary for a well permit by paying an additional permit fee of \$10,000 for the initial horizontal well drilled at a location, and for an additional permit fee of \$5,000 for each additional horizontal well drilled on a single well pad at the same location: *Provided*, That deep well permitting is excluded from this expedited permit processing due to the independent board review and approval required the time frame for which is outside the

authority of the secretary to dictate. Upon entering into an expedited permit timeline, and meeting all the criteria set forth in this article, the secretary shall issue a permit within 45 days of the submission of a permit application under this article, unless the secretary denies the permit or seeks additional information or modification from the applicant, which would toll the 45 days until the secretary received the required responsive information from the applicant. The revenue generated from permits issued pursuant to this subsection shall be administrated in the following manner:

(1) One half of the revenue from permits issued pursuant to this subsection shall be deposited into the Oil and Gas Operating Permit and Processing Fund and earmarked specifically for agency permit review staffing costs of the secretary which staffing shall be dedicated to the permit review, processing, and approval of the applicable horizontal wells pending before the agency, not to exceed \$1,000,000 annually in combination with proceeds received through §22-6A-7(i)(1) of this code, any residuary fee proceeds to be distributed as set forth in §22-6A-7(h)(2) of this code;

(2) One half of the revenue from permits issued pursuant to this subsection, plus any residuary as set forth in §22-6A-7(h)(1) of this code, shall be deposited into to the Oil and Gas Reclamation Fund earmarked specifically for the reclamation and plugging of orphaned oil or gas wells;

(3) For each day the agency exceeds the 45-day deadline for approval of an expedited initial horizontal well drilled, the secretary shall refund \$666.66 per day up to and including day 60 after the submission of a permit application, up to the \$10,000 additional fee amount until reduced to the normal permit fee amount; and

(4) For each day the agency exceeds the 45-day deadline for approval of an expedited permit for any additional horizontal well drilled on a single well pad at the same location, the secretary shall be required to refund \$333.33 per day up to and including day 60 after the submission of a permit application, up to the \$5,000 additional fee amount until reduced to the normal permit fee amount.

Following discussion,

The question being on the adoption of Senator Weld's amendment to the bill, the same was put and did not prevail.

The bill (S. B. 665) was then ordered to engrossment and third reading.

Senate Bill 666, Creating WV Motorsports Entertainment Complex Investment Act.

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

Senate Bill 667, Creating WV Motorsport Committee.

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

Senate Bill 668, Relating to physician assistants collaborating with physicians in hospitals.

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

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

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Com. Sub. for Senate Bill 248, Creating Prosecuting Attorney's Detectives Act.

Com. Sub. for Senate Bill 249, Relating to administration of estates and trusts.

Com. Sub. for Senate Bill 273, Relating to Commission on Special Investigations and State Auditor duties.

Senate Bill 472, Exempting retirement income of certain uniformed services members from state income tax.

Com. Sub. for Senate Bill 520, Requiring entities report drug overdoses.

Com. Sub. for Com. Sub. for Senate Bill 522, Creating Special Road Repair Fund.

Com. Sub. for Senate Bill 537, Creating workgroup to review hospice need standards.

Senate Bill 565, Relating to residency requirements for deputy assessors.

Senate Bill 566, Relating to compensation for State Athletic Commission members.

Com. Sub. for Senate Bill 615, Providing ongoing mechanism for county commissioners to allow compensation increases for elected officials every two years.

Com. Sub. for Senate Bill 622, Relating generally to regulation and control of financing elections.

Com. Sub. for Senate Bill 640, Regulating sudden cardiac arrest prevention.

Com. Sub. for Senate Bill 653, Relating generally to practice of medical corporations.

Senate Bill 655, Relating to conservation districts generally.

Senate Bill 669, Allowing appointment of commissioners to acknowledge signatures.

And,

Senate Bill 670, Relating to WV College Prepaid Tuition and Savings Program.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Maroney and Romano.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 4:26 p.m., the Senate adjourned until Monday, February 25, 2019, at 11 a.m.

MONDAY, FEBRUARY 25, 2019

The Senate met at 11:21 a.m.

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

Prayer was offered by Dr. Trent Eastman, Lead Pastor, New Baptist Church, Huntington, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Stephen Baldwin, a senator from the tenth district.

Pending the reading of the Journal of Saturday, February 23, 2019,

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

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

The Senate then proceeded to the fourth order of business.

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

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 396, Waiving occupational licensing fees for low-income individuals, military families, and young workers.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Blair, unanimous consent being granted, the bill (Com. Sub. for S. B. 396) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

Senate Bill 467, Clarifying PSC jurisdiction over water and sewer utilities.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 467 (originating in the Committee on Government Organization)—A Bill to amend and reenact §8-12-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-16-18 of said code; to amend and reenact §8-19-4 of said code; to amend and reenact §8-20-10 of said code; to amend and reenact §16-13-16 of said code; to amend and reenact §16-13A-9 of said code; to amend and reenact §24-1-1 of said code;

and to amend and reenact §24-2-1, §24-2-2, §24-2-3, §24-2-4a, §24-2-4b, and §24-2-11 of said code, all relating to clarifying Public Service Commission jurisdiction over water and sewer utilities owned by municipalities; establishing uniformity in the class of publications required by municipalities and public service districts for the revision in rates; providing a time period for the filing of and resolution of complaints filed at the Public Service Commission regarding actions of municipalities; cleaning up language regarding reference to other sections of the code regarding notice requirements for municipal utilities; and relating to time period pertaining to the filing of appeals and the resolution of appeals for rate and construction projects decided by county commissions.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 467) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

Senate Bill 674 (originating in the Committee on Finance)—A Bill supplementing and amending by increasing an existing item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2019, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 674) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the sixth order of business.

Senators Romano, Facemire, Sypolt, Stollings, Swope, Hamilton, Maroney, Jeffries, Hardesty, Boso, and Baldwin offered the following resolution:

Senate Resolution 59—Designating February 25, 2019, as Civil Air Patrol Day at the Legislature.

Whereas, The Civil Air Patrol, also known as CAP, was founded on Dec. 1, 1941, to supplement the U.S. military during World War II; and

Whereas, In 1948, CAP was designated as the U.S. Air Force's official auxiliary with three missions: Emergency services, cadet programs, and aerospace education; and

Whereas, In 2016, CAP was placed on equal footing as part of the Air Force's "Total Force", along with the active-duty elements, the Air National Guard and the Air Force reserve; and

Whereas, The West Virginia Wing of the CAP has 14 units throughout the state with a total of more than 600 volunteer cadet and senior members; and

Whereas, The West Virginia Wing of the CAP performs vital homeland security missions that help ensure the protection of our citizens, infrastructure, and the state as a whole, performing search and rescue, photographic, and other homeland security-related

missions and operations in support of the West Virginia Army and Air National Guard, West Virginia Division of Homeland Security and Emergency Management, and other state and local emergency and law-enforcement agencies; and

Whereas, The West Virginia Wing of the CAP, with single engine aircraft, vehicles, and its all-volunteer force, trains for and is prepared to immediately respond to search and rescue, disaster relief, and other emergency and homeland security missions here in West Virginia; and

Whereas, CAP also operates one of the most effective Drug Demand Reduction programs in the nation, assisting units at all levels to instill an aggressive, positive, drug-free attitude in CAP members and school-age children through a comprehensive program; and

Whereas, CAP provides exceptional educational and growth opportunities for youth through its nearly 26,000-member strong cadet program, which annually provides access to top national summer flight academies to learn to fly powered or glider aircraft, as well as to more than 30 national programs emphasizing leadership and careers in aviation; and

Whereas, CAP's Aerospace Education Program annually touches more than 1,800 educators, more than 200,000 youths — cadets and others in classrooms across America — teaching multidisciplinary aviation concepts which emphasize aviation's connection to history, math, science, government, and economics; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 25, 2019, as Civil Air Patrol Day at the Legislature; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Wing of the Civil Air Patrol.

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

On motion of Senator Takubo, at 11:35 a.m., the Senate recessed to present Senate Resolution 59.

The Senate reconvened at 11:42 a.m. and resumed business under the sixth order.

Senators Unger, Rucker, Sypolt, Jeffries, Stollings, and Hamilton offered the following resolution:

Senate Resolution 60—Recognizing Leadership Jefferson for its service, dedication, and commitment to Jefferson County.

Whereas, The objective of Leadership Jefferson is to promote knowledge and awareness of the problems, opportunities, and issues facing Jefferson County; and

Whereas, Leadership Jefferson is designed to provide a series of educational and participatory experiences, as well as an opportunity for dialogue and the development of a correlation among participants to encourage local participation in the growth of Jefferson County; and

Whereas, The membership of Leadership Jefferson includes individuals from nearly every facet of Jefferson County's business, professional, religious, governmental, educational, civic, the arts, organized labor, and minority organizations who demonstrate a commitment to the community; and

Whereas, The 2019 membership of Leadership Jefferson consists: of Joanne Beaulieu, National Park Service, Harpers Ferry National Historic Park; Jennie Brackens, Science Applications International, Corp. (SAIC); Tyrone Brandyburg, National Park Service, Harpers Ferry National Historic Park; Joe Caltrider, Bowles Rice, LLP; Addie Crawford, Crawford Law Group, PLLC; Cait Cross, City National Bank – CT; Diana Crouse, Blue Ridge Community and Technical College; Tasha Demko, CHEERS School Family, Inc.; Scott Demory, Jefferson County Sheriff's

Office; Bri Elder, MVB Bank; Tanner Haid, Cacapon Institute; Tiffany Hall, Bank of Charles Town-Harpers Ferry Branch; Debbie Lowe, Jefferson County Sheriff's Office; Charlie Lowery, CNB Bank; Christy Lowman, Valley Health System; Shane Marrone, United Bank; Kendra Mouton, WVU Medicine; Jodi Forrest-Pope, Advocate Insurance Group; M. K. Robinson, Valley Health System; Jennifer Royster, 2018 Teacher of the Year; Alaina Reilly, City of Ranson; Stephanie Shupe, Dandridge Realty Group; Victoria Slater-Madert, Children's Home Society of West Virginia; Gaby Tokach, Contemporary American Theater Festival; Joe Wall, American Public University System; John Wilt, For Love of Children (FLOC) – Outdoor Education Center; Tricia Worden, Next Generation HR Solutions; Heather McIntyre, Jefferson County Chamber of Commerce; and Andrew Skinner, Skinner Law Firm; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes Leadership Jefferson for its service, dedication and commitment to Jefferson County; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate officials of Leadership Jefferson.

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

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 43, Governor William Casey Marland Memorial Bridge.

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

Senate Concurrent Resolution 44, Elizabeth Williams, Teacher and Community Advocate Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 238, Increasing certain penalties for passing stopped school bus.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 238) passed with its title.

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

Eng. Com. Sub. for Senate Bill 316, Preserving previously approved state Municipal Policemen's or Firemen's pensions.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 316) passed.

On motion of Senator Plymale, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for Senate Bill 316—A Bill to amend and reenact §8-22-27a of the Code of West Virginia, 1931, as amended, relating to municipal options to recalculate or preserve previously approved pensions awarded by municipal policemen's or municipal firemen's pension and relief funds prior to effective date of said section, as enacted during the regular legislative session of 2017.

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

Eng. Com. Sub. for Senate Bill 400, Allowing Board of Dentistry create specialty licenses.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 400) passed with its title.

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

Eng. Senate Bill 421, Relating to annual legislative review of economic development tax credit.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 421) passed with its title.

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

Eng. Senate Bill 432, Enacting Recognition of Emergency Medical Services Personnel Licensure Interstate Compact.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 432) passed with its title.

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

Eng. Com. Sub. for Senate Bill 441, Relating to higher education campus police officers.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 441) passed with its title.

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

Eng. Com. Sub. for Senate Bill 511, Creating alternating wine proprietorships.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard,

Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Roberts—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 511) passed with its title.

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

Eng. Senate Bill 535, Allowing City of Buckhannon begin collecting sales and service and use tax on July 1, 2019.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 535) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 535) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 538, Relating to WV Highway Design-Build Pilot Program.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 538) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 538) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 539, Relating to accrued benefit of retirees in WV State Police Retirement System Plan B.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 539 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 539) passed with its title.

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

Eng. Senate Bill 544, Increasing salaries for members of WV State Police over three-year period.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 544) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 544) takes effect July 1, 2019.

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

Eng. Com. Sub. for Senate Bill 547, Limiting landowner liability for recreational use of lands.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 547 pass?”

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

The nays were: Lindsay and Romano—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 547) passed with its title.

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

Eng. Senate Bill 554, Removing salary caps for director of State Rail Authority.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 554) passed with its title.

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

Eng. Senate Bill 592, Providing for collection of hotel occupancy tax by marketplace facilitators.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 592 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 592) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 592) takes effect July 1, 2019.

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

Eng. Senate Bill 596, Adjusting voluntary contribution amounts on certain DMV forms.

Having been read a third time on Saturday, February 23, 2019, and now coming up in regular order, was reported by the Clerk.

The question being “Shall Engrossed Senate Bill 596 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 596) passed with its title.

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

Eng. Com. Sub. for Senate Bill 597, Conforming state law to federal law for registration of appraisal management companies.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 597) passed with its title.

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

Com. Sub. for Senate Bill 603, Exempting certain activities from licensing requirements for engaging in business of currency exchange.

On third reading, coming up in regular order, with the right having been granted on Saturday, February 23, 2019, for amendments to be received on third reading, was reported by the Clerk.

There being no amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 603 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 603) passed with its title.

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

Eng. Senate Bill 627, Relating generally to Rural Rehabilitation Loan Program.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 627) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 627) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 654, Amending definition of “mortgage loan originator”.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 654) passed with its title.

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

Eng. Senate Bill 656, Relating to electronic filing of tax returns.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 656) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 656) takes effect July 1, 2019.

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

Eng. Senate Bill 665, Allowing for expedited oil and gas well permitting.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 665) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 665) takes effect from passage.

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

Eng. Senate Bill 666, Creating WV Motorsports Entertainment Complex Investment Act.

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

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

The nays were: Facemire, Hardesty, Lindsay, Palumbo, Romano, and Unger—6.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 666) passed with its title.

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

Eng. Senate Bill 667, Creating WV Motorsport Committee.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 667) passed with its title.

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

Eng. House Bill 2036, Permitting vehicles displaying disabled veterans' special registration plates to park in places where persons with mobility impairments may park.

Having been read a third time on Saturday, February 23, 2019, and now coming up in regular order, was reported by the Clerk.

The question being "Shall Engrossed House Bill 2036 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2036) passed with its title.

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

Eng. Com. Sub. for House Bill 2740, Barring a parent from inheriting from a child in certain instances.

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

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

Eng. House Bill 2746, Relating to administration of estates.

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

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

Eng. Com. Sub. for House Bill 2821, Updating provisions for command, clerical and other pay.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2821) passed with its title.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 248, Creating Prosecuting Attorney's Detectives Act.

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

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

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

**ARTICLE 4A. THE PROSECUTING ATTORNEY'S
DETECTIVES ACT.**

§7-4A-1. Short title.

This article shall be known and may be cited as the Prosecuting Attorney's Detectives Act.

§7-4A-2. Legislative findings.

The Legislature finds and declares that:

(a) In West Virginia's criminal justice system, prosecuting attorney's office investigators, and the law-enforcement officers assigned to prosecuting attorneys offices, perform vital and highly sensitive duties.

(b) It is critical to the confidence of the public in West Virginia's criminal justice system that the integrity and impartiality of prosecuting attorney's detectives and their investigations be a high priority at all times.

(c) It is the purpose of this article to establish statewide standards and a code of conduct and professionalism for prosecuting attorney's detectives and the law-enforcement officers assigned to the prosecuting attorney's office.

§7-4A-3. Law-enforcement titles.

The provisions of this article include all law-enforcement titles in the Office of the Prosecuting Attorney.

§7-4A-4. Duties and powers of detectives.

(a) The prosecuting attorney's detectives of each of the prosecuting attorney's offices, in addition to any and all powers prescribed by law, have the power to enforce:

(1) All rules and regulations promulgated by the governing body of the county governing the use by the public of county highways and roads; and

(2) All rules and regulations promulgated by the governing body of the county respecting the general health, safety, and welfare of the public within the county.

(b) Prosecuting attorney's detectives shall be certified law-enforcement officers and have full power of arrest consistent with that of sheriffs' deputies.

§7-4A-5. Employment status compensation.

(a) A full-time prosecuting attorney's detective shall be compensated at a rate mutually agreed upon by the prosecuting attorney and the prosecuting attorney detective.

(b) A full-time prosecuting attorney's detective eligible shall be afforded employee benefits that are available to full-time county employees of the county in which the prosecuting attorney's detective is employed.

§7-4A-6. Appointment of detectives.

The prosecuting attorney may appoint a sufficient number of suitable persons, to be known as prosecuting attorney's detectives, for the purpose of assisting the prosecuting attorney in the detection, apprehension, arrest, and conviction of offenders against the law.

§7-4A-7. Requirements.

Except as otherwise provided by law, a person may not be appointed to the title of prosecuting attorney's detective unless that person:

(a) Is a citizen of the United States and a resident of West Virginia;

(b) Is able to read, write and speak the English language;

(c) Is of good moral character and has not been convicted of any criminal offense involving moral turpitude; and

(d) Is a certified law-enforcement officer with at least five years of experience in a municipal, county, state, or federal law-enforcement agency.

§7-4A-8. Limitations on off duty employment.

A prosecuting attorney's detective may not engage in any off-duty employment which is determined to be in conflict with the role of a prosecuting attorney's detective.

§7-4A-9. Miscellaneous.

(a) Prosecuting attorney's detectives may participate, join, or be members of charitable, civic, and professional organizations, associations, or committees. A prosecuting attorney's detective may not be prohibited from being a member of a law-enforcement union or association.

(b) Nothing in this article may be construed to prohibit a prosecuting attorney's detective from recommending an attorney or providing financial assistance to a family member in a civil or criminal proceeding, except where a clear conflict of interest exists.

The bill (Com. Sub. for S. B. 248), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 249, Relating to administration of estates and trusts.

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

Com. Sub. for Senate Bill 273, Relating to Commission on Special Investigations and State Auditor duties.

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

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

Com. Sub. for Senate Bill 329, Relating to agricultural education in high schools.

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

Senate Bill 472, Exempting retirement income of certain uniformed services members from state income tax.

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

Com. Sub. for Senate Bill 520, Requiring entities report drug overdoses.

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

Com. Sub. for Com. Sub. for Senate Bill 522, Creating Special Road Repair Fund.

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

On motions of Senators Swope, Sypolt, and Tarr, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page two, section two, line eight, after the words “priority order” by inserting the words “according to Department of Highways average daily traffic counts and the county commission’s determination of the roads’ level of disrepair”;

On page three, section two, line thirty-one, by striking out the word “may” and inserting in lieu thereof the word “shall”;

On page three, section three, line two, after the word “district” by inserting the words “excluding where core maintenance was completed within the previous year”;

And,

On page three, section three, line three, by striking out “\$1,500,000” and inserting in lieu thereof “\$1,000,000”.

Following discussion,

Senator Plymale arose to a point of order stating only one amendment with multiple sponsors was being discussed.

Which point of order, the President ruled well taken.

Following discussion,

The question being on the adoption of the amendments offered by Senators Swope, Sypolt, and Tarr to the bill, the same was put and prevailed.

The bill (Com. Sub. for Com. Sub. for S. B. 522), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 537, Creating workgroup to review hospice need standards.

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

Com. Sub. for Senate Bill 561, Permitting Alcohol Beverage Control Administration request assistance of local law enforcement.

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

Senate Bill 565, Relating to residency requirements for deputy assessors.

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

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

Senate Bill 566, Relating to compensation for State Athletic Commission members.

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

Com. Sub. for Senate Bill 600, Relating to preservation of biological evidence obtained through criminal investigations and trials.

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

Com. Sub. for Senate Bill 615, Providing ongoing mechanism for county commissioners to allow compensation increases for elected officials every two years.

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

Com. Sub. for Senate Bill 622, Relating generally to regulation and control of financing elections.

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

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

On page forty, section twelve, lines fifty-one and fifty-two, by striking out the words “subsection (g) of this section” and inserting in lieu thereof the words “this article”.

The bill (Com. Sub. for S. B. 622), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 640, Regulating sudden cardiac arrest prevention.

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

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

On page three, section three, line thirty-four, by striking out “(g)” and inserting in lieu thereof “(f)”;

On page three, section three, line thirty-six, after the word “*seq.*” by inserting “and §30-14-1 *et seq.*”;

On page three, section three, line thirty-eight, after the word “*seq.*” by inserting “and §30-14A-1 *et seq.*”;

And,

On page three, section three, line forty-three, by striking out “(g)” and inserting in lieu thereof “(f)”.

The bill (Com. Sub. for S. B. 640), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 642, Providing options in living wills and combined medical powers of attorney and living wills.

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

Com. Sub. for Senate Bill 651, Relating to DNR ability to enter into certain contracts.

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

Com. Sub. for Senate Bill 653, Relating generally to practice of medical corporations.

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

On motion of Senator Maroney, the following amendment to the bill was reported by the Clerk and adopted:

On page three, section fifteen, line fifty-eight, by striking out the words “or podiatry”.

The bill (Com. Sub. for S. B. 653), as amended, was then ordered to engrossment and third reading.

Senate Bill 655, Relating to conservation districts generally.

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

Senate Bill 668, Relating to physician assistants collaborating with physicians in hospitals.

Having been read a second time on Saturday, February 23, 2019, and now coming up in regular order, was reported by the Clerk.

The bill (S. B. 668) was then ordered to engrossment and third reading.

Senate Bill 669, Allowing appointment of commissioners to acknowledge signatures.

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

Senate Bill 670, Relating to WV College Prepaid Tuition and Savings Program.

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

On motion of Senator Rucker, the following amendment to the bill was reported by the Clerk and adopted:

On page four, section four, line twenty-three, by striking out the words “public members and the”.

The bill (S. B. 670), as amended, was then ordered to engrossment and third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Com. Sub. for Senate Bill 105, Creating offense of impaired operation of motor vehicle placing nonpassengers at risk of physical injury.

Com. Sub. for Senate Bill 318, Transferring Medicaid Fraud Control Unit to Attorney General’s office.

Com. Sub. for Com. Sub. for Senate Bill 348, Relating to tobacco usage restrictions.

Com. Sub. for Senate Bill 379, Permitting county board of education to include faith-based electives in drug prevention programs.

Com. Sub. for Senate Bill 412, Establishing Katherine Johnson Fair Pay Act of 2019.

Com. Sub. for Senate Bill 464, Modifying licensing requirements for telemedicine and surgery or podiatry.

Com. Sub. for Senate Bill 487, Relating to admissibility of health care staffing requirements in litigation.

Com. Sub. for Senate Bill 530, Relating to state employee merit system.

Com. Sub. for Com. Sub. for Senate Bill 543, Relating generally to automobile warranties and inspections.

Senate Bill 555, Relating to authority of Higher Education Policy Commission.

Com. Sub. for Senate Bill 564, Expanding comprehensive coverage for pregnant women through Medicaid.

Senate Bill 605, Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries.

Senate Bill 625, Clarifying and defining authority of State Athletic Commission.

Com. Sub. for Com. Sub. for Senate Bill 632, Improving student safety.

Senate Bill 633, Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses.

Com. Sub. for Senate Bill 637, Relating to revocation, cancellation, or suspension of business registration certificates.

Com. Sub. for Senate Bill 650, Protecting consumers from price gouging after state of emergency.

Com. Sub. for Senate Bill 657, Providing consumer protection regarding self-propelled farm equipment.

Senate Bill 658, Relating to motor vehicle salesperson licenses.

Senate Bill 671, Eliminating State Fire Marshal report on transfer of authority and responsibility of providing fire service to counties.

Senate Bill 672, Authorizing School Building Authority to promulgate legislative rules.

And,

Senate Bill 673, Relating to public higher education accountability and planning.

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

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 675 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §22-15A-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22-15A-3a, all relating to requiring the Department of Environmental Protection to create and implement an Adopt-A-Stream Program; encouraging the removal of litter along West Virginia's rivers and streams by volunteers; and allowing the Litter Control Fund to be used to fund the program.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 675) contained in the preceding report from the Committee on Natural Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Bill 676 (originating in the Committee on Natural Resources)—A Bill to amend and reenact §17-2A-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding

thereto new sections, designated §20-1-12a and §20-1-18d; and to amend said code by adding thereto a new article, designated §20-17-1, §20-17-2, §20-17-3, §20-17-4, and §20-17-5, all relating to off-road vehicle recreation; creating an Off-Road Vehicle Recreation Fund for development and maintenance of public roads suitable for off-road vehicle recreation; revising digital road map requirements; requiring an inventory and mapping of state forest roads; describing allowable uses of the Off-Road Vehicle Recreation Fund; defining terms; requiring the development of a comprehensive recreation plan and plans for the construction and maintenance of suitable roads; establishing a program of grants and cooperative agreements to develop and maintain suitable roads and access thereto; mandating review of expenditures; providing for appeals of grant or agreement decisions; and requiring the proposal of legislative rules.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Takubo requested unanimous consent that the bill (S. B. 676) contained in the preceding report from the Committee on Natural Resources be taken up for immediate consideration.

Which consent was not granted, Senator Beach objecting.

Thereafter, on motion of Senator Takubo, the bill (S. B. 676) contained in the preceding report from the Committee on Natural Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Plymale, Rucker, and Trump.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Unger, the name of Senator Unger was removed as a sponsor of **Senate Bill 672** (*Authorizing School Building Authority to promulgate legislative rules*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:21 p.m., the Senate recessed until 4:30 p.m. today.

The Senate reconvened at 4:36 p.m. and, without objection, returned to the third order of business.

Executive Communications

The Clerk then presented communications from His Excellency, the Governor, advising that on February 25, 2019, he had approved **Enr. Committee Substitute for Senate Bill 18**, **Enr. Committee Substitute for Senate Bill 323**, **Enr. Committee Substitute for House Bill 2191**, and **Enr. Committee Substitute for House Bill 2446**.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 25th day of February, 2019, 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. 61), Adding certain crimes for which prosecutor may apply for wiretap.

And,

(S. B. 377), Relating to minimum wage and maximum hour standards.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Senate Bill 414, Creating Protect Our Right to Unite Act.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 414 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §1-7-1, §1-7-2, §1-7-3, and §1-7-4; and to amend and reenact §20-2-27 of said code, all relating generally to protecting the right to privacy and association of the citizens of West Virginia; creating the Protect Our Right to Unite Act; declaring legislative purpose; defining terms; providing that no public agency may require nonprofit entities to disclose donor information, subject to certain exceptions; providing that where the state or a public agency obtains donor information it may not be released, subject to certain exceptions; providing exemption from Freedom of Information Act requests; providing for redaction of donor information; providing exception for court orders; providing exception for discovery requests under certain conditions; providing civil remedies; providing for the payment of attorneys' fees and costs, and in certain circumstances, treble damages; and providing that the name, address, and other contact information of persons having obtained certain fishing and wildlife authorizations from the Division of Natural Resources are exempt from the Freedom of Information Act.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 414) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 574 (originating in the Committee on Health and Human Resources), Permitting authorized physician order involuntary hospitalization of individual if physician believes addicted or mentally ill.

And reports back a committee substitute for same with the following title:

Com. Sub. for Com. Sub. for Senate Bill 574 (originating in the Committee on the Judiciary)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-5-2a, relating to permitting an authorized staff physician, after examination, to order the involuntary hospitalization of an individual whom the physician believes is addicted or mentally ill and likely to cause serious harm to himself or herself or other individuals; setting forth a procedure; defining terms; providing for payment for services; limiting liability; and requiring the West Virginia Supreme Court of Appeals to produce information to hospitals regarding contact information for mental hygiene commissioners, designated county magistrates, and circuit judges.

With the recommendation that the committee substitute for committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for Com. Sub. for S. B. 574) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate again proceeded to the thirteenth order of business.

At the request of Senator Beach, the name of Senator Beach was removed as a sponsor of **Senate Bill 676** (*Relating to off-road vehicle recreation*).

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 4:39 p.m., the Senate adjourned until tomorrow, Tuesday, February 26, 2019, at 11 a.m.

TUESDAY, FEBRUARY 26, 2019

The Senate met at 11:11 a.m.

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

Prayer was offered by the Reverend Jeffrey S. Allen, Executive Director, West Virginia Council of Churches, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Corey Palumbo, a senator from the seventeenth district.

Pending the reading of the Journal of Monday, February 25, 2019,

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

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

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 26, Permitting certain employees of educational service cooperatives participate in state's teacher retirement systems.

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

Eng. Com. Sub. for Senate Bill 489, Relating to Pharmacy Audit Integrity Act.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

On page seven, section nine, lines one hundred forty-four and one hundred forty-five, by striking out all of subsection (k) and inserting in lieu thereof a new subsection, designated subsection (k), to read as follows:

(k) If the information required herein is not provided, the agency may terminate the contract with the pharmacy benefit manager and the Office of the Insurance Commission shall discipline the pharmacy benefit manager as provided in §33-51-8(e).;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 489—A Bill to amend and reenact §5-16-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-51-3, §33-51-4, §33-51-7, §33-51-8, and §33-51-9 of said code; and to amend said code by adding thereto a new section, designated §33-51-10, all relating to the regulation of pharmacy benefit managers; defining terms; requiring pharmacy benefit managers to obtain a license from the Insurance Commissioner before doing business in the state; setting forth terms of licensure of pharmacy benefit managers; establishing fees; authorizing the Insurance Commissioner to promulgate rules for legislative approval; providing network adequacy standards; prohibiting a network to be comprised only of mail-order benefits; requiring the Insurance Commissioner to enforce the licensure provisions relating to pharmacy benefit managers; providing for the applicability of provisions to pharmacy benefit managers; clarifying that requirements do not apply to certain prescription drug plans; prohibiting certain practices by an auditing entity; providing exemptions; prohibiting different treatment of a federal 340B drug discount program; requiring the reporting of certain data relating to the payment of pharmacy claims; permitting the public employees insurance agency to cancel a contract if certain conditions are not met; providing disciplinary procedures; and providing civil penalties.

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

Engrossed Committee Substitute for Senate Bill 489, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 489) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 489) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2229—A Bill to amend and reenact §5-10A-2 of the Code of West Virginia, 1931, as amended, relating generally to disqualification for public service retirement plan benefits, modifying the definition of less than honorable service, removing the exception of a misdemeanor from that aspect of less than honorable service involving impeachment and

conviction, removing the requirement that the participant or former participant plead guilty or nolo contendere to felony criminal conduct to constitute less than honorable service; and providing that conviction of specified misdemeanor conduct related to the participant's term in office or participant's term of employment in public service constitutes less than honorable service.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2452—A Bill to repeal §5A-6-4a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §5A-6B-1, §5A-6B-2, §5A-6B-3, §5A-6B-4, §5A-6B-5 and §5A-6B-6, all relating to cybersecurity of state government; removing the requirements of the Chief Technology Officer to oversee security of government information; creating the Cybersecurity Office; defining terms; providing that the Chief Information Security Officer to oversee the Cybersecurity Office; authorizing the Chief Information Security Officer to create a cybersecurity framework, to assist and provide guidance to agencies in cyber risk strategy and setting forth other duties; providing rule-making authority; requiring agencies to undergo cyber risk assessments; establishing scope of authority; exempting certain state entities; designating reporting requirements; requiring agencies to address any cybersecurity deficiencies; exempting information related to cyber risk from public disclosure; and requiring annual reports to the Joint Committee on Government and Finance and to the Governor on the status of the cybersecurity program, including any recommended statutory changes.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2550—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-8-1, §5B-8-2, §5B-8-3, §5B-8-4, and §5B-8-5, all relating to creating a matching program for the Small Business Innovation Research Program and the Small Business Technology Transfer Program; providing that matching funds are to be paid from the Entrepreneurship and Innovation Investment Fund; defining terms; defining eligibility; providing terms of the grant; defining the application process; and providing for legislative rule-making.

Referred to the Committee on Economic Development; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2598—A Bill to amend and reenact §29-12-5 of the Code of West Virginia, 1931, as amended, relating to a charitable or public service organization must submit a certifying statement attesting to its status as a charitable or public service organization.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2690—A Bill to amend and reenact §33-26A-19 of the Code of West Virginia, 1931, as amended, relating to guaranty associations; and making revisions consistent with the National Association of Insurance Commissioners Life and Health Insurance Guaranty Association Model Act.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2694—A Bill to amend and reenact §19-12E-3, §19-12E-4, §19-12E-5, §19-12E-6, §19-12E-7, §19-12E-8, and §19-12E-9 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto two new sections, designated §19-12E-10 and §19-12E-11, all relating generally to the Industrial Hemp Development Act; adding and modifying definitions; updating code to reflect changes in federal law; clarifying that no person may grow, cultivate, possess, or process industrial hemp without a license from the Department of Agriculture; requiring certain documentation requested by the commissioner to be submitted by licensees; authorizing commissioner to submit plan for state regulation of industrial hemp to United States Department of Agriculture; requiring plan to comply with federal law; providing for continued legality of hemp production in absence of submitted plan; providing for handling negligent violations; addressing handling of non-negligent violations; requiring notification of attorney general and law enforcement under certain circumstances; and making technical corrections.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2770—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4s; and to amend said code by adding thereto a new section, designated §33-16-3dd; and to amend said code by adding thereto a new section, designated §33-24-7s; and to amend said code by adding thereto a new section, designated §33-25-8p; and to amend said code by adding thereto a new section, designated §33-25A-8s, all relating to establishing the Fairness in Cost-Sharing Calculation Act; providing for definitions; establishing health plan cost sharing calculations; establishing

pharmacy benefits cost sharing calculations; and providing for rule-making authority.

Referred to the Committee on Health and Human Resources.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2816—A Bill to amend and reenact §5-14-1, §5-14-2, §5-14-3, §5-14-5, and §5-14-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-13-5a of said code; to amend and reenact §16-22A-4 of said code; to amend and reenact §16-35-2 of said code; to amend and reenact §18-20-1a and §18-20-1b of said code; to amend and reenact §29-3-16a of said code; to amend and reenact §52-1-8 of said code; and to amend and reenact §57-5-7 of said code, all relating to removing the terms “hearing impaired,” “hearing impairment,” and “deaf mute” from the West Virginia Code and substituting the terms “deaf or hard of hearing,” “hard of hearing,” “hearing difficulties,” or “difficulties in hearing” according to context.

Referred to the Committee on Health and Human Resources.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2827—A Bill to amend and reenact §11-2-3 of the Code of West Virginia, 1931, as amended, relating to removing the residency requirements for hiring deputy assessors.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2828—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-12j; and to amend said code by adding thereto a new section, designated §11-24-6b, all relating to promoting investment in a Qualified Opportunity Zone by providing a mechanism to exempt taxable income from corporate net income tax and personal income tax during the first ten (10) years of a Qualified Opportunity Zone Business's operation within one or more Qualified Opportunity Zones located in West Virginia; providing an effective date; and authorizing rulemaking authority for the Tax Commissioner.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2830—A Bill to amend and reenact §24-6-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section designated §24-6-15; all relating to establishing Next Generation 911 services in this state; providing for expanded definitions; establishing a commission to study Next Generation 911 services; providing for commission membership; providing for travel expense reimbursement under certain conditions; establishing the commission's duties; requiring a preliminary report to the Joint Committee on Government and Finance; requiring a final report to the Joint Committee on Government and Finance and to the Governor; and establishing an effective date and termination date of the commission.

Referred to the Committee on Government Organization; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2837—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-12e, relating to the licensing of advance deposit wagering; defining terms; providing for source market fees; providing for certain distribution of source market fees derived from wagers of account holders; providing that advance deposit account wagers are authorized; providing exception from certain provisions of code; conferring jurisdiction to the Racing Commission; providing for the assessment and imposition of licensing and annual renewal fees; providing that applicants may bear certain costs; prohibiting advance deposit wagering in West Virginia unless conducted through an advance deposit wagering licensee; exempting advance deposit wagering from certain provisions of code and implementing rules; providing for criminal penalties for accepting advance deposit wagers without a license; providing authority for the Racing Commission to seek civil remedies and damages; providing for a regulatory fee; providing that all advance deposit wagers placed by residents within the state are considered to be wagering within West Virginia subject to the laws of this state and rules of the Racing Commission; providing for an investigation as to whether nonresident account holders of a licensee placed wagers while physically located in West Virginia; and authorizing rulemaking and emergency rulemaking.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2926—A Bill to amend and reenact §9A-2-1 of the Code of West Virginia, 1931, as amended, relating to requiring the Secretary of the Department of Veterans' Affairs to study the housing needs of veterans; and requiring a report.

Referred to the Committee on Military.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3045—A Bill to amend and reenact §7-18-2 of the Code of West Virginia, 1931, as amended, relating to exempting certain complimentary hotel rooms from hotel occupancy tax.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3132—A Bill to amend and reenact §16-5Y-4 of the Code of West Virginia, 1931, as amended, relating to exempting providers that serve no more than 30 patients with office-based medication-assisted treatment from complying with the legislative rule and exempting licensed behavioral health centers providing office-based medication-assisted treatment from registration requirements but requiring them to attest and provide information to the Office of Health Facilities Licensure and Certification.

Referred to the Committee on Health and Human Resources.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 3133—A Bill to amend and reenact §62-12-6 and §62-12-9 of the Code of West Virginia, 1931, as amended, relating to requiring a probationer found to have suffered with addiction to participate in a support service upon release for a certain period of time.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3134—A Bill to amend and reenact § 17C-5-3 of the Code of West Virginia, 1931, as amended, relating to

establishing criminal penalties for negligent homicide, and increasing criminal penalties for reckless driving resulting in serious bodily injury.

Referred to the Committee on the Judiciary.

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

Eng. House Bill 3135—A Bill expiring funds to the balance of the Department of Commerce, Development Office – Entrepreneurship and Innovation Investment Fund, fund 3006, fiscal year 2019, organization 0307, in the amount of \$500,000, from the Auditor’s Office – Purchasing Card Administration Fund, fund 1234, fiscal year 2019, organization 1200, by supplementing and amending chapter 12, Acts of the Legislature, 2018, known as the Budget Bill.

Referred to the Committee on Finance.

The Senate proceeded to the sixth order of business.

Senators Romano, Facemire, Jeffries, and Prezioso offered the following resolution:

Senate Concurrent Resolution 45—Requesting the Division of Highways name bridge number 17A103, locally known as the Joyce Street Bridge, carrying Joyce Street over Highway U. S. 50 in Harrison County, the “U. S. Army Corporal T-5 Albert John “Engine” Arco Memorial Bridge”.

Whereas, This year being the 75th anniversary of the D-Day landing in Europe and the 75th anniversary of the beginning of the Battle of the Bulge, it is appropriate and required to honor United States Army Corporal T-5 Albert John “Engine” Arco who served his country proudly during WW II; and

Whereas, Albert John “Engine” Arco was a 19-year old enlistee in the U. S. Army when, on June 6, 1944, he jumped, in full gear, from an amphibious landing craft into the sea during the

Normandy landing where the waters were covered with the bloodied bodies of his comrades. He miraculously survived the D-Day landing, during which so many of his comrades were killed, and joined the fight as a heavy machine gunner in a tank destroyer battalion, which led the battle to liberate Saint-Mere-Eglise, Carentan, Saint Lo and other French towns as they rolled toward Paris. He has described the intensity of the battle of Saint Lo where the sky was dark during the day as a result of American aircraft and the hail of shrapnel from German anti-aircraft guns, the latter of which killed his captain, who was standing next to him; and

Whereas, Albert John “Engine” Arco’s battalion was instrumental in the liberation of Paris, then humbly adjourned to a nearby park with all other Americans so French General Charles de Galle could proudly march into Paris with his troops and declare victory over German troops for the French people. His battalion joined with the 3rd Army and its commander, General George S. Patton, whom Arco described as, “. . . blood and guts, for sure”, because of the general’s aggressive battle tactics which caused Arco to wear the same uniform 10 straight months. Albert John “Engine” Arco fought in the Battle of the Bulge, manning a 50-caliber machine gun when the 3rd Army and General Patton punched through German lines to relieve the American defenders of Bastogne, Belgium, commanded by General Anthony Clement “Nuts” McAuliffe, also a West Virginia native. He told the Veterans History Project that he had many more memories of his service during WWII, most of which were too traumatic to share; and

Whereas, Albert John “Engine” Arco was a lifelong resident of Clarksburg, Harrison County, West Virginia, a graduate of Washington Irving High School, and the retired owner of the Clarksburg landmark, the Red Caboose restaurant, for over 50 years. He always celebrated the D-Day landing each year at the Red Caboose and remained a loyal and active member of VFW Post 573 and American Legion Post 13 until his death on September 14, 2018; and

Whereas, It is fitting that an enduring memorial be established to commemorate Corporal T-5 Albert John “Engine” Arco and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17A103, locally known as the Joyce Street Bridge, carrying Joyce Street over Highway U. S. 50 in Harrison County, the “U. S. Army Corporal T-5 Albert John “Engine” Arco Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army Corporal T-5 Albert John “Engine” Arco Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senators Sypolt, Swope, Roberts, Maynard, Prezioso, Clements, Rucker, and Azinger offered the following resolution:

Senate Resolution 61—Amending Senate Rule 15 relating to bill and resolution introduction.

Resolved by the Senate:

That Senate Rule 15 be amended as follows:

Each bill or resolution for introduction shall be presented in duplicate and electronically, bearing the name of the member or members by whom it is to be introduced, and shall be filed with the Clerk not later than 12 p.m. on the legislative day next preceding its introduction: *Provided,* That the pre-filing requirement shall not apply to the first day of any session of the Legislature. A bill may be introduced by request. All bills introduced by request shall bear the words “By Request”, following the designation of the name or names of the bill sponsor or sponsors.

The Clerk shall designate one copy of a bill or resolution the official copy and it shall constitute the official bill or resolution for

use of committees and for the permanent files of the Senate. One copy shall be used for printing.

Each bill or resolution shall be numbered, edited, and corrected as to form by the Clerk and reported by the Clerk to the Senate on the next legislative day, under the sixth order of business. In case of urgency, on motion for leave agreed to by a majority of the members present, a member may introduce a bill or resolution from the floor.

Any member who is a cosponsor of a bill or resolution may be removed as a sponsor of the bill or resolution by submitting a request to the Clerk prior to the bill or resolution being reported from the last committee to which it was referred: *Provided*, That the removal shall only be permitted if another member remains as a sponsor of the bill or resolution.

Any member may be added as a cosponsor of a bill or resolution by submitting a request to the Clerk prior to the bill or resolution being reported from the last committee to which it was referred and if the lead sponsor of the bill or resolution agrees to the addition.

The electronic version of a bill or resolution shall be changed to include the addition or removal of a sponsor, but the addition or removal of a sponsor shall only be included in a printed version if a subsequent printing is otherwise required.

Which, under the rules, was referred to the Committee on Rules.

Petitions

Senator Sypolt presented a petition from Beverly Shaffer and 139 West Virginia residents, supporting Senate Bill 549 (*Authorizing DNR solicit donation for WVU Rifle Team on hunting and fishing license applications*).

Referred to the Committee on Government Organization.

Senators Sypolt and Smith presented a petition from Barbara M. Mathias and 55 members and friends of Oak Grove United Methodist Church and Baker's Chapel United Methodist Church, expressing opposition to abortion.

Referred to the Committee on the Judiciary.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 248, Creating Prosecuting Attorney's Detectives Act.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 248) passed.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for Senate Bill 248—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-4A-1, §7-4A-2, §7-4A-3, §7-4A-4, §7-4A-5, §7-4A-6, §7-4A-7, §7-4A-8, and §7-4A-9, all relating to creating the Prosecuting Attorney's Detectives Act; providing a short title; making legislative findings; providing for law-enforcement titles; setting forth the duties and powers of prosecuting attorney's detectives; providing for compensation of prosecuting attorney's

detectives; permitting prosecuting attorneys to hire detectives; establishing arrest power of prosecuting attorney's detectives; setting forth requirements; limiting off-duty employment; and providing miscellaneous provisions.

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

Eng. Com. Sub. for Senate Bill 249, Relating to administration of estates and trusts.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 249) passed with its title.

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

Eng. Com. Sub. for Senate Bill 329, Relating to agricultural education in high schools.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 329 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 329) passed with its title.

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

Eng. Senate Bill 472, Exempting retirement income of certain uniformed services members from state income tax.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 472) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 472) takes effect July 1, 2019.

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

Eng. Com. Sub. for Senate Bill 520, Requiring entities report drug overdoses.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 520 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 520) passed with its title.

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

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Ihlenfeld regarding the passage of Engrossed Committee Substitute for Senate Bill 520 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for Com. Sub. for Senate Bill 522, Creating Special Road Repair Fund.

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

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

Eng. Com. Sub. for Senate Bill 537, Creating workgroup to review hospice need standards.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 537 pass?”

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as his wife serves as a volunteer and board member for Hospice of the Panhandle.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Weld—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 537) passed with its title.

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

Eng. Com. Sub. for Senate Bill 561, Permitting Alcohol Beverage Control Administration request assistance of local law enforcement.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 561) passed with its title.

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

Eng. Senate Bill 566, Relating to compensation for State Athletic Commission members.

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

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

The nays were: Rucker—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 566) passed with its title.

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

Eng. Com. Sub. for Senate Bill 600, Relating to preservation of biological evidence obtained through criminal investigations and trials.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 600) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 600) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 615, Providing ongoing mechanism for county commissioners to allow compensation increases for elected officials every two years.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 615) passed with its title.

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

Eng. Com. Sub. for Senate Bill 622, Relating generally to regulation and control of financing elections.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 622 pass?”

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

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

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 622) passed with its title.

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

Eng. Com. Sub. for Senate Bill 640, Regulating sudden cardiac arrest prevention.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 640) passed with its title.

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

Eng. Com. Sub. for Senate Bill 642, Providing options in living wills and combined medical powers of attorney and living wills.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 642) passed with its title.

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

Eng. Com. Sub. for Senate Bill 651, Relating to DNR ability to enter into certain contracts.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 651) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 651) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 653, Relating generally to practice of medical corporations.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 653) passed with its title.

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

Eng. Senate Bill 655, Relating to conservation districts generally.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 655) passed with its title.

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

Eng. Senate Bill 668, Relating to physician assistants collaborating with physicians in hospitals.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 668 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 668) passed with its title.

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

Eng. Senate Bill 669, Allowing appointment of commissioners to acknowledge signatures.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 669) passed with its title.

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

Eng. Senate Bill 670, Relating to WV College Prepaid Tuition and Savings Program.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 670) passed with its title.

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

Eng. Com. Sub. for House Bill 2740, Barring a parent from inheriting from a child in certain instances.

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

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

Eng. House Bill 2746, Relating to administration of estates.

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

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

On motion of Senator Takubo, at 12:36 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 1:22 p.m. and proceeded to the ninth order of business.

Com. Sub. for Senate Bill 105, Creating offense of impaired operation of motor vehicle placing nonpassengers at risk of physical injury.

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

Com. Sub. for Senate Bill 273, Relating to Commission on Special Investigations and State Auditor duties.

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

At the request of Senator Trump, unanimous consent being granted, the bill was referred to the Committee on Rules.

Com. Sub. for Senate Bill 318, Transferring Medicaid Fraud Control Unit to Attorney General's office.

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

Com. Sub. for Com. Sub. for Senate Bill 348, Relating to tobacco usage restrictions.

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

On motions of Senators Stollings and Palumbo, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On pages nine and ten, by striking out all of sections twelve and thirteen;

And,

By re-numbering the remaining section.

Following extended discussion,

The question being on the adoption of the amendments offered by Senators Stollings and Palumbo to the bill, and on this question, Senator Trump demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Plymale, Prezioso, Romano, Stollings, Swope, Takubo, Unger, and Woelfel—19.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Maynard, Roberts, Rucker, Smith, Sypolt, Tarr, Trump, Weld, and Carmichael (Mr. President)—15.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the amendments offered by Senators Stollings and Palumbo to the bill adopted.

The bill (Com. Sub. for Com. Sub. for S. B. 348), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 379, Permitting county board of education to include faith-based electives in drug prevention programs.

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

Com. Sub. for Senate Bill 396, Waiving occupational licensing fees for low-income individuals and military families.

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

Com. Sub. for Senate Bill 412, Establishing Katherine Johnson Fair Pay Act of 2019.

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

On motion of Senator Beach, the following amendment to the bill was reported by the Clerk:

On pages three and four, by striking out all of section nine-b and inserting in lieu thereof a new section, designated section nine-b, to read as follows:

§5-11-9b. The Katherine Johnson Fair Pay Act of 2019.

(a) This section may be cited as the Katherine Johnson Fair Pay Act of 2019, in honor of Katherine Coleman Johnson, an African-American mathematician born and educated in West Virginia, and later awarded the Presidential Medal of Freedom, America's highest civilian honor.

(b) It is an unlawful discriminatory practice, unless based on a bona fide occupational qualification, or except where based on applicable security regulations established by the United States or the State of West Virginia or its agencies or political subdivisions, for any employer to:

(1) Require, as a condition of employment, that an employee refrains from disclosing, discussing, or sharing information about the amount of his or her wages, benefits or other compensation, or from inquiring, discussing, or sharing information with a co-worker about the employee's or co-worker's wages, benefits or other compensation;

(2) Require an employee to sign a waiver or other document that denies the employee the right to disclose the amount of his or her wages, benefits, or other compensation or to inquire about, discuss, or share information with a co-worker about the employee's or co-worker's wages, benefits or other compensation;
or

(3) Inquire, or direct a third party to inquire, as to a job applicant's wage and salary history from the applicant or a current or former employer. If an applicant voluntarily and without prompting discloses information about his or her compensation, the employer may seek to confirm that information after extending an offer of employment with compensation to that person.

Following discussion,

The question being on the adoption of Senator Beach's amendment to the bill, the same was put and did not prevail.

The bill (Com. Sub. for S. B. 412) was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 414, Creating Protect Our Right to Unite Act.

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

Com. Sub. for Senate Bill 464, Modifying licensing requirements for telemedicine and surgery or podiatry.

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

Com. Sub. for Senate Bill 467, Clarifying PSC jurisdiction over water and sewer utilities.

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

On motion of Senator Boso, the following amendment to the bill was reported by the Clerk and adopted:

On page thirty-one, section one, line one hundred forty-nine, by striking out the word "state".

The bill (Com. Sub. for S. B. 467), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 487, Relating to admissibility of health care staffing requirements in litigation.

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

Com. Sub. for Senate Bill 530, Relating to state employee merit system.

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

At the request of Senator Trump, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Com. Sub. for Senate Bill 543, Relating generally to automobile warranties and inspections.

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

Senate Bill 555, Relating to authority of Higher Education Policy Commission.

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

Com. Sub. for Senate Bill 564, Expanding comprehensive coverage for pregnant women through Medicaid.

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

Com. Sub. for Com. Sub. for Senate Bill 574, Permitting authorized physician order involuntary hospitalization of individual if physician believes addicted or mentally ill.

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

On motion of Senator Romano, the following amendment to the bill was reported by the Clerk:

On page two, section two-a, lines thirty-five and thirty-six, by striking out the words “accepted professional practices” and inserting in lieu thereof the words “standard of care”.

Following discussion,

The question being on the adoption of Senator Romano’s amendment to the bill, the same was put and prevailed.

The bill (Com. Sub. for Com. Sub. for S. B. 574), as amended, was then ordered to engrossment and third reading.

Senate Bill 605, Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries.

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

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

On page three, section twenty-five-a, lines sixty-six through sixty-eight, by striking out the words “Secondary Schools Athletics Commission: *Provided*, That the West Virginia Secondary Schools

Athletics Commission” and inserting in lieu thereof the words “West Virginia Secondary School Activities Commission: *Provided*, That the West Virginia Secondary School Activities Commission”;

On page four, section twenty-five-b, line one, by striking out the words “Schools Athletics” and inserting in lieu thereof the words “School Activities”;

On page four, section twenty-five-b, line ten, by striking out the words “Schools Athletics” and inserting in lieu thereof the words “School Activities”;

And,

On page five, section twenty-five-b, lines thirty-one through thirty-three, by striking out the words “Secondary Schools Athletics Commission: *Provided*, That the West Virginia Secondary Schools Athletics Commission” and inserting in lieu thereof the words “West Virginia Secondary School Activities Commission: *Provided*, That the West Virginia Secondary School Activities Commission”.

On motion of Senator Tarr, the following amendments to the bill (S. B. 605) were next reported by the Clerk and considered simultaneously:

On page three, section twenty-five-a, line forty-four, after the words “coach or” by inserting the words “licensed or registered”;

On page three, section twenty-five-a, line fifty, after the word “professionals” by inserting the words “including, but not limited to, licensed physical therapists and licensed or registered athletic trainers”;

And,

On page three, section twenty-five-a, line sixty-four, after the word “accordingly.” by inserting the following: The West Virginia School Activities Commission also shall submit the reports to the

Legislative Oversight Commission on Health and Human Resources Accountability.

Following discussion,

The question being on the adoption of Senator Tarr's amendments to the bill, the same was put and prevailed.

The bill (S. B. 605), as amended, was then ordered to engrossment and third reading.

Senate Bill 625, Clarifying and defining authority of State Athletic Commission.

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

Com. Sub. for Com. Sub. for Senate Bill 632, Improving student safety.

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

Senate Bill 633, Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses.

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

Com. Sub. for Senate Bill 637, Relating to revocation, cancellation, or suspension of business registration certificates.

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

Com. Sub. for Senate Bill 650, Protecting consumers from price gouging after state of emergency.

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

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

Com. Sub. for Senate Bill 657, Providing consumer protection regarding self-propelled farm equipment.

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

Senate Bill 658, Relating to motor vehicle salesperson licenses.

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

Senate Bill 671, Eliminating State Fire Marshal report on transfer of authority and responsibility of providing fire service to counties.

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

Senate Bill 672, Authorizing School Building Authority to promulgate legislative rules.

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

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

Senate Bill 673, Relating to public higher education accountability and planning.

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

Senate Bill 674, Supplemental appropriation to Division of Human Services.

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

Senate Bill 675, Requiring DEP create and implement Adopt-A-Stream Program.

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

On motion of Senator Maynard, the following amendment to the bill was reported by the Clerk:

On page four, section three, line sixty-seven, by striking out the word “fifty”.

Following discussion,

The question being on the adoption of Senator Maynard’s amendment to the bill, the same was put and prevailed.

At the request of Senator Takubo, and by unanimous consent, the bill (S. B. 675) was advanced to third reading with the right for other amendments to be considered on that reading.

Senate Bill 676, Relating to off-road vehicle recreation.

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

On motions of Senators Beach and Hardesty, the following amendment to the bill was reported by the Clerk:

On page two, section eleven, after line fifteen, by striking out the remainder of the bill.

Following discussion,

The question being on the adoption of the amendment offered by Senators Beach and Hardesty to the bill, the same was put.

The result of the voice vote being inconclusive, Senator Beach demanded a division of the vote.

A standing vote being taken, there were 18 “yeas” and 15 “nays”.

Whereupon, the President declared the amendment offered by Senators Beach and Hardesty to the bill adopted.

The bill (S. B. 676), as amended, was then ordered to engrossment and third reading.

Pending announcement of a meeting of the Committee on Rules,

On motion of Senator Takubo, at 2:41 p.m., the Senate recessed for 10 minutes.

The Senate reconvened at 3 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 26th day of February, 2019, 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. 2324), Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

(H. B. 2351), Relating to regulating prior authorizations.

(Com. Sub. for H. B. 2607), Relating to the licensure of nursing homes.

(H. B. 2666), Supplemental appropriation to the Department of Veterans' Assistance.

And,

(**H. B. 2668**), Supplemental appropriation to the Department of Administration, Public Defender Services.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Committee on Rules has had under consideration

Com. Sub. for Senate Bill 326, Reorganizing state agencies involved in emergency and disaster planning.

Now on second reading, having been referred to the Committee on Rules on February 19, 2019;

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

Respectfully submitted,

Mitch Carmichael,
Chairman ex officio.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 326) contained in the preceding report from the Committee on Rules was taken up for immediate consideration and read a second time.

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

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Romano.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 3:05 p.m., the Senate adjourned until tomorrow, Wednesday, February 27, 2019, at 11 a.m.

WEDNESDAY, FEBRUARY 27, 2019

The Senate met at 11:12 a.m.

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

Prayer was offered by Pastor Richard Thompson, Pastor of Care Ministries, Bible Center Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Charles H. Clements, a senator from the second district.

Pending the reading of the Journal of Tuesday, February 26, 2019,

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

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

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2019, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2011—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto five new sections designated §17-30-1, §17-30-2, §17-30-3, §17-30-4, and §17-30-5 all relating to the creation of the Enhanced Road

Maintenance Program; providing for Legislative intent; providing for certain maintenance activities to be performed by private vendor contractors; providing for payment; providing for purchasing requirements; providing for reports and audit reviews; and providing an effective date.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2014—A Bill to repeal §47-22-9 and §47-22-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-22-1, §47-22-2, §47-22-3, §47-22-4, §47-22-6, §47-22-7, and §47-22-8 of said code, all relating to the protection of intellectual property and trade secrets; changing the “Uniform Trade Secrets Act” to the “West Virginia Intellectual Property and Trade Secrets Act”; providing for definitions; setting forth criminal penalties for certain acts associated with the misappropriation of intellectual property and trade secrets; providing for injunctive and civil relief; allowing for punitive damages and attorney’s fees in certain circumstances; and clarifying applicability of amendments.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2049—A Bill to amend and reenact §21-5-7 of the Code of West Virginia, 1931, as amended, relating to a prime contractor’s responsibility for wages and benefits of employees of a subcontractor; requiring notice to prime contractor within 100 days of the missing wages becoming payable; instituting a one year statute of limitations; and requiring employee to provide verifiable proof to substantiate missing wages.

Referred to the Committee on the Workforce; and then to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2378—A Bill to amend and reenact §18A-3-6 of the Code of West Virginia, 1931, as amended, relating generally to grounds for revocation of a teaching certificate; and providing that a teaching certificate or license shall be automatically revoked if a teacher is convicted of certain crimes.

Referred to the Committee on Education.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2396—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, relating to requiring all state-funded institutions to purchase a minimum of five percent of fresh produce, meat and poultry products from in-state producers if available at equal or lower cost.

Referred to the Committee on Agriculture and Rural Development; and then to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2497—A Bill to amend and reenact §6C-1-3, §6C-1-4, and §6C-1-7 of the Code of West Virginia, 1931, as amended, all relating to the whistle-blower law; protecting promotion or increase in compensation; allowing the use of grievance procedure; protecting use of other right or legal action; and protecting rights related to political activity and membership in employee organizations.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2535—A Bill to amend and reenact §15A-3-14 of the Code of West Virginia, 1931, as amended, relating to purchasing exemptions and procedures; application of certain code provisions for purchases made under emergency conditions; providing for resolution of purchase claims related to and incurred in the business of the division pursuant to this article; requiring auditing of purchase claims; establishing circumstances for issuing the division's requisition upon the Auditor to discharge correct purchase claims; directing the Auditor to issue his or her warrant upon the Treasurer to claimants for payment of purchase claims in certain circumstances; in certain circumstances establishing review by the division to assess conditions comprising substantial compliance with the requirement of an audit; and making technical changes.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2617—A Bill to amend and reenact §33-6-31d of the Code of West Virginia, 1931, as amended, relating to the form for making offer of optional uninsured and underinsured coverage by insurers; requiring Insurance Commissioner to provide for the use of electronic means of delivery and electronic signing of form; and requiring an insurer when offering to place an insured with an affiliate of the insurer, to make available a new uninsured and underinsured motorist coverage offer form.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2662—A Bill to amend and reenact §18A-2-5 and §18A-4-8e of the Code of West Virginia, 1931, as amended, all relating to certificates or employment of school personnel; providing that a service personnel contract of employment is automatically terminated if the employee is convicted of certain crimes; and providing that a bus operator certificate is automatically revoked if the bus driver is convicted of certain crimes.

Referred to the Committee on Education.

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

Eng. House Bill 2665—A Bill supplementing and amending by adding a new appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Revenue, State Budget Office, Fund 0595, fiscal year 2019, organization 0703, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2670—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-32, relating to damages for medical monitoring.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2703—A Bill to amend and reenact §11-14C-30 of the Code of West Virginia, 1931, as

amended, relating to refunds of excise taxes collected from dealers of petroleum products under certain circumstances; and eliminating a cap on the amount of tax that may be refunded for fuels lost through evaporation.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2760—A Bill to amend and reenact §4-10-7 and §4-10-9 of the Code of West Virginia, 1931, as amended, all relating to performance reviews of state agencies and regulatory boards; authorizing the Joint Committee on Government Operations and the Joint Standing Committee on Government Organizations to include analysis of the rules of agencies and regulatory boards and to make recommendations to the Legislative Rule-Making Review Committee.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2802—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §37-16-1, §37-16-2, §37-16-3, §37-16-4, §37-16-5, §37-16-6, §37-16-7, §37-16-8, §37-16-9, §37-16-10, §37-16-11, §37-16-12, and §37-16-13, all relating to enacting the Uniform Partition of Heirs Property Act; defining terms; providing for applicability; providing for conflicts with other laws; providing for a court hearing to determine if the partition action concerns heirs' property; providing for notice by publication in a partition action; providing for requirements for commissioners; providing procedures for a court to follow in determining the value of the property and factors for a court to consider for certain types of partitions; providing procedures for cotenant buyout; providing for alternatives to a partition action; providing for certain factors for

the court to consider in determining whether partition in kind is appropriate; providing for open-market sales, sealed bids, or auctions; providing reporting requirements for an open-market sale; providing for uniformity of application and construction; and modifying, limiting, and superseding the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq.

Referred to the Committee on Energy, Industry, and Mining; and then to the Committee on the Judiciary.

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

Eng. Com. Sub. for House Bill 2831—A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2850—A Bill to amend and reenact §17E-1-9 of the Code of West Virginia, 1931, as amended, relating to qualifications for commercial driver's license; and providing that a commercial license instruction permit may be issued to persons 18 years of age who have held a graduated Class E, Class E or Class D license for at least one year.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2853—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §10-1-14a, relating to establishing the West Virginia Program for Open Education Resources; defining open education resource materials; providing duties of Library Commission; and requiring annual report.

Referred to the Committee on Education; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2866—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §36-4-9b, relating to the termination, expiration, or cancellation of oil or natural gas leases; providing a requirement for a lessee to execute and deliver to the lessor, within a specified time and without cost, a recordable release for terminated, expired, or canceled oil or natural gas leases; providing for a procedure by which a lessor may serve notice to a lessee, if a lessee fails to timely provide the release; providing requirements for the content of the notice; requiring a lessee to timely notify the lessor in writing of a dispute regarding the termination, expiration, or cancellation of the oil and natural gas lease; providing for an affidavit of termination, expiration, or cancellation with specified contents; providing that with proper notification by the lessor and in the absence of a dispute by the lessee, an affidavit of termination, expiration, or cancellation may be recorded with the county clerk; providing a requirement that county clerks accept and record said affidavit; and providing that communications between the parties do not effect any claim or defense.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2895—A Bill to amend and reenact §61-11A-8 of the Code of West Virginia, 1931, as amended, relating to allowing victims of certain crimes to get a restraining order prohibiting convicted persons from contacting or living in proximity to the victim, upon a finding that this has caused or will cause the victim emotional distress.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2943—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-8-6b, relating to allowing a wine specialty shop to deliver wine purchased at the shop without obtaining a direct shippers license under certain circumstances.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2945—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-2-17; relating to temporary food service permits issued by a local or county health departments for selling non-potentially hazardous foods; providing that permits and fees shall be valid for one year; providing a definition of non-potentially hazardous foods; providing that permits and fees shall be valid beyond the boundaries of the county issuing the permit; providing limitations upon an issued permit to assure compliance; providing that vendors must provide notice to local health departments more than 14 days prior to an event; providing that permits must be visibly posted at the event; and requiring the Secretary to review and modernize legislative rules regarding local boards of health fees.

Referred to the Committee on Health and Human Resources.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2974—A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, relating to exempting businesses relating to transporting scrap tires, waste tires, or other used tires to storage, disposal, or recycling locations from the provisions of this chapter; and exempting motor vehicles operated under a contract with the West Virginia Department of Environmental Protection exclusively for cleanup and transportation of waste tires and solid waste generated from state authorized waste tire remediation or cleanup projects.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2991—A Bill to amend and reenact §16-53-1 and §16-53-2 of the Code of West Virginia, 1931, as amended, relating to the Ryan Brown Addiction Prevention and Recovery Fund; requiring an assessment; requiring a presentation of that assessment; and requiring future settlements to be directed to the fund.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 3016—A Bill to repeal §29-2A-9, §29-2A-17, §29-2A-18, §29-2A-19, §29-2A-21, §29-2A-22, §29-2A-23, §29-2A-24, §29-2A-25, §29-2A-26, §29-2A-27 and §29-2A-28 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-2A-1, §29-2A-2, §29-2A-3, §29-2A-4, §29-2A-5, §29-2A-6, §29-2A-7, §29-2A-11, §29-2A-14 and §29-2A-20 of said code, all relating to the State Aeronautics

Commission; repealing provisions relating to state airways systems, investigations, inquiries and hearings, disposition of fees, joint hearings, cooperation with and reports to agencies of state the United States, the use of state and municipal facilities and services, commission orders, notices and opportunity for hearings, judicial review of commission actions, criminal penalties and exchange of information for violations of provisions of article, severability, repeal of inconsistent provisions, and short title; removing antiquated and inoperable provisions modifying and deleting definitions; continuing the State Aeronautics Commission; modifying and updating membership requirements, powers, and duties of the commission; setting forth quorum and meeting requirements; providing for the organization and operation of the commission; modifying provisions related to the director of the commission; updating provisions related to funding and federal aid; continuing general powers related to planning, establishing, constructing, maintaining, and operating of airports; removing requirement for delivery of abstract of conviction to commission; and clarifying authority to require presentment of certificate, permit, rating or license and to enforce aeronautics laws.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3020—A Bill to amend and reenact §18B-5-3 of the Code of West Virginia, 1931, as amended, relating to the authority of the Higher Education Policy Commission, the Council for Community and Technical College Education, and institutional governing boards to enter into contracts for programs, services and facilities; and providing for specified flexibility entering into agreements with certain affiliated nonprofit corporations.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 3021—A Bill to amend and reenact §19-23-14 of the Code of West Virginia, 1931, as amended, requiring the payment of all civil penalties imposed against thoroughbred horse racing licensees or permit holders to be paid into a fund for expenses associated with the post-mortem examination of all thoroughbreds that suffer breakdowns and are euthanized on a racetrack or that otherwise expire on a racetrack; requiring that any funds in excess of \$10,000 in such fund at the end of a fiscal year, less outstanding obligations, may be expended by the racing commission to aid in the rescue, retraining, rehabilitation and aftercare of thoroughbred racehorses that are no longer able to compete on the racetracks in this state, and may be expended to aid in the payment of hospitalization, medical care and funeral expenses occasioned by injuries or death sustained by a thoroughbred racing permit holder at a licensed thoroughbred racetrack in this state; authorizing the racing commission to promulgate rules to govern such expenditures; and requiring the payment of all civil penalties imposed against greyhound racing licensees or permit holders to be paid into a fund to be expended for greyhound adoption programs involving West Virginia whelped dogs owned by residents of this state pursuant to rules promulgated by the racing commission.

Referred to the Committee on Finance.

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

Eng. Com. Sub. for House Bill 3024—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-1n, relating to creating a pilot program to encourage utility infrastructure development to certain lands; declaring certain legislative findings; defining certain terms; requiring the West Virginia Development Office to consider certain applications; requiring the Public Service Commission consider certain plans; providing the Public Service Commission with the authority to allow certain public utility infrastructure projects to recover certain costs via ratemaking; providing for the

expiration of certain statutory provisions; and providing for an effective date of the provisions of this section.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3044—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4 and §17-30-5, all relating to requiring the Commissioner of Highways to develop a formula for allocating road funds among districts, for the benefit of the counties; making legislative findings; requiring the commissioner to solicit and consider public comments; requiring the commissioner to include certain factors in the formula; and requiring the commissioner to submit the formula to the Legislature for approval as a legislative rule.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3054—A Bill to amend and reenact §5A-3-45 of the Code of West Virginia, 1931, as amended, relating to the state agency for surplus property; requiring the state agency that is the current owner of property to remove all livery or other features identifying the property as state property prior to disposition; and permitting the state agency for surplus property to establish any form or requirement to ensure livery is removed.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 3057—A Bill to amend and reenact §62-15-9a of the Code of West Virginia, 1931, as amended, relating to the Adult Drug Court Participation Fund; removing limitations on expenditures; and providing for disposition of moneys in the fund at the end of fiscal year.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3095—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-22l; and to amend said code by adding thereto a new section, designated §18-7A-26w, all relating to establishing a minimum monthly retirement annuity for certain retirants with 25 or more years of credited service.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3102—A Bill to amend and reenact §60-1-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §60-4-3b of said code; to amend and reenact §60-6-8 of said code; and to amend and reenact §60-8-3, §60-8-17 and §60-8-20 of said code, all relating to creating alternating wine proprietorships for wineries and farm wineries; clarifying sampling procedures and requirements for wineries and farm wineries; permitting certain charitable events to auction wine bottles for off-premises consumption; clarifying alcoholic liquors are sold by the drink in certain Class A licenses; stating when lawful to conduct wine bottle sales in certain Class A licenses; permitting the sale of wine in Division II and III college stadiums; providing a 30-day requirement to issue or deny a completed license application; and creating a re-activation fee for licensees that fail to timely file their renewal applications and pay their license fees.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 3131—A Bill to amend and reenact §5-5-4 and §5-5-4a of the Code of West Virginia, as amended; and to amend said code by adding thereto a new section, designated §5-5-4c, all relating to employees of the Department of Health and Human Resources; requiring the department to conduct a marketplace analysis; and exempting the department from certain functions of the Division of Personnel.

Referred to the Committee on Health and Human Resources.

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

Eng. House Bill 3139—A Bill to amend and reenact §5-16-25 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5-16-27; to amend said code by adding thereto a new section, designated §11B-2-15a, all relating generally to funding of Public Employees Health Insurance Program; requiring the finance board to maintain a reserve fund at actuarially recommended amounts of at least 10 percent of plan costs; removing requirement to transfer moneys resulting from plan savings into reserve fund; removing requirement that excess funds be transferred to West Virginia Retiree Health Benefit Trust Fund; establishing PEIA Rainy Day Fee and providing for its assessment and collection in current fiscal year of the state; establishing PEIA Rainy Day Fund as special, nonexpiring, interest-bearing revenue account in the State Treasury to be funded by Rainy Day Fee assessments; authorizing the Secretary of Revenue to assess and collect fee and give special revenue agencies additional time to pay fee when undue hardship exists; providing for the administration of the fund, including investment of funds, transfer of funds, and purposes for which the

fund can be used; and authorizing the promulgation of emergency and legislative rules.

Referred to the Committee on Finance.

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

Eng. House Bill 3140—A Bill to amend and reenact §20-1-7 of the Code of West Virginia, 1931, as amended, and to amend and reenact §20-5-4 of said code, all related to the ability of the Director of the Division of Natural Resources to authorize repair, renovation and rehabilitation for existing facilities, buildings, amenities, and infrastructure and exempting these certain Division of Natural Resource's purchases from review and approval of the Division of Purchasing; and adding state forests to the definition of recreational facilities.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3141—A Bill to amend and reenact §4-8-4 of the Code of West Virginia, 1931, as amended, relating to expanding areas of the capitol complex requiring capitol building commission authorization for certain renovations.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3143—A Bill to amend and reenact §46A-4-101 and §46A-4-107 of the Code of West Virginia, 1931, as

amended, all relating to requirements for making consumer loans in West Virginia; modifying the authority to make regulated consumer loans; providing that a person must first obtain a license from the Commissioner of Banking authorizing him or her to make regulated consumer loans before engaging in the business of making regulated consumer loans, taking assignments of or undertaking direct collection of payments from or enforcement of rights against consumers arising from regulated consumer loans; and adjusting threshold amounts of consumer loans for which certain finance charges can be imposed.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3145—A Bill to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3, §18C-4-4, and §18C-4-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18C-4A-1, §18C-4A-2, and §18C-4A-3 of said code, all relating to modifying certain student financial aid resources available to students pursuing public school teaching careers; abolishing the Underwood-Smith Teacher Loan Assistance Program; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance Fund as the Underwood-Smith Teaching Scholars Program Fund; modifying program purpose to target certain academic disciplines and emphasize the academic distinction of award recipients; modifying award eligibility, renewal, and service agreement criteria to reflect modified program purpose; requiring certain mentoring services be provided to award recipients; preserving eligibility and service agreement criteria for current award recipients; modifying the amount of an award; and limiting tuition and fee charges for program recipients.

Referred to the Committee on Education; and then to the Committee on Finance.

The Senate proceeded to the fourth order of business.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 17, Sardis District Veterans Memorial Bridge.

And,

House Concurrent Resolution 19, U. S. Marine Sgt. Stephen E. Drummond Memorial Bridge.

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

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 24, Hazel Dickens Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 24 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 28-11-8.67 (28A028), locally known as Montcalm Bridge, carrying County Route 11 over the Bluestone River in Mercer County, the “Hazel Dickens Memorial Bridge”.

Whereas, Hazel Dickens was born in Montcalm, Mercer County, on June 1, 1925, as the eighth child of Sarah (Simkins)

Dickens and Pastor H. N. Dickens, a Primitive Baptist Church minister and logging truck driver; and

Whereas, When she was 16 years old, Hazel, along with her parents and some of her siblings, moved to Baltimore, Maryland, to be close to one of her brothers, who was there being treated for tuberculosis. She worked several jobs, including as a waitress, store clerk, and factory worker. Hazel spent her evenings playing double-bass for hillbilly and bluegrass bands in Baltimore and writing songs based on her memories of growing up in the mountains of southern West Virginia; and

Whereas, Eventually, she moved to Washington, D.C., and formed a musical partnership with Alice Gerrard. Hazel drew upon the Primitive Baptist musical tradition to develop her unique vocal style. Although slight in physical stature, Hazel sang with an unamplified voice that was strong, loud, and powerful enough to keep the faithful seated in rear pews wide awake. At the same time, the themes of the songs she authored told of the plight of working men and women, the tragedy of poverty, the strength of family love, and the power of faith; and

Whereas, In a performing career that spanned nine decades, from 1936 to her final performance on March 16, 2011, Hazel put her heart into her music and maintained her steadfast love for her West Virginia roots. She had a profound influence on other female vocalists, including Alison Krauss, Emmylou Harris, and the Judds. She also carried the story of the plight of coal miners through four songs in the soundtrack of the 1976 Academy Award-winning documentary “Harlan County, USA” and sang “Beautiful Hills of Galilee” in a powerful graveyard scene in the 1987 movie “Matewan”; and

Whereas, Hazel Dickens traveled to venues around the world where she performed to great acclaim and, following her passing on April 22, 2011, at the age of 85, her family brought her back home to Mercer County and her final resting place at Roselawn Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate Hazel Dickens and her contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 28-11-8.67 (28A028), locally known as Montcalm Bridge, carrying County Route 11 over the Bluestone River in Mercer County, the “Hazel Dickens Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Hazel Dickens Memorial Bridge”; and, be

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Senate Concurrent Resolution 28, James Henry Caruthers Memorial Road.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 28 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name a portion of U.S. Route 35 at the intersection with Interstate 64, in Putnam County, the “U.S. Army SP5 James Henry Caruthers Memorial Road”.

Whereas, James Henry Caruthers was born on August 11, 1945, to James Henry and Josephine Della “Teeny” Legg Caruthers. He graduated from Poca High School in 1963 and attended Concord College.

Whereas, In 1966, he was drafted into the U.S. Army and proudly and honorably served his country in Vietnam; and

Whereas, Upon his discharge, he returned to his company, Putnam Fabrication. He was also employed by Terradon Corporation and West Virginia Steel. He was elected to three terms

as Putnam County Commissioner, and also elected Mayor of Poca and councilman. In 2001, Jim was appointed by Governor Bob Wise to serve on the West Virginia Statewide Addressing and Mapping Board. He initiated the Putnam County Transportation Committee, which still exists today. He was a member of the Central West Virginia Regional Airport, the Putnam County Republican Executive Committee, the Nitro Moose, and a life member of the VFW, Post 9097, Hurricane, West Virginia; and

Whereas, While recognized and winning numerous awards for his public service, in 2008, Jim was selected for the PF Tucker Award by the Regional Intergovernmental Council. In 2011, he was proud to receive the Mayo Lester Community Service Award, bestowed upon him by the Putnam County Chamber of Commerce, and, in 2015, was presented with the Distinguished West Virginian Award by Governor Earl Ray Tomblin; and

Whereas, James Henry Caruthers, 72, a life-long resident of Poca, West Virginia, passed away, Wednesday, March 28, 2018, is survived by his adoring wife, Kim Blair; son, Jonathan Caruthers (Warrant Officer, USMC, stationed in Beaufort, South Carolina), and his partner, Jillianne Sprague; other sons, Jeffrey Blair, Esq. and his wife, Dr. Amy Schultz of Scott Depot, West Virginia; and Brian Blair and partner Desi Andrews of Parkersburg, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate James Henry Caruthers and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of U.S. Route 35 at the intersection with Interstate 64, in Putnam County, the “U.S. Army SP5 James Henry Caruthers Memorial Road”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the portion of the road as the “U.S. Army SP5 James Henry Caruthers 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.

Senate Concurrent Resolution 34, US Army SPC Julian Lee Berisford Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 34 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 26-2/26-0.13 (26A095), locally known as the Sixth Street Bridge, carrying Sixth Street over West Virginia Route 2 and U.S. Route 250 in Marshall County, the “U.S. Army SPC Julian Lee Berisford Memorial Bridge”.

Whereas, Julian Lee Guthrie Berisford was born in Wheeling on June 13, 1984, to Shelley Guthrie and Julie Berisford, of Moundsville, West Virginia; and

Whereas, Julian Lee Berisford graduated from John Marshall High School in 2002, and studied Parks and Recreation at West Liberty State College; and

Whereas, Julian Lee Berisford was known to his friends and family as someone who was good to be around, ready with a joke or a friendly gesture, and was a fan of fishing and the West Virginia Mountaineers; and

Whereas, Julian Lee Berisford enlisted in the United States Army in 2007 and, after successfully completing paratrooper school, was assigned to the 4th Brigade Combat Team, 25th Infantry Division (Airborne), stationed in Fort Richardson, Alaska, with the rank of Specialist; and

Whereas, During that time, Julian Lee Berisford had also fallen in love with, and became engaged to, Gina Marie Yankovich, whom he married on December 31, 2007, and in November of the following year they had a daughter, Mya; and

Whereas, SPC Julian Lee Berisford was subsequently deployed to Afghanistan as part of Operation Enduring Freedom; and

Whereas, After serving many months in Afghanistan, SPC Julian Lee Berisford was granted leave and scheduled to come home for a visit to celebrate his daughter's first birthday; however, before the scheduled date of his leave, his team set out on another mission where they came under hostile fire during their patrol, and SPC Julian Lee Berisford was killed in action on November 4, 2009; and

Whereas, It is fitting that an enduring memorial be established to commemorate SPC Julian Lee Berisford and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 26-2/26-0.13 (26A095), locally known as the Sixth Street Bridge, carrying Sixth Street over West Virginia Route 2 and U.S. Route 250 in Marshall County, the "U.S. Army SPC Julian Lee Berisford Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army SPC Julian Lee Berisford Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed forward a copy of this resolution to the Commissioner of the Division of Highways.

Senate Concurrent Resolution 36, US Army CPL Cory M. Hewitt Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 36 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 26-250-38.73 (26A073), locally known as Boggs Run Bridge, carrying

U.S. Route 250 over Marshall Street in Marshall County, the “U.S. Army CPL Cory M. Hewitt Memorial Bridge”.

Whereas, Cory Michael Hewitt was born May 22, 1978, in a hospital in Wheeling, West Virginia, although the family resided in Sand Hill, Marshall County, West Virginia; and

Whereas, Cory Michael Hewitt played football and the trombone in the band, and was known to slip out of his shoulder pads at halftime, grab his trombone, and join the band for the halftime show, and then slip back into his football uniform to play in the second half; and

Whereas, Cory Michael Hewitt graduated from West Liberty State College in 2001, where he is remembered by his professors as a model student; and

Whereas, Not having 20/20 vision kept him from his dream job of being a member of the Secret Service or the FBI, so he followed in the footsteps of his father to become a member of the U.S. Army; and

Whereas, CPL Cory Michael Hewitt was assigned to the 705th Ordinance Company (Explosive Ordinance Disposal), 63rd Ordinance Battalion, 52nd Ordinance Group, 20th Support Command (CBRNE) in Iraq; and

Whereas, CPL Cory Michael Hewitt was killed on December 21, 2004, by a suicide bomber in the forward Operating Base Marez, Mosul, Iraq; and

Whereas, CPL Cory Michael Hewitt was awarded the Bronze Star Medal and the Purple Heart Medal; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Cory M. Hewitt and his sacrifice for his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 26-250-38.73 (26A073), locally known as Boggs Run Bridge, carrying U.S. Route 250 over Marshall Street in Marshall County, the “U.S. Army CPL Cory M. Hewitt Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U.S. Army CPL Cory M. Hewitt Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

And,

Senate Concurrent Resolution 40, US Army CPL Roy E. Clark Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 40 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 2657, S-242(17), (40A030), located on Rt. 34 within the city limits of Hurricane, in Putnam County, the “U.S. Army CPL Roy E. Clark Memorial Bridge”.

Whereas, Roy Edward Clark was born March 22, 1946, in Culloden, West Virginia, the son of Lawrence Willard Clark and Mazy Ann Woodard; and

Whereas, Roy E. Clark graduated from Hurricane High School in 1966, where he was known by his friends as a kind, humble, honest, and caring young man. Roy loved athletics and was a member of both the basketball and track teams; and

Whereas, After graduating high school, Roy E. Clark served with the U.S. Army in Vietnam, Company C, 5th Battalion, 46th Infantry, 198th Infantry Brigade; and

Whereas, On May 24, 1969, CPL Roy E. Clark was mortally wounded when his company came under heavy enemy fire near the village of Trà Vinh, Vietnam. With complete disregard for his own safety, CPL Roy E. Clark continued to expose himself to intense enemy fire, laying down a suppressive fire that provided cover to his comrades, enabling them to reach a safe position; and

Whereas, CPL Roy E. Clark was posthumously awarded the Bronze star with “V” for valor for saving the lives of many of his fellow soldiers through his timely and courageous actions; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Roy E. Clark and his sacrifice for his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 2657, S-242(17), (40A030), located on Rt. 34 within the city limits of Hurricane, in Putnam County, the “U.S. Army CPL Roy E. Clark Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army CPL Roy E. Clark Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

With the recommendation that the five committee substitutes be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 27, Requesting study determining shortage of drivers with CDLs.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 27 (originating in the Committee on Transportation and Infrastructure)—Requesting the Joint Committee on Government and Finance study the supply or shortage of drivers with commercial driver’s licenses (CDLs); whether there are drivers 18 to 21 years old with CDLs sufficient for meeting any shortage, and if they are able to be insured; and explore establishing an insurance pool specifically for CDL drivers 18 to 21 years old for the solid waste industry.

Whereas, It is important that a supply of skilled and safe drivers be available for employment by the solid waste industry; and

Whereas, Many companies report difficulty in obtaining and retaining commercial drivers; and

Whereas, It is recognized that it may be difficult to obtain insurance at a reasonable cost for young and inexperienced drivers; and

Whereas, It is in the best interest of the state to assist in ensuring solid waste companies are able to provide their services to the public; and

Whereas, Public sector insurance pools may be an acceptable way to reduce the cost of insuring younger commercial drivers; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the supply or shortage of drivers with commercial driver’s licenses (CDLs); whether there are drivers 18 to 21 years old with CDLs sufficient for meeting any shortage, and

if they are able to be insured; and explore establishing an insurance pool specifically for CDL drivers 18 to 21 years old for the solid waste industry; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, 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.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

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

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 39, Requesting creation of Joint Select Committee on Requirements Governing Water Quality Standards.

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

Respectfully submitted,

Mitch Carmichael,
Chairman ex officio.

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

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 38, Urging CSX support New River Train.

Having been adopted by the Senate on February 19, 2019; and reports the same back.

Respectfully submitted,

Mitch Carmichael,

Chairman ex officio.

Thereafter, the President ordered that the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 2009, Creating a new category of Innovation in Education grant program.

And has amended same.

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

Respectfully submitted,

Patricia Puertas Rucker,

Chair.

On motion of Senator Blair, the bill (Eng. H. B. 2009) contained in the foregoing report from the Committee on Education was then referred to the Committee on Finance, with amendments from the Committee on Education pending.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2193, Providing a specific escheat of US savings bonds.

And has amended same.

And,

Eng. House Bill 2691, Providing that a license to carry a concealed deadly weapon expires on the holder's birthday.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,

Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2204, Prohibiting state licensing boards from hiring lobbyists.

Eng. House Bill 2510, Relating to special funds of boards of examination or registration.

And,

Eng. House Bill 3093, Relating to standards for factory-built homes.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Eng. Com. Sub. for House Bill 2359, Relating to exemptions to the commercial driver's license requirements.

And has amended same.

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

Respectfully submitted,

Charles H. Clements,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. House Bill 2311, Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

And has amended same.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Government Organization pending.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 2405, Imposing a healthcare related provider tax on certain health care organizations.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Eng. Com. Sub. for House Bill 2476, Relating to the valuation of a motor vehicle involved in an insurance claim.

And has amended same.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. House Bill 2525, Tobacco Cessation Therapy Access Act.

And has amended same.

Eng. House Bill 2530, Creating a voluntary certification for recovery residences.

And has amended same.

And,

Eng. Com. Sub. for House Bill 2531, Permitting trained nurses to provide mental health services in a medication-assisted treatment program.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2547, Relating to the election prohibition zone.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Eng. House Bill 2608, Repealing the requirement of printing the date a consumer deposit account was opened on paper checks.

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

Respectfully submitted,

Michael T. Azinger,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2734, Relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2737, Relating to training of State Tax Division employees.

Eng. House Bill 2743, Eliminating reference to municipal policemen's pension and relief funds and firemen's pension and relief funds in section restricting investment.

And,

Eng. Com. Sub. for House Bill 2848, Relating to the West Virginia ABLE Act.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2813, Relating generally to collection of use tax.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Eng. House Bill 2829, Relating to the termination of severance taxes on limestone and sandstone.

And,

Eng. Com. Sub. for House Bill 2854, Exempting sales from the consumers sales and service tax and use tax by not for profit volunteer school support groups raising funds for schools.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 3007, Authorizing the Commissioner of Agriculture to require background checks.

And has amended same.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

The Senate proceeded to the sixth order of business.

Senators Carmichael (Mr. President), Tarr, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Woelfel offered the following resolution:

Senate Resolution 62—Memorializing the life of the Honorable R. Michael Shaw, Sr., former member of the West Virginia Senate and dedicated public servant.

Whereas, The Honorable R. Michael Shaw, Sr., was born in Fairmont, West Virginia, on April 25, 1943, the son of Rhoda Carroll Shaw Ping and Ralph Edward Shaw; and

Whereas, The Honorable R. Michael Shaw, Sr., graduated from Point Pleasant High School in 1961, and furthered his education at West Virginia University where he earned his Bachelor of Arts degree, and Juris Doctor from the West Virginia University College of Law; and

Whereas, The Honorable R. Michael Shaw, Sr., began his career in public service as the prosecuting attorney for Mason County from 1968-1972. He was then elected to the West Virginia House of Delegates in 1972 and served one term; and

Whereas, The Honorable R. Michael Shaw, Sr., was elected to the West Virginia Senate in 1978 and 1982. During his two terms in the Senate, the Honorable R. Michael Shaw, Sr., served on the

Committees on Agriculture, Banking and Insurance, Judiciary, and Rules. He also served on the Commission on Special Investigations and the Legislative Commission of Juvenile Law; and

Whereas, The Honorable R. Michael Shaw, Sr., continued his public service as: Chairman, Workers' Compensation Board of Appeals; commissioner, West Virginia Board of Realtors; member, West Virginia Public Service District; and president, Mason County Republican Committee; and

Whereas, The Honorable R. Michael Shaw, Sr., practiced law with his son, R. Michael Shaw, Jr., at the law office of Shaw & Shaw, L.C., in Point Pleasant, West Virginia; and

Whereas, Sadly, the Honorable R. Michael Shaw, Sr., passed away on January 21, 2019, at the age of 75, bringing an end to a productive life of public service and leaving behind a host of family and friends, all of whom will miss him dearly; and

Whereas, It is fitting that the Senate honors the life and legacy of the Honorable R. Michael Shaw, Sr., for his everlasting contributions to his community and state; therefore, be it

Resolved by the Senate:

That the Senate hereby memorializes the life of the Honorable R. Michael Shaw, Sr., former member of the West Virginia Senate and dedicated public servant; and, be it

Further Resolved, That the Senate extends its most sincere condolences to the family of the Honorable R. Michael Shaw, Sr., on his passing; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the family of the Honorable R. Michael Shaw, Sr.

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

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

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 62) adopted.

On motion of Senator Takubo, at 11:43 a.m., the Senate recessed to present Senate Resolution 62.

The Senate reconvened at 11:46 a.m.

At the respective requests of Senators Tarr and Plymale, and by unanimous consent, Senators Tarr and Plymale addressed the Senate regarding Senate Resolution 62 (*Memorializing life of Honorable R. Michael Shaw, Sr., former member of WV Senate*).

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Tarr and Plymale were ordered printed in the Appendix to the Journal.

The Senate resumed business under the sixth order.

Senators Rucker, Hamilton, Stollings, Baldwin, Cline, Hardesty, Unger, Jeffries, Lindsay, Beach, and Prezioso offered the following resolution:

Senate Resolution 63—Recognizing the Girl Scouts of Black Diamond Council.

Whereas, More than 100 years ago, on March 12, 1912, Juliette Gordon “Daisy” Low organized the very first Girl Scout troop; and

Whereas, Girl Scouts has grown to 2.6 million strong: 1.8 million girls and 800,000 adults who believe in the power of every G.I.R.L. (Go-getter, Innovator, Risk-taker, Leader) to change the world; and

Whereas, It is the mission of Girl Scouts of Black Diamond Council to build girls of courage, confidence, and character, who will make the world a better place; and

Whereas, Girl Scouts of Black Diamond Council believes in the power of every girl and their leadership program is designed to help a girl discover who she is, what she can do, and connects her with a powerful community of girls and mentors to make it happen; and

Whereas, The Girl Scout leadership outcomes are as follows: (1) Sense of self—girls have confidence in themselves and their abilities, and form positive identities; (2) positive values—girls act ethically, honestly, and responsibly, and show concern for others; (3) challenge seeking—girls take appropriate risks, try things even if they might fail, and learn from their mistakes; (4) healthy relationships—girls develop and maintain healthy relationships by communicating their feelings directly and resolving conflicts constructively; (5) community problem solving: girls desire to contribute to the world in purposeful and meaningful ways, learn how to identify problems in the community, and create “action plans” to solve them; and

Whereas, When a girl develops these five skills, she’ll become: A girl who stands up for herself and believes she can do anything; a girl who is honest, reliable, and caring; a girl who isn’t afraid to go outside her comfort zone; a girl who gets along with and works well with others; and a girl who is an active and engaged citizen; therefore, be it

Resolved by the Senate:

That the Senate recognizes the Girl Scouts of Black Diamond Council; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Girl Scouts of Black Diamond Council.

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

On motion of Senator Takubo, at 11:52 a.m., the Senate recessed to present Senate Resolution 63.

The Senate reconvened at 12:01 p.m. and proceeded to the seventh order of business.

Senate Concurrent Resolution 45, US Army Corporal T-5 Albert John “Engine” Arco Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 105, Creating offense of impaired operation of motor vehicle placing nonpassengers at risk of physical injury.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 105 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 105) passed with its title.

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

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Woelfel regarding the passage of Engrossed Committee Substitute for Senate Bill 105 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for Senate Bill 318, Transferring Medicaid Fraud Control Unit to Attorney General's office.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 318 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Hamilton, Ihlenfeld, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—26.

The nays were: Beach, Facemire, Hardesty, Jeffries, Lindsay, Palumbo, Stollings, and Woelfel—8.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 318) passed with its title.

Senator Takubo moved that the bill take effect October 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Hamilton, Ihlenfeld, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—26.

The nays were: Beach, Facemire, Hardesty, Jeffries, Lindsay, Palumbo, Stollings, and Woelfel—8.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 318) takes effect October 1, 2019.

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

Com. Sub. for Senate Bill 326, Reorganizing state agencies involved in emergency and disaster planning.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 26, 2019, for amendments to be received on third reading, was reported by the Clerk.

There being no amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 326 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard,

Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Sypolt—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 326) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 348, Relating to tobacco usage restrictions.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 348 pass?”

On the passage of the bill, the yeas were: Baldwin, Beach, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Palumbo, Plymale, Prezioso, Romano, Stollings, Swope, Takubo, Unger, and Woelfel—20.

The nays were: Azinger, Blair, Boley, Cline, Mann, Maynard, Roberts, Rucker, Smith, Sypolt, Tarr, Trump, Weld, and Carmichael (Mr. President)—14.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 348) passed.

On motion of Senator Stollings, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for Com. Sub. for Senate Bill 348—A Bill to amend and reenact §16-9A-1, §16-9A-2, §16-9A-3, §16-9A-4, §16-9A-7, and §16-9A-8 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §16-9A-11 and §16-9A-12, all relating to tobacco; raising the legal age from 18 years of age to 21 years for the selling, furnishing, or distribution of tobacco products and increasing penalties for violations; making it illegal for a person under the age of 21 to purchase tobacco products or tobacco-derived products and providing for suspension of driving privileges or a fine; increasing the penalty for certain tobacco-related offenses on public school property; exempting any active duty military personnel over the age of 18; providing for a secondary offense punishable by a fine for driving and using a tobacco product or a tobacco-derived product with a passenger under the age of 17.

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

Eng. Com. Sub. for Senate Bill 379, Permitting county board of education to include faith-based electives in drug prevention programs.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 379 pass?”

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

The nays were: Beach—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 379) passed with its title.

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

Eng. Com. Sub. for Senate Bill 396, Waiving occupational licensing fees for low-income individuals and military families.

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

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

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 396) passed with its title.

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

On motion of Senator Takubo, at 1:03 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 1:48 p.m. and resumed consideration of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for Senate Bill 412, Establishing Katherine Johnson Fair Pay Act of 2019.

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

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

Eng. Com. Sub. for Senate Bill 414, Creating Protect Our Right to Unite Act.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Lindsay and Romano—2.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 414) passed with its title.

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

Eng. Com. Sub. for Senate Bill 464, Modifying licensing requirements for telemedicine and surgery or podiatry.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 464 pass?”

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Cline, Facemire, Maynard, Roberts, Romano, Rucker, Smith, Swope, Trump, and Carmichael (Mr. President)—15.

The nays were: Baldwin, Clements, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Plymale, Prezioso, Stollings, Sypolt, Takubo, Tarr, Unger, Weld, and Woelfel—19.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 464) rejected.

Eng. Com. Sub. for Senate Bill 467, Clarifying PSC jurisdiction over water and sewer utilities.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 467 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Maynard, Romano, and Sypolt—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 467) passed with its title.

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

Eng. Com. Sub. for Senate Bill 487, Relating to admissibility of health care staffing requirements in litigation.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Lindsay, Maynard, and Romano—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 487) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 522, Creating Special Road Repair Fund.

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

At the request of Senator Jeffries, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motion of Senator Jeffries, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page three, section two, line twenty-three, by striking out the word “may” and inserting in lieu thereof the word “shall”;

And,

On page three, section two, line thirty-six, after the word “vendors.” by inserting the following: These repairs shall include, but are not limited to, pothole repair, paving, ditching, and mowing on and along each district’s roadways.

Following discussion,

The question being on the adoption of Senator Jeffries amendments to the bill, the same was put and prevailed.

The bill, as just amended, was again ordered to engrossment.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 522 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 522) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 522) takes effect July 1, 2019.

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

Com. Sub. for Senate Bill 530, Relating to state employee merit system.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 26, 2019, for amendments to be received on third reading, was reported by the Clerk.

On motion of Senator Romano, the following amendment to the bill was reported by the Clerk:

On page twelve, section 10, line twenty-two, after the word “code” by inserting the following words “: *Provided*, That the division shall maintain rules to provide due process to employees subject to adverse classification and pay grade determinations.”

Following discussion,

The question being on the adoption of Senator Romano’s amendment to the bill, the same was put and prevailed.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 530 was then read a third time and put upon its passage.

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 530 pass?”

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

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 530) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 543, Relating generally to automobile warranties and inspections.

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

Senator Maynard requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is an owner of a pre-owned car lot as well as an inspection station dealer.

The Chair replied that any impact on Senator Maynard would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach, Ihlenfeld, and Unger—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 543) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach, Ihlenfeld, and Unger—3.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 543) takes effect July 1, 2019.

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

Eng. Senate Bill 555, Relating to authority of Higher Education Policy Commission.

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

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

The nays were: Baldwin—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 555) passed with its title.

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

Eng. Com. Sub. for Senate Bill 564, Expanding comprehensive coverage for pregnant women through Medicaid.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 564) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 574, Permitting authorized physician order involuntary hospitalization of individual if physician believes addicted or mentally ill.

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

Pending discussion,

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

Eng. Senate Bill 605, Permitting Secondary School Activities Commission discipline schools for not following protocol for concussions and head injuries.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 605) passed.

On motion of Senator Rucker, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Senate Bill 605—A Bill to amend and reenact §18-2-25a and §18-2-25b of the Code of West Virginia, 1931, as amended, all relating to enhancing safety of athletes participating in interscholastic athletics at a school that is a member of the West Virginia Secondary School Activities Commission; modifying qualifications of athletic trainers and physical therapists for certain purposes; requiring the Secondary School Activities Commission to submit certain head injury and concussion related reports to the legislative oversight commission on health and human resources accountability; providing that schools that do not follow established protocol on concussions and head injuries in interscholastic athletics are subject to disciplinary actions by the

Secondary School Activities Commission; and providing that schools that do not follow the requirements of their emergency action plans for athletics are subject to disciplinary actions by the Secondary School Activities Commission.

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

Eng. Senate Bill 625, Clarifying and defining authority of State Athletic Commission.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 625) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 632, Improving student safety.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 632 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach, Stollings, and Takubo—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 632) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach, Stollings, and Takubo—3.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 632) takes effect July 1, 2019.

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

Eng. Senate Bill 633, Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 633) passed with its title.

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

Eng. Com. Sub. for Senate Bill 637, Relating to revocation, cancellation, or suspension of business registration certificates.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 637) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2019.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 637) takes effect July 1, 2019.

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

Eng. Com. Sub. for Senate Bill 657, Providing consumer protection regarding self-propelled farm equipment.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 657 pass?”

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 657) passed with its title.

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

Eng. Senate Bill 658, Relating to motor vehicle salesperson licenses.

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

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

The nays were: Ihlenfeld—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 658) passed with its title.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: Ihlenfeld—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 658) takes effect from passage.

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

Eng. Senate Bill 671, Eliminating State Fire Marshal report on transfer of authority and responsibility of providing fire service to counties.

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

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

The nays were: Beach—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 671) passed with its title.

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

Senate Bill 672, Authorizing School Building Authority to promulgate legislative rules.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 26, 2019, for amendments to be received on third reading, was reported by the Clerk.

On motions of Senators Plymale and Rucker, the following amendment to the bill was reported by the Clerk and adopted:

On page one, section twenty-one, lines one through three, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

(a) The legislative rule filed in the State Register on September 27, 2007, relating to the School Building Authority (School Building Authority requirements for Comprehensive Educational Facility Plan rule), is repealed and enrolled as a procedural rule.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Senate Bill 672 was then read a third time and put upon its passage.

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

The nays were: Unger—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 672) passed.

On motions of Senators Plymale and Rucker, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Senate Bill 672—A Bill to amend and reenact §18-9D-21 of the Code of West Virginia, 1931, as amended, relating to authorizing the School Building Authority to promulgate legislative rules; authorizing School Building Authority rules relating to requirements governing the Comprehensive Educational Facility Plan, funding of School Building Authority projects, School Building Authority school planning and design criteria, School Building Authority project administration and review, School Building Authority contract and agreements, School Building Authority reporting procedures, and the School Access

Safety Act, by deleting certain provisions in series two though five and series seven that are procedural in nature, deleting series one in its entirety due to its content being solely procedural and declaring it enrolled as a procedural rule, and deleting series six in its entirety due to its content being solely procedural.

Senator Takubo moved that the bill take effect from passage.

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

The nays were: Unger—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 672) takes effect from passage.

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

Eng. Senate Bill 673, Relating to public higher education accountability and planning.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 673) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 673) takes effect from passage.

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

Eng. Senate Bill 674, Supplemental appropriation to Division of Human Services.

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

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

The nays were: Baldwin and Lindsay—2.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 674) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Baldwin and Lindsay—2.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 674) takes effect from passage.

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

Senate Bill 675, Requiring DEP create and implement Adopt-A-Stream Program.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 26, 2019, for other amendments to be received on third reading, was reported by the Clerk.

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

On page five, section three-a, line twenty-one, by striking out the words “three cleanups” and inserting in lieu thereof the words “one cleanup”;

On page five, section three-a, line twenty-six, by striking out the word “six” and inserting in lieu thereof the word “one”;

On page five, section three-a, line twenty-seven, by striking out the word “pickups” and inserting in lieu thereof the word “pickup”;

And,

On page five, section three-a, lines twenty-nine and thirty, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) The secretary may propose legislative rules pursuant to §29A-3-1 *et seq.* of this code.

There being no further amendments offered,

The bill, as amended, was ordered to engrossment.

Engrossed Senate Bill 675 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 675) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 675) takes effect from passage.

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

Eng. Senate Bill 676, Relating to off-road vehicle recreation.

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

Senator Beach requested unanimous consent that Engrossed Senate Bill 676 be committed to the Committee on Rules.

Which consent was not granted, Senator Maynard objecting.

The question being “Shall Engrossed Senate Bill 676 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Mann, Maroney, Maynard, Palumbo, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—24.

The nays were: Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Prezioso, Romano, and Stollings—9.

Absent: Woelfel—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 676) passed.

On motion of Senator Beach, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Senate Bill 676—A Bill to amend and reenact §17-2A-11 of the Code of West Virginia, 1931, as amended, relating digital road maps; and requiring digital road maps to be capable of displaying or indicating roads or highways types using specified classifications.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Mann, Maroney, Maynard, Palumbo, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—24.

The nays were: Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Prezioso, Romano, and Stollings—9.

Absent: Woelfel—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 676) takes effect from passage.

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

Eng. Com. Sub. for House Bill 2740, Barring a parent from inheriting from a child in certain instances.

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

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

Eng. House Bill 2746, Relating to administration of estates.

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

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

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 574, Permitting authorized physician order involuntary hospitalization of individual if physician believes addicted or mentally ill.

Having been read a third time in earlier proceedings today, and now coming up in deferred order, was again reported by the Clerk.

At the request of Senator Trump, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

On page one, section two-a, line eleven, by striking out the words "If a mental hygiene commissioner, designated county magistrate, or circuit judge" and inserting in lieu thereof the words "If no mental hygiene commissioner, no designated county magistrate, and no circuit judge".

The bill, as just amended, was again ordered to engrossment.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 574 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 574) passed with its title.

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

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2690, Relating to guaranty associations.

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

Eng. House Bill 2827, Removing the residency requirements for hiring deputy assessors.

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

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

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on February 27, 2019, he had approved **Enr. Senate Bill 27**, **Enr. Senate Bill 268**, and **Enr. Senate Bill 269**.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 3:48 p.m., the Senate adjourned until tomorrow, Thursday, February 28, 2019, at 11 a.m.

THURSDAY, FEBRUARY 28, 2019

The Senate met at 11:32 a.m.

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

Prayer was offered by Pastor Bill Tanzey, Emmanuel Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Randy E. Smith, a senator from the fourteenth district.

Pending the reading of the Journal of Wednesday, February 27, 2019,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2079—A Bill to amend and reenact §16A-4-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §16A-6-13 of said code; and to amend and reenact §16A-16-1 of said code, all relating to medical cannabis; adding requirements for practitioners to issue a certification; adding a requirement that practitioners provide an attestation; increasing the number of permits that the bureau may issue for growers, processors and dispensaries of medical cannabis; permitting a grower to be a processor and a processor to be a grower; allowing growers and processors to be dispensaries; permitting dispensaries to be growers and processors and authorizing the bureau to implement a process for pre-registration.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2397—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22e, relating to requiring county school boards to provide adequate mental health evaluations, services and counseling services for pupils in the public schools; establishing minimum number of school psychologists by 2021-2022 school year; and authorizing alternative professional practitioners.

Referred to the Committee on Education; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2595—A Bill to amend and reenact §5-10-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-10D-1 of said code; to amend and reenact §7-14D-5 of said code; to amend and reenact §8-22A-6 of said code; to amend and reenact §16-5V-6 of said code; to amend and reenact §20-2B-10 of said code; and to amend said code by adding thereto a new article, designated §20-17-1, §20-17-2, §20-17-3, §20-17-4, §20-17-5, §20-17-6, §20-17-7, §20-17-8, §20-17-9, §20-17-10, §20-17-11, §20-17-12, §20-17-13, §20-17-14, §20-17-15, §20-17-16, §20-17-17, §20-17-18, §20-17-19, §20-17-20, §20-17-21, §20-17-22, §20-17-23, §20-17-24, §20-17-25, §20-17-26, §20-17-27, §20-17-28, §20-17-29, §20-17-30, §20-17-31, §20-17-32, §20-17-33, §20-17-34, §20-17-35 and §20-17-36, all relating to establishing the West Virginia Division of Natural Resources Police Officer Retirement System; increasing certain stamp fees to contribute to the new retirement system; providing for additional members of the Consolidated Public Retirement Board; and providing for criminal offense of defrauding the system and penalties therefor.

Referred to the Committee on Pensions; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2718—A Bill to amend the Code of West Virginia, 1931, as amended; by adding thereto a new section, designated §61-3-52a; relating to requiring commercial purchasers of roundwood to collect and maintain certain information; and establishing criminal and administrative penalties for failure to comply.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2843—A Bill to amend and reenact §5A-3-45 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5A-12-15, all relating to creating the Auto Auction Pilot Program; setting a beginning and ending date for the program, establishing requirements of the program; and requiring a report after completion of the pilot program.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2882—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18C-3-5, relating to creating health professionals' student loan programs; providing legislative findings and purpose; establishing a program known as the Nonresident Medical Student Tuition Regularization Program;

providing for in-state tuition rates to out-of-state medical and osteopathic students who agree to practice for a specific time in underserved locations and fields within West Virginia; establishing the program eligibility requirements and application procedures; establishing violations and civil penalties for the failure to complete the required service; creating a special revenue account for the program management; and providing for legislative rule making.

Referred to the Committee on Education; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2932—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §47-20-1a; to amend and reenact §47-20-2, §47-20-3, §47-20-5a, §47-20-6, and §47-20-6a of said code; to amend said code by adding thereto a new section designated §47-21-1a; to amend and reenact §47-21-2, §47-21-4, §47-21-7, §47-21-15, §47-21-20, and §47-21-28 of said code; to amend said code by adding thereto a new section designated §47-23-1a; and to amend and reenact §47-23-2, §47-23-7, §47-23-7a, §47-23-8, and §47-23-11 of said code, all relating to transferring regulation and licensing of charitable bingo, charitable raffles, and charitable raffle boards and games from the State Tax Department to the State Lottery Commission.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2941—A Bill to amend and reenact §11-13X-3, §11-13X-4, §11-13X-5, §11-13X-6, §11-13X-8, §11-13X-11, §11-13X-12, and §11-13X-13 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Film

Industry Investment Act; reinstating the film investment tax credit; providing the coordination and management by the West Virginia Development Office; excluding short-term depreciation from credit; raising the minimum threshold of expenditures to qualify for credit; establishing an annual limit in credits available; requiring the Development Office to develop a database of locations, music, and other resources to be made available to film production teams; and requiring state agencies to solicit bids from West Virginia vendors for film or video projects if available.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2951—A Bill to amend and reenact §30-1-1 of the Code of West Virginia, 1931, as amended; to repeal §30-2-1, §30-2-2, §30-2-3, §30-2-4, §30-2-5, §30-2-5a, §30-2-6, §30-2-7, §30-2-8, §30-3-9, §30-2-10, §30-2-11, §30-2-12, §30-2-13, §30-2-14, §30-2-15 and §30-2-16 of said code; to repeal §30-6-1, §30-6-2, §30-6-3, §30-6-4, §30-6-5, §30-6-6, §30-6-7, §30-6-8, §30-6-9, §30-6-10, §30-6-11, §30-6-12, §30-6-13, §30-6-14, §30-6-15, §30-6-16, §30-6-17, §30-6-16-, §30-6-19, §30-6-20, §30-6-21, §30-6-22, §30-6-23, §30-6-24, §30-6-22-, §30-6-26, §30-6-27, §30-6-28, §30-6-29, §30-6-30, and §30-6-31 of said code; to repeal §30-9-1, §30-9-2, §30-9-3, §30-9-4, §30-9-5, §30-9-6, §30-9-7, §30-9-8 §30-9-9, §30-9-10 §30-9-11, §30-9-12, §30-9-13, §30-9-14, §30-9-15, §30-9-16, §30-9-17, §30-9-16-, §30-9-19, §30-9-20, §30-9-21, §30-9-22, §30-9-23, §30-9-24, §30-9-25, §30-9-26, §30-9-27, §30-9-28, §30-9-29, §30-9-30, §30-9-31, 30-9-33 and §30-9-34 of said code; to repeal §30-12-1, §30-12-2, §30-12-3, §30-12-4, §30-12-5, §30-12-6, §30-12-7, §30-12-8, §30-12-9, §30-12-10, §30-12-11, §30-12-11a, §30-12-12, §30-12-13, and §30-12-14 of said code; to repeal §30-13-1, §30-13-2, §30-13-3, §30-13-4, §30-13-5, §30-13-6, §30-13-7, §30-13-8, §30-13-9, §30-13-10, §30-13-11, §30-13-12, §30-13-13, §30-13-13a, §30-13-14, §30-13-15, §30-13-16, §30-13-17, §30-13-18, §30-13-19, §30-13-20, §30-13-21, §30-13-22, §30-13-23, and §30-13-24; to repeal §30-13A-1, §30-13A-2, §30-13A-3, §30-13A-4, §30-13A-5, §30-

13A-6, §30-13A-7, §30-13A-8, §30-13A-9, §30-13A-10, §30-13A-11, §30-13A-12, §30-13A-13, §30-13A-14, §30-13A-15, §30-13A-16, §30-13A-17, §30-13A-18, §30-13A-19, §30-13A-20, §30-13A-21, §30-13A-22, §30-13A-23, §30-13A-24, and §30-13A-25 of said code; to repeal §30-17-1, §30-17-2, §30-17-3, §30-17-4, §30-17-5, §30-17-6, §30-17-7, §30-17-8, §30-17-9, §30-17-10, §30-17-11, §30-17-12, §30-17-13, §30-17-14, §30-17-15, §30-17-16, §30-17-17, §30-17-18, §30-17-19 of said code; to repeal §30-18-1, §30-18-2, §30-18-3, §30-18-4, §30-18-5, §30-18-6, §30-18-7, §30-18-8, §30-18-9, §30-18-10, §30-18-11, §30-18-12, and §30-18-13 of said code; to repeal §30-19-1, §30-19-2, §30-19-3, §30-19-4, §30-19-5, §30-19-6, §30-19-7, §30-19-8, §30-19-9, §30-19-10, §30-19-11, §30-19-12, §30-19-13, §30-19-14, §30-19-15, §30-19-16 and §30-19-17 of said code; to repeal §30-22-1, §30-22-2, §30-22-3, §30-22-4, §30-22-5, §30-22-6, §30-22-7, §30-22-8, §30-22-9, §30-22-10, §30-22-11, §30-22-12, §30-22-13, §30-22-14, §30-22-15, §30-22-16, §30-22-17, §30-22-18, §30-22-19, §30-22-20, §30-22-21, §30-22-22, §30-22-23, §30-22-24, §30-22-25, §30-22-26, §30-22-27, and §30-22-28 of said code; to repeal §30-25-1, §30-25-2, §30-25-3, §30-25-4, §30-25-5, §30-25-6, §30-25-7, §30-25-8, §30-25-9, §30-25-10, §30-25-11, §30-25-12, §30-25-13, §30-25-14, §30-25-15, §30-25-16, §30-25-17, and §30-25-18 of said code; to repeal §30-27-1, §30-27-2, §30-27-3, §30-27-4, §30-27-5, §30-27-6, §30-27-7, §30-27-8, §30-27-8a, §30-27-8b, §30-27-9, §30-27-10, §30-27-11, §30-27-11a, §30-27-12, §30-27-13, §30-27-14, §30-27-15, §30-27-16, §30-27-17, §30-27-18, §30-27-19, §30-27-20, §30-27-21, §30-27-22, §30-27-23, and §30-27-24 of said code; to repeal §30-29-1, §30-29-2, §30-29-3, §30-29-4, §30-29-5, §30-29-6, §30-29-7, §30-29-8, §30-29-9, §30-29-10, §30-29-11, §30-29-12, and §30-29-13 of said code; to repeal §30-38-1, §30-38-2, §30-38-3, §30-38-4, §30-38-5, §30-38-6, §30-38-7, §30-38-8, §30-38-9, §30-38-10, §30-38-11, §30-38-12, §30-38-13, §30-38-14, §30-38-15, §30-38-16, §30-38-17, §30-38-18, and §30-38-19 of said code; to repeal §30-38A-1, §30-38A-2, §30-38A-3, §30-38A-4, §30-38A-5, §30-38A-6, §30-38A-7, §30-38A-8, §30-38A-9, §30-38A-10, §30-38A-11, §30-38A-12, §30-38A-13, §30-38A-14, §30-38A-15, §30-38A-16, and §30-38A-17 of said code; to repeal §30-39-1, §30-39-2, §30-39-3, §30-39-4, §30-39-5, §30-39-6, §30-39-7, §30-39-8, §30-39-9, §30-39-10, §30-39-

11, §30-39-12, §30-39-13, §30-39-14, §30-39-15, §30-39-16, §30-39-17, §30-39-18, §30-39-19, §30-39-20, and §30-39-21 of said code; to repeal §30-40-1, §30-40-2, §30-40-3, §30-40-4, §30-40-5, §30-40-6, §30-40-7, §30-40-8, §30-40-9, §30-40-10, §30-40-11, §30-40-12, §30-40-13, §30-40-14, §30-40-15, §30-40-16, §30-40-17, §30-40-18, §30-40-19, §30-40-20, §30-40-21, §30-40-22, §30-40-23, §30-40-24, §30-40-25, §30-40-26, and §30-40-27 of said code; to amend said code by adding there to a new article, designated §30A-1-1, §30A-1-2, §30A-1-3, §30A-1-4, §30A-1-5, §30A-1-6, §30A-1-7, §30A-1-8, §30A-1-9, §30A-1-10, §30A-1-11, §30A-1-12, §30A-1-13, §30A-1-14, §30A-1-15 and §30A-1-16; to amend said code by adding there to a new article, designated §30A-2-1, §30A-2-3, §30A-2-4, §30A-2-5, §30A-2A-6, §30A-2-7, §30A-2-8, §30A-2-9, §30A-2-10, §30A-2-11, §30A-2-12, §30A-2-13, §30A-2-14, §30A-2-15, §30A-2-16, §30A-2-17, §30A-2-16-, §30A-2-19, §30A-2-20, §30A-2-21, §30A-2-22, §30A-2-22a, §30A-2-23, §30A-2-24, §30A-2-25, §30A-2-26, §30A-2-27, §30A-2-28, §30A-2-29, §30A-2-30, and §30A-2-31; to amend said code by adding there to a new article, designated §30A-3-1, §30A-3-2, §30A-3-3, §30A-3-4, §30A-3-5, §30A-3-6, §30A-3-7, §30A-3-8, §30A-3-9, §30A-3-10, §30A-3-11, §30A-3-12, §30A-3-13, §30A-3-14, §30A-3-15, §30A-3-16, §30A-3-17, §30A-3-18, §30A-3-19, §30A-3-20, §30A-3-21, §30A-3-22, §30A-3-23, §30A-3-24, §30A-3-25, §30A-3-26, §30A-3-27, §30A-3-28, §30A-3-29, §30A-3-30, §30A-3-31, §30A-3-32, and §30A-3-33; to amend said code by adding there to a new article, designated §30A-4-1, §30A-4-2, §30A-4-3, §30A-4-4, §30A-4-5, §30A-4-6, §30A-4-7, §30A-4-8, §30A-4-9, §30A-4-10, §30A-4-11, §30A-4-11a, §30A-4-12, §30A-4-13, and §30A-4-14; to amend said code by adding there to a new article, designated §30A-5-1, §30A-5-2, §30A-5-3, §30A-5-4, §30A-5-5, §30A-5-6, §30A-5-7, §30A-5-8, §30A-5-9, §30A-5-10, §30A-5-11, §30A-5-12, §30A-5-13, §30A-5-13a, §30A-5-14, §30A-5-15, §30A-5-16, §30A-5-17, §30A-5-18, §30A-5-19, §30A-5-20, §30A-5-21, §30A-5-22, §30A-5-23, and §30A-5-24; to amend said code by adding there to a new article, designated §30A-6-1, §30A-6-2, §30A-6-3, §30A-6-4, §30A-6-5, §30A-6-6, §30A-6-7, §30A-6-8, §30A-6-9, §30A-6-10, §30A-6-11, §30A-6-12, §30A-6-13, §30A-6-14, §30A-6-15, §30A-6-16, §30A-6-17, §30A-6-16, §30A-6-19, §30A-6-20,

§30A-6-21, §30A-6-22, §30A-6-23, §30A-6-24, and §30A-6-25; to amend said code by adding there to a new article, designated §30A-7-1, §30A-7-2, §30A-7-3, §30A-7-4, §30A-7-5, §30A-7-6, §30A-7-7, §30A-7-8, §30A-7-9, §30A-7-10, §30A-7-11, §30A-7-12, and §30A-7-13; to amend said code by adding there to a new article, designated §30A-8-1, §30A-8-2, §30A-8-3, §30A-8-4, §30A-8-5, §30A-8-6, §30A-8-7, §30A-8-8, §30A-8-9, §30A-8-10, §30A-8-11, §30A-8-12, §30A-8-13, §30A-8-14, §30A-8-15, §30A-8-16, and §30A-8-17; to amend said code by adding there to a new article, designated §30A-9-1, §30A-9-2, §30A-9-3, §30A-9-4, §30A-9-5, §30A-9-6, §30A-9-7, §30A-9-8, §30A-9-9, §30A-9-10, §30A-9-11, §30A-9-12, §30A-9-13, §30A-9-14, §30A-9-15, §30A-9-16, §30A-9-17, §30A-9-18, §30A-9-19, §30A-9-20, §30A-9-21, §30A-9-22, §30A-9-23, §30A-9-24, §30A-9-25, §30A-9-26, §30A-9-27, and §30A-9-28; to amend said code by adding there to a new article, designated §30A-10-1, §30A-10-2, §30A-10-3, §30A-10-4, §30A-10-5, §30A-10-6, §30A-10-7, §30A-10-8, §30A-10-9, §30A-10-10, §30A-10-11, §30A-10-12, §30A-10-13, §30A-10-14, §30A-10-15, §30A-10-16, §30A-10-17, and §30A-10-18; to amend said code by adding there to a new article, designated §30A-11-1, §30A-11-2, §30A-11-3, §30A-11-4, §30A-11-5, §30A-11-6, §30A-11-7, §30A-11-8, §30A-11-8a, §30A-11-8b, §30A-11-9, §30A-11-10, §30A-11-11, §30A-11-11a, §30A-11-12, §30A-11-13, §30A-11-14, §30A-11-15, §30A-11-16, §30A-11-17, §30A-11-18, §30A-11-19, §30A-11-20, §30A-11-21, §30A-11-22, §30A-11-23, and §30A-11-24; to amend said code by adding there to a new article, designated §30A-12-1, §30A-12-2, §30A-12-3, §30A-12-4, §30A-12-5, §30A-12-6, §30A-12-7, §30A-12-8, §30A-12-9, §30A-12-10, §30A-12-11, §30A-12-12 and §30A-12-13; to amend said code by adding there to a new article, designated §30A-13-1, §30A-13-2, §30A-13-3, §30A-13-4, §30A-13-5, §30A-13-6, §30A-13-7, §30A-13-8, §30A-13-9, §30A-13-10, §30A-13-11, §30A-13-12, §30A-13-13, §30A-13-14, §30A-13-15, §30A-13-16, §30A-13-17, §30A-13-18 and §30A-13-19; to amend said code by adding there to a new article, designated §30A-14-1, §30A-14-2, §30A-14-3, §30A-14-4, §30A-14-5, §30A-14-6, §30A-14-7, §30A-14-8, §30A-14-9, §30A-14-10, §30A-14-11, §30A-14-12, §30A-14-13, §30A-14-14, §30A-14-15, §30A-14-16 and §30A-14-17; and to amend said code by

adding there to a new article, designated §30A-15-1, §30A-15-2, §30A-15-3, §30A-15-4, §30A-15-5, §30A-15-6, §30A-15-7, §30A-15-8, §30A-15-9, §30A-15-10, §30A-15-11, §30A-15-12, §30A-15-13, §30A-15-14, §30A-15-15, §30A-15-16, §30A-15-17, §30A-15-18, §30A-15-19, §30A-15-20 and §30A-15-21; to amend said code by adding there to a new article, designated §30A-16-1, §30A-16-2, §30A-16-3, §30A-16-4, §30A-16-5, §30A-16-6, §30A-16-7, §30A-16-8, §30A-16-9, §30A-16-10, §30A-16-11, §30A-16-12, §30A-16-13, §30A-16-14, §30A-16-15, §30A-16-16, §30A-16-17, §30A-16-18, §30A-16-19, §30A-16-20, §30A-16-21, §30A-16-22, §30A-16-23, §30A-16-24, §30A-16-25, §30A-16-26 and §30A-16-27; and to amend said code by adding there to a new article, designated §30A-17-1, §30A-17-2, §30A-17-3, §30A-17-4, §30A-17-5, §30A-17-6, §30A-17-7, §30A-17-8, §30A-17-9, §30A-17-10, §30A-17-11, §30A-17-12, §30A-17-13, §30A-17-14, §30A-17-15, §30A-17-16, §30A-17-17, §30A-17-18 and §30A-17-19, all relating to placing the regulation of non-medical professions and occupations in a new Chapter 30A; providing that the general provisions of Chapter 30, Article 1, Article 1A, Article 1 B and Article 1D apply to all Chapter 30A boards and commissions; leaving the regulation of all medically related professions and occupations in Chapter 30; and making no substantive changes in any of these laws.

Referred to the Committee on Health and Human Resources; and then to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 2966—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-23A-1, relating to creating the County Budget Flexibility Act; permitting a county to hold over unspent budgetary funds and excess revenue for future uses; requiring those funds be deposited in a county's Future Needs Fund; authorizing the use of those funds for future or unexpected needs; making findings; and setting forth an intent.

Referred to the Committee on Government Organization.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2967—A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to permitting a county to retain the excise taxes for the privilege of transferring title of real estate in that county.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3142—A Bill to amend and reenact §11-13A-3, §11-13A-6 and §11-13A-6a of the Code of West Virginia, 1931, as amended, all relating to reducing the severance tax on thermal or steam coal to four percent, effective July 1, 2019; reducing the severance tax on thermal or steam coal to three percent, effective July 1, 2020; eliminating restrictions on counties and municipalities expending the county and municipality portion of severance taxes; eliminating certain reporting requirements; and establishing minimum amounts of distribution of portion of severance taxes on coal dedicated for use and benefit of coal-producing counties.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3144—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-1, §11-13EE-2, §11-13EE-3, §11-13EE-4, §11-13EE-5, §11-13EE-6, §11-13EE-7, §11-13EE-8, §11-13EE-9, §11-13EE-10, §11-13EE-11, §11-13EE-12, §11-13EE-13, §11-13EE-14, §11-13EE-15, §11-13EE-16 and §11-13EE-17, all

relating generally to North Central Appalachian Coal Severance Tax Rebate; providing short title, findings and purpose; defining terms; providing for rebate of severance tax when capital investment made in new machinery and equipment directly used in severance of coal, or in coal preparation and processing plants; providing rules and procedures for claiming rebate and transfer to successors; imposing recapture tax in certain circumstance; providing rules for interpretation and construction; requiring periodic rebate reports; authorizing rulemaking; and providing for severability and effective date.

Referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 28th day of February, 2019, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2612), Proposing rules related to the completion or updating of source water protection plans.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Senate Concurrent Resolution 48 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on

the Judiciary study whether the Legislature should eliminate the use of subminimum wages for people with intellectual, developmental, or other disabilities.

Whereas, Section 14(c) of the Fair Labor Standards Act authorizes the payment of subminimum wages to persons with intellectual, developmental, and other disabilities; and

Whereas, At least 264 employees with disabilities receive subminimum wages in West Virginia; and

Whereas, Members of the workforce with intellectual, developmental, or other disabilities are contributing members of society; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is hereby requested to study whether the Legislature should eliminate the use of subminimum wages for people with intellectual, developmental, or other disabilities; and, be it

Further Resolved, That the Joint Committee on the Judiciary enlist the assistance of the Division of Rehabilitation Services in conducting the study; and, be it

Further Resolved, That the study include an examination of whether requiring a minimum wage to be paid to persons with intellectual, developmental, or other disabilities would have the negative consequence of reducing or eliminating jobs and employment for persons with these disabilities; and, be it

Further Resolved, That the Joint Committee on the Judiciary report to the regular session of the Legislature, 2020, 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 to draft necessary legislation be paid

from legislative appropriations to the Joint Committee on Government and Finance.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, and by unanimous consent, the resolution (S. C. R. 48) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2183, Clarifying where a charge of DUI may be brought against an individual.

And has amended same.

Eng. Com. Sub. for House Bill 2362, Ardala Miller Memorial Act.

And has amended same.

Eng. Com. Sub. for House Bill 2975, Relating to imposition of sexual acts on persons incarcerated.

And has amended same.

And,

Eng. House Bill 3083, Adding temporary work during the legislative session as exclusion to the term employment for purposes of unemployment compensation.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2609, Relating to presumptions of abandonment and indication of ownership in property.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2907, Requiring a form of a certified commitment order to the Division of Corrections and Rehabilitation.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the sixth order of business.

Senators Sypolt, Rucker, Beach, and Cline offered the following resolution:

Senate Concurrent Resolution 46—Requesting the Joint Committee on Government and Finance study and analyze the state’s raw dairy milk laws relating to consumption and sales, and to study the raw dairy milk market in this state.

Whereas, The sale of safe dairy milk is important to consumers and to the public health in this state; and

Whereas, There may be a market for sales of raw dairy milk to citizens of this state and such markets should not be illegal or restricted; and

Whereas, The laws of this state may inadvertently restrict the sale of raw dairy milk to the detriment of farmers and consumers wishing to purchase such products; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study and analyze the state’s raw dairy milk laws relating to consumption and sales of raw dairy milk, and to study the raw dairy milk market within this state; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, 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 a study, prepare reports, and draft necessary legislation be paid from legislative appropriates to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Cline, Lindsay, Roberts, Beach, and Plymale offered the following resolution:

Senate Concurrent Resolution 47—Requesting the Division of Highways name bridge number 55-5-1.8 (55ss099), locally known as McGraws Short Bridge, carrying County Route 5 over Milam Fork in Wyoming County, the “John Lewis Lafferty ‘Community Volunteer’ Memorial Bridge”.

Whereas, John Lewis Lafferty was born at home in Milam, West Virginia, on February 14, 1944, to Lacey and Agnes Lafferty; and

Whereas, While Mr. Lafferty ably served his country in the U. S. Navy, he was also firmly committed to his community. He believed in the importance of clean streams, and the value of places where children could safely play and where the aged could walk, be together, and stay strong; and

Whereas, Mr. Lafferty understood the importance of partnerships that united the community to help itself and prosper. Many said it was just a dream, that drug abuse was too prevalent – anything built would be quickly destroyed. He believed differently; and

Whereas, Mr. Lafferty was responsible for the creation of the nonprofit Friends of Milam Creek (FOMC). Through his leadership, volunteers started work in 2008, and FOMC received its nonprofit 501(c)(3) status in October 2010. Mr. Lafferty worked with the Wyoming County Commission to build a park at McGraws. Cleanup of the site resulted in truckloads of trash and debris removal. A grant paid for the pavilion, erected by volunteers; and

Whereas, The exercise green was the perfect site for a fenced-in playground, with playground equipment donated by the Wyoming County Board of Education. A bridge was repaired crossing Milam Creek and an archery area constructed across the old Ritter rail track. That abandoned track area was cleared and is

the start of what will eventually become the Ritter Rail Trail in Wyoming County; and

Whereas, Mr. Lafferty convinced the Wyoming County Board of Education to donate the property on the opposite and adjacent side of County Route 5 to FOMC. At that site, volunteers built a corner performance stage, farmers market shelter, and a fenced-in community garden. Not long after — with the help of numerous funding partners — he led the building of a raised boardwalk around the park. Environmental education kiosks were erected to educate the community on the importance of clean water, and a vernal pond was placed to encourage wetland conservation; and

Whereas, Next on Mr. Lafferty's agenda was to find a place where FOMC could have an office and conference space. After a house was donated, he and volunteers immediately began restoration. This too required numerous funding partners. The old firehall at Ravencliff was donated to FOMC, and restoration there continues; and

Whereas, Mr. Lafferty's last project, before his passing on January 24, 2016, was to remember the 160 miners who, from 1921 to 1959, died in the Glen Rogers mine. His leadership resulted in the Glen Rogers Memorial Park which is dedicated to those miners; and

Whereas, The work of FOMC is a model for other communities, and the Saulsville, Milam Creek, McGraws, Ravencliff, and Glen Rogers communities have been strengthened through Mr. Lafferty's efforts. His vision, which continues today, was to foster a safe and healthy space where families could live, learn, and grow; and

Whereas, It is fitting that an enduring memorial be established to commemorate John Lewis Lafferty and his contributions to his community and state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 55-5-1.8 (55ss099), locally known as McGraws

Short Bridge, carrying County Route 5 over Milam Fork in Wyoming County, the “John Lewis Lafferty ‘Community Volunteer’ Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge the “John Lewis Lafferty ‘Community Volunteer’ Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senators Takubo, Rucker, Stollings, Beach, Lindsay, Hardesty, Cline, and Plymale offered the following resolution:

Senate Resolution 64—Designating February 28, 2019, as Rare Disease Day at the Capitol.

Whereas, There are nearly 7,000 diseases and conditions considered rare (each affecting fewer than 200,000 Americans) in the United States, according to the National Institutes of Health; and

Whereas, Many rare diseases are serious and debilitating conditions that have a significant impact on the lives of those affected; and

Whereas, While more than 450 drugs and biologics have been approved for the treatment of rare diseases according to the Food and Drug Administration, millions of Americans still have rare diseases for which there is no approved treatment; and

Whereas Individuals and families affected by rare diseases often experience problems such as diagnosis delay, difficulty finding a medical expert, and lack of access to treatments or ancillary services; and

Whereas, While the public is familiar with some rare diseases, many patients and families affected by less widely known rare diseases bear a large share of the burden of funding research and raising public awareness to support the search for treatments; and

Whereas, Residents of West Virginia are among those affected by rare diseases because nearly one in 10 Americans have rare diseases; therefore, be it

Resolved by the Senate:

That the Senate hereby designates February 28, 2019, as Rare Disease Day at the Capitol; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of Rare Disease Day.

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

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 17, Sardis District Veterans Memorial Bridge.

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

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

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

Com. Sub. for Senate Concurrent Resolution 24, Hazel Dickens Memorial Bridge.

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

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

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

Com. Sub. for Senate Concurrent Resolution 27, Requesting study supply or shortage of drivers with CDLs.

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

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

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

Com. Sub. for Senate Concurrent Resolution 28, US Army SP5 James Henry Caruthers Memorial Road.

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

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

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

Com. Sub. for Senate Concurrent Resolution 34, US Army SPC Julian Lee Berisford Memorial Bridge.

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

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

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

Com. Sub. for Senate Concurrent Resolution 36, US Army CPL Cory M. Hewitt Memorial Bridge.

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

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

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

Senate Concurrent Resolution 39, Requesting creation of Joint Select Committee on Requirements Governing Water Quality Standards.

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

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

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

Com. Sub. for Senate Concurrent Resolution 40, US Army CPL Roy E. Clark Memorial Bridge.

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

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

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

House Concurrent Resolution 19, U. S. Marine Sgt. Stephen E. Drummond Memorial Bridge.

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

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

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2690, Relating to guaranty associations.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2690) passed with its title.

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

Eng. Com. Sub. for House Bill 2740, Barring a parent from inheriting from a child in certain instances.

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

At the request of Senator Trump, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

On page six, section twelve, by striking out the section caption and substituting therefor a new section caption, to read as follows:

§42-1-12. When a child may inherit from a parent who has been barred from inheritance.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2740), as just amended, was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2740) passed with its title.

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

Eng. House Bill 2746, Relating to administration of estates.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2746) passed with its title.

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

Eng. House Bill 2827, Removing the residency requirements for hiring deputy assessors.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2827) passed with its title.

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

The Senate proceeded to the ninth order of business.

Eng. House Bill 3140, Relating to the Division of Natural Resources Infrastructure.

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

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

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Eng. Com. Sub. for House Bill 2193, Providing a specific escheat of US savings bonds.

Eng. Com. Sub. for House Bill 2204, Prohibiting state licensing boards from hiring lobbyists.

Eng. Com. Sub. for House Bill 2359, Relating to exemptions to the commercial driver's license requirements.

Eng. Com. Sub. for House Bill 2476, Relating to the valuation of a motor vehicle involved in an insurance claim.

Eng. House Bill 2510, Relating to special funds of boards of examination or registration.

Eng. House Bill 2525, Tobacco Cessation Therapy Access Act.

Eng. House Bill 2530, Creating a voluntary certification for recovery residences.

Eng. Com. Sub. for House Bill 2531, Permitting trained nurses to provide mental health services in a medication-assisted treatment program.

Eng. House Bill 2547, Relating to the election prohibition zone.

Eng. House Bill 2608, Repealing the requirement of printing the date a consumer deposit account was opened on paper checks.

Eng. House Bill 2691, Providing that a license to carry a concealed deadly weapon expires on the holder's birthday.

Eng. Com. Sub. for House Bill 2737, Relating to training of State Tax Division employees.

Eng. House Bill 2743, Eliminating reference to municipal policemen's pension and relief funds and firemen's pension and relief funds in section restricting investment.

Eng. Com. Sub. for House Bill 2813, Relating generally to collection of use tax.

Eng. House Bill 2829, Relating to the termination of severance taxes on limestone and sandstone.

Eng. Com. Sub. for House Bill 2848, Relating to the West Virginia ABLE Act.

Eng. Com. Sub. for House Bill 2854, Exempting sales from the consumers sales and service tax and use tax by not for profit volunteer school support groups raising funds for schools.

Eng. Com. Sub. for House Bill 3007, Authorizing the Commissioner of Agriculture to require background checks.

And,

Eng. House Bill 3093, Relating to standards for factory-built homes.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Clements and Palumbo.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:11 p.m., the Senate adjourned until tomorrow, Friday, March 1, 2019, at 11 a.m.

FRIDAY, MARCH 1, 2019

The Senate met at 11:43 a.m.

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

Prayer was offered by Pastor Dean Chambers, Spring Hill Baptist Church, South Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mark R. Maynard, a senator from the sixth district.

Pending the reading of the Journal of Thursday, February 28, 2019,

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

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

At the request of Senator Takubo, and by unanimous consent, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant the family of the Honorable Stephen Baldwin, a senator from the tenth district, privileges of the floor for the day.

The Senate proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 157, Authorizing Department of Administration promulgate legislative rules.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 440, Relating to Antihazing Law.

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

Eng. Senate Bill 453, Relating to background checks of certain financial institutions.

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

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

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

ARTICLE 2. DIVISION OF BANKING FINANCIAL INSTITUTIONS.

§31A-2-4. Jurisdiction of commissioner; powers, etc., of division transferred to commissioner; powers and duties of commissioner.

(a) Subject to the powers vested in the board by §31A-3-1 *et seq.* of this code, the commissioner has supervision and jurisdiction over state banks, regulated consumer lenders, residential mortgage lenders, and brokers licensed pursuant to §31-17-1 *et seq.* of this code, credit unions, and all other persons now or hereafter made subject to his or her supervision or jurisdiction. All powers, duties, rights, and privileges vested in the division are hereby vested in the commissioner. He or she shall be the chief executive officer of the Division of Banking Financial Institutions and is responsible for the division's organization, services, and personnel and for the orderly and efficient administration, enforcement, and execution of the provisions of this chapter and all laws vesting authority or powers in or prescribing duties or functions for the division or the commissioner.

(b) The commissioner shall:

(1) Maintain an office for the division and there keep a complete record of all the division's transactions, of the financial conditions of all financial institutions, and records of the activities of other persons as the commissioner considers important. Notwithstanding any other provision of this code, heretofore or hereafter enacted, the records relating to the financial condition of any financial institution and any information contained in the records shall be confidential for the use of the commissioner and authorized personnel of the Division of ~~Banking~~ Financial Institutions. No person shall divulge any information contained in any records except as authorized in this subdivision in response to a valid subpoena or subpoena duces tecum issued pursuant to law in a criminal proceeding or in a civil enforcement action brought by the state or federal regulatory authorities. Subpoenas shall first be directed to the commissioner, who shall authorize disclosure of relevant records and information from the records for good cause, upon imposing terms and conditions considered necessary to protect the confidential nature of the records, the financial integrity of the financial institution or the person to which the records relate and the legitimate privacy interests of any individual named in the records. Conformity with federal procedures shall be sought where the institution maintains federal deposit insurance. The commissioner has and may exercise reasonable discretion as to the time, manner, and extent the other records in his or her office and the information contained in the records are available for public examination;

(2) Require all financial institutions to comply with all the provisions of this chapter and other applicable laws, or any rule promulgated or order issued thereunder;

(3) Investigate all alleged violations of this chapter and all other laws which he or she is required to enforce and of any rule promulgated or order issued thereunder; and

(4) Require a criminal background investigation, including requiring fingerprints for submission to the Federal Bureau of Investigation or any governmental agency or entity authorized to receive such information for a state, national, or international criminal history check, of each:

(A) Applicant seeking approval to charter and/or control a state bank, state credit union, or a foreign bank state agency or representative office;

(B) Applicant seeking a license to engage in the business of money transmission, currency exchange, or other activity regulated under §32A-2-1 *et seq.* of this code;

(C) Applicant subject to the commissioner's supervision seeking a license to engage in the business of regulated consumer lending, mortgage lending, or brokering; and

(D) Division of Banking Financial Institutions regulatory employee applicants.

(E) Provided, That. The provisions of this subdivision are not applicable where the applicant is a company or entity already subject to supervision and regulation by the Federal Reserve Board or other federal bank, thrift, or credit union regulator, or is a direct or indirect subsidiary of a company or entity subject to the supervision and regulation, or where the applicant is a company subject to the supervision and regulation of the federal Securities and Exchange Commission whose stock is publicly traded on a registered exchange or through the National Association of Securities Dealers automated quotation system, or the applicant is a direct or indirect subsidiary of such a company, the investigation into criminal background is not required. The provisions of this subdivision are not applicable to applicants seeking interim bank charters organized solely for the purpose of facilitating the acquisition of another bank pursuant to §31A-4-5 of this code. Provided, however, That The requirements of this subdivision are applicable to the principals of the applicant where a nonexempt applicant under this subdivision is not a natural person. ~~the principals of the applicant are subject to the requirements of this subdivision~~ As used in this subdivision, the term "principals" means the chief executive officer, regardless of title, managing partner if a partnership, members of the organizing group if no chief executive officer has yet been appointed, trustee, or other person controlling the conduct of the affairs of a licensee. A person controlling 10 percent or more of the stock of any corporate

applicant shall be considered to be a principal under this provision. Notwithstanding any other provision of this code to the contrary, the commissioner may determine alternate acceptable forms for background check information for direct or indirect principals of a licensee or applicant for a mortgage lender or broker license or a money transmission license who are not residents of the United States if such licensee or applicant also has owners or principals who are residents of the United States and the division has been provided adequate background information, as provided in this subdivision, for such owners or principals of the licensee or applicant who are United States residents. The commissioner may establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records related to criminal background investigations and fingerprints of persons subject to this subsection.

~~(A)~~ To reduce the points of contact which the Federal Bureau of Investigation may have to maintain, the commissioner may use the Nationwide Mortgage Licensing System and Registry or its designated vendor as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

~~(B)~~ To reduce the points of contact which the commissioner may have to maintain, the commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

(c) In addition to all other authority and powers vested in the commissioner by provisions of this chapter and other applicable laws, the commissioner may:

(1) Provide for the organization of the division and the procedures and practices of the division and implement the procedures and practices by the promulgation of rules and forms as appropriate and the rules shall be promulgated in accordance with §29A-3-1 *et seq.* of this code;

(2) Employ, direct, discipline, discharge, and establish qualifications and duties for all personnel for the division, including, but not limited to, examiners, assistant examiners, conservators, and receivers, establish the amount and condition of bonds for the personnel he or she considers appropriate and pay the premiums on the bonds and, if he or she elects, have all personnel subject to and under the classified service of the state personnel division;

(3) Cooperate with organizations, agencies, committees, and other representatives of financial institutions of the state in connection with schools, seminars, conferences, and other meetings to improve the responsibilities, services, and stability of the financial institutions;

(4) In addition to the examinations required by §31A-2-6 of this code, inspect, examine, and audit the books, records, accounts, and papers of all financial institutions and any third-party vendor providing information technology services to financial institutions at such times as circumstances in his or her opinion may warrant;

(5) Call for and require any data, reports, and information from financial institutions under his or her jurisdiction, at such times and in such form, content, and detail considered necessary by him or her in the faithful discharge of his or her duties and responsibilities in the supervision of the financial institutions;

(6) Subject to the powers vested in the board by §31A-3-1 *et seq.* of this code, supervise the location, organization, practices, and procedures of financial institutions and, without limitation on the general powers of supervision of financial institutions, require financial institutions to:

(A) Maintain their accounts consistent with rules prescribed by the commissioner and in accordance with generally accepted accounting practices;

(B) Observe methods and standards which he or she may prescribe for determining the value of various types of assets;

(C) Charge off the whole or any part of an asset which at the time of his or her action could not lawfully be acquired;

(D) Write down an asset to its market value;

(E) Record or file writings creating or evidencing liens or other interests in property;

(F) Obtain financial statements from prospective and existing borrowers;

(G) Obtain insurance against damage and loss to real estate and personal property taken as security;

(H) Maintain adequate insurance against other risks as he or she may determine to be necessary and appropriate for the protection of depositors and the public;

(I) Maintain an adequate fidelity bond or bonds on its officers and employees;

(J) Take other action that in his or her judgment is required of the institution in order to maintain its stability, integrity, and security as required by law and all rules promulgated by him or her; and

(K) Verify any or all asset or liability accounts;

(7) Subject to the powers vested in the board by §31A-3-1 *et seq.* of this code, receive from any person or persons and consider any request, petition, or application relating to the organization, location, conduct, services, policies, and procedures of any financial institution and to act on the request, petition, or application in accordance with any provisions of law applicable thereto;

(8) In connection with the investigations required by §31A-2-4(b)(3) of this code, issue subpoenas and subpoenas duces tecum, administer oaths, examine persons under oath, and hold and conduct hearings. Any subpoenas or subpoenas duces tecum shall be issued, served, and enforced in the manner provided in §29A-5-

1 of this code. Any person appearing and testifying at a hearing may be accompanied by an attorney employed by him or her;

(9) Issue declaratory rulings in accordance with the provisions of §29A-4-1 of this code;

(10) Study and survey the location, size, and services of financial institutions, the geographic, industrial, economic, and population factors affecting the agricultural, commercial, and social life of the state, and the needs for reducing, expanding, or otherwise modifying the services and facilities of financial institutions in the various parts of the state, and compile and keep current data thereon to aid and guide him or her in the administration of the duties of his or her office;

(11) Implement all of the provisions of this chapter, except the provisions of §31A-3-1 *et seq.* of this code, and all other laws which he or she is empowered to administer and enforce by the promulgation of rules in accordance with the provisions of §29A-3-1 *et seq.* of this code;

(12) Implement the provisions of chapter 46A of this code applicable to consumer loans and consumer credit sales by the promulgation of rules in accordance with the provisions of §29A-3-1 *et seq.* of this code as long as the rules do not conflict with any rules promulgated by the state's Attorney General;

(13) Foster and encourage a working relationship between the Division of ~~Banking~~ Financial Institutions and financial institutions, credit, consumer, mercantile, and other commercial and finance groups and interests in the state in order to make current appraisals of the quality, stability, and availability of the services and facilities of financial institutions;

(14) Provide to financial institutions and the public copies of the West Virginia statutes relating to financial institutions, suggested drafts of bylaws commonly used by financial institutions, and any other forms and printed materials found by him or her to be helpful to financial institutions, their shareholders,

depositors, and patrons and make reasonable charges for the copies;

(15) Delegate the powers and duties of his or her office, other than the powers and duties excepted in this subdivision, to qualified division personnel who shall act under the direction and supervision of the commissioner and for whose acts he or she is responsible, but the commissioner may delegate to the deputy commissioner of ~~banking~~ financial institutions and to no other division personnel the following powers, duties and responsibilities, all of which are hereby granted to and vested in the commissioner and for all of which the commissioner also is responsible. The commissioner shall:

(A) Order any person to cease violating any provision or provisions of this chapter or other applicable law or any rule promulgated or order issued thereunder;

(B) Order any person to cease engaging in any unsound practice or procedure which may detrimentally affect any financial institution or depositor of the financial institution;

(C) Revoke the certificate of authority, permit, or license of any financial institution except a banking institution in accordance with the provisions of §31A-2-13 of this code; and

(D) Accept an assurance in writing that the person will not in the future engage in the conduct alleged by the commissioner to be unlawful, which could be subject to an order under the provisions of this chapter. This assurance of voluntary compliance shall not be considered an admission of violation for any purpose, except that if a person giving the assurance fails to comply with its terms, the assurance is prima facie evidence that prior to this assurance the person engaged in conduct described in the assurance;

(16) Seek and obtain civil administrative penalties against any person who violates this chapter, the rules issued pursuant to this chapter, or any orders lawfully entered by the commissioner or board of banking and financial institutions in an amount not more than \$5,000 per day for each violation: *Provided*, That all of the

pertinent provisions of §29A-5-1 *et seq.* of this code shall apply to any assessment of a penalty under this subsection;

(17) Receive from state banking institutions applications to change the locations of their principal offices and to approve or disapprove these applications;

(18) Expend funds in order to promote consumer awareness and understanding of issues related to residential mortgage lending. In furtherance of this duty, there is established in the State Treasury a special revenue account to be known as the Consumer Education Fund, which shall be administered by the Commissioner of ~~Banking~~ Financial Institutions. Ten percent of all civil administrative penalties collected by the Division of ~~Banking~~ Financial Institutions during each fiscal year shall be deposited into the fund and may be expended by the commissioner to promote consumer awareness and understanding of issues related to residential mortgage lending. The account shall be a special revenue account and may be invested and retain all earnings and interest. Any remaining balance less than \$500,000, including accrued interest, in the fund at the end of the fiscal year shall not revert to the General Revenue Fund, but shall remain in the account. Any balance which exceeds \$500,000 as of June 30, 2012, and each year thereafter, shall revert to the General Revenue Fund; and

(19) Take other action as he or she may consider necessary to enforce and administer the provisions of this chapter, except the provisions of §31A-3-1 *et seq.* of this code, and all other laws which he or she is empowered to administer and enforce and apply to any court of competent jurisdiction for appropriate orders, writs, processes, and remedies.

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

Engrossed Senate Bill 453, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 453) passed with its title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Com. Sub. for Senate Bill 510, Relating to medical professional liability.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2519—A Bill to amend and reenact §18B-1-3 and §18B-1-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-2A-4 of said code; to amend and reenact §18B-2B-6 of said code; and to amend said code by adding thereto a new section, designated §18B-4-5b, all relating to regulation or restriction of the carrying of a concealed pistol or revolver by a person who holds a current license to carry a concealed deadly weapon; authorizing regulation or restriction on the carrying of concealed pistols or revolvers in certain circumstances or areas of an institution of higher education; eliminating authority of the Higher Education Policy Commission, the Council for Community and Technical College Education and

the institutional boards of governors to restrict or regulate the carrying of concealed pistols or revolvers in certain circumstances or areas of an institution of higher education; and designating these amendments as “The Campus Self Defense Act”.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

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

Eng. House Bill 3148—A Bill supplementing and amending by increasing an existing item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2019, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 3149—A Bill to amend and reenact §60-8-3 of the Code of West Virginia, 1931, as amended; and to add thereto a new section designated §60-8-4a, all relating to expanding the ability of hard cider manufactures to produce hard cider in this state; establishing a new tax classification for hard cider as a type of wine manufactured in this state; permitting federal tax credits to apply to the state tax for those producers who qualify; creating a fund for tax deposits; requiring reports to the Tax Commissioner; and permitting a wine manufacturer to serve full pours of wine at festivals and tastings for which it is properly licensed.

Referred to the Committee on the Judiciary.

Executive Communications

The Clerk then presented communications from His Excellency, the Governor, advising that on February 28, 2019, he had approved **Second Enr. Senate Bill 272, Enr. House Bill 2459, Enr. Committee Substitute for House Bill 2481, Enr. House Bill 2492, and Enr. Committee Substitute for House Bill 2521.**

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 1st day of March, 2019, 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. 13), Relating to distributions from State Excess Lottery Fund.

(Com. Sub. for S. B. 26), Permitting certain employees of educational service cooperatives participate in state's teacher retirement systems.

(Com. Sub. for S. B. 270), Streamlining process for utilities access to DOH rights-of-way.

(Com. Sub. for S. B. 356), Requiring MAPS provide state and federal prosecutors information.

(S. B. 358), Exempting Purchasing Division purchases for equipment to maintain security at state facilities.

(Com. Sub. for S. B. 387), Relating generally to extradition.

(S. B. 442), Supplementing, amending, and decreasing appropriation to Insurance Commission.

(S. B. 443), Supplemental appropriation of federal moneys to DHHR divisions.

(S. B. 444), Supplemental appropriation to DHHR divisions.

(S. B. 452), Supplemental appropriation to Second Chance Driver's License Program.

And,

(Com. Sub. for S. B. 489), Relating to Pharmacy Audit Integrity Act.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

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

Your Committee on Finance has had under consideration

Senate Bill 150, Budget Bill.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 150 (originating in the Committee on Finance)—A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

On motion of Senator Takubo, the bill (Com. Sub. for S. B. 150) contained in the preceding report from the Committee on

Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Finance has had under consideration

Eng. House Bill 2311, Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

With an amendment from the Committee on Government Organization pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on Government Organization to which the bill was first referred.

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2405, Imposing a healthcare related provider tax on certain health care organizations.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2439, Relating to fire service equipment and training funds for volunteer and part-volunteer fire companies.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2452, Creating the West Virginia Cybersecurity Office.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2509, Clarifying that theft of a controlled substance is a felony.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2538, Providing banking services for medical cannabis.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2579, Relating to the collection of tax and the priority of distribution of an estate or property in receivership.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2600, Relating to publication of sample ballots.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2734, Relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities.

And,

Eng. House Bill 3045, Exempting certain complimentary hotel rooms from hotel occupancy tax.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Eng. Com. Sub. for House Bill 2779, Providing that proceeds from certain oil and gas wells to persons whose name or address are unknown are to be kept in a special fund.

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

Respectfully submitted,

Randy E. Smith,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2872, Authorizing law-enforcement officers to assist the State Fire Marshal.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. House Bill 2878, Relating to updating the controlled substances listed on schedule one.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration

Eng. House Bill 2992, Relating to governmental websites.

And has amended same.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Government Organization pending.

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

Your Committee on Government Organization has had under consideration

Eng. House Bill 2958, Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

And has amended same.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

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

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 3021, Relating to the disposition of permit fees, registration fees and civil penalties imposed against thoroughbred horse racing licensees.

And,

Eng. House Bill 3095, Establishing a minimum monthly retirement annuity for certain retirants.

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

Respectfully submitted,

Craig Blair,
Chair.

The Senate proceeded to the sixth order of business.

Senators Carmichael (Mr. President), Hardesty, Lindsay, Jeffries, Palumbo, Smith, Boso, Beach, Hamilton, Stollings, Swope, Baldwin, and Prezioso offered the following resolution:

Senate Resolution 65—Designating the month of March as American Red Cross Month.

Whereas, During the past year, the American Red Cross responded to mudslides in California, a volcano in Hawaii, wildfires in Colorado and California, destructive hurricanes in Florida and the Carolinas, and a devastating typhoon in U.S. territories. Thousands of American Red Cross volunteers provided around-the-clock shelter for disaster victims, served millions of meals and snacks with partners, and distributed millions of relief items; and

Whereas, In West Virginia, the American Red Cross has a long history of helping our neighbors in need. In the past year, they assisted 1,057 families who experienced a local disaster, over 800 of which were devastating home fires. Since the Red Cross Home Fire Campaign launched in October 2014, the American Red Cross, along with community partners, has installed over 22,000 free smoke alarms and made more than 8,000 West Virginia households safer; through this Sound the Alarm work, 511 lives have been saved nationally, including 25 lives in West Virginia; and the American Red Cross has educated approximately 5,000 West Virginia youth about preparedness and coping skills through the Pillowcase Project; and

Whereas, In the past year, the Red Cross assisted 1,000 active duty military, veterans and their families; trained more than 21,000 people in life-saving skills such as CPR and first aid; and collected 36,000 units of life-saving blood; and

Whereas, March is American Red Cross Month, a special time to recognize and thank the American Red Cross volunteers and donors who give of their time and resources to help members of the community. The American Red Cross depends on these local heroes to deliver help and hope during a disaster. We applaud our

heroes here in West Virginia who give of themselves to assist their neighbors when they need a helping hand; therefore, be it

Resolved by the Senate:

That the Senate hereby designates the month of March as American Red Cross Month; and, be it

Further Resolved, That the Senate supports the American Red Cross mission to prevent and alleviate human suffering in the face of emergencies; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Region of the American Red Cross.

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

On motion of Senator Takubo, at 12:03 p.m., the Senate recessed to present Senate Resolution 65.

The Senate reconvened at 12:07 p.m. and resumed business under the sixth order.

Senators Baldwin, Facemire, Lindsay, Smith, Jeffries, Palumbo, Beach, Hamilton, Stollings, and Swope offered the following resolution:

Senate Resolution 66—Congratulating the Greenbrier West High School wrestling team for winning the 2019 Class A State Championship.

Whereas, The Cavalier wrestling team had an outstanding year on the mats, culminating in them winning their second state title in school history; and

Whereas, The Cavalier wrestling team is led by brothers and coaches, Jeremy Tincher and Steve Tincher; and

Whereas, The Cavalier wrestling team consists of team members: Marshall Clere, Dan Nutter, John Parks, Malik Cox, Colton Dorsey, Colton Kessler, Chase Patterson, Noah Brown, Issac Brown, Colby Winnings, Eli White, Justin Wilhelm, Jayden Robinson, Bram Kesterson, Ethan Brown, Logan Osborne, and Ferrin Moul; and

Whereas, The Cavalier wrestling team outscored Wirt County 95 to 74 to earn their team state championship. Individual state place winners were: Chase Patterson, 195lbs., junior, runner-up; Isaac Brown, 285lbs., junior, third place; Malik Cox, 160lbs., junior, fourth place; Noah Brown, 220lbs., sophomore, fourth place; Marshall Clere, 106lbs., junior, fifth place; and Jeremy Tincher, Coach of the Year; and

Whereas, The Greenbrier West High School wrestling team is a shining example to all West Virginians of what can be accomplished with dedication, commitment, and teamwork, and will be remembered as one of the best wrestling teams ever assembled in West Virginia high school history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the Greenbrier West High School wrestling team for winning the 2019 Class A State Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Greenbrier West High School wrestling team.

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

On motion of Senator Takubo, at 12:10 p.m., the Senate recessed to present Senate Resolution 66.

The Senate reconvened at 12:14 p.m. and, at the request of Senator Boley, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 46, Requesting study of state's raw dairy milk laws.

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

Senate Concurrent Resolution 47, John Lewis Lafferty "Community Volunteer" Memorial Bridge.

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

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2193, Providing a specific escheat of US savings bonds.

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

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

On page six, after line forty-five, by adding a new subsection, designated subsection (g), to read as follows:

(g) Notwithstanding the provisions of §36-8-15 and §36-8-16 of this code, any person making a claim for the United States savings bonds escheated to the State of West Virginia under this section, or for the proceeds from such bonds, may file a claim with the administrator pursuant to §36-8-15 of this code. Upon providing sufficient proof of the validity of such person's claim, the administrator may, in his or her sole discretion, pay such claim less any expenses and costs which have been incurred by the state in securing full title and ownership of such property by escheat. If payment has been made to any claimant, no action thereafter may

be maintained by any other claimant against the state or any officer thereof, for, or on account of, such funds.

The bill (Eng. Com. Sub. for H. B. 2193), as amended, was then ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—28.

The nays were: Facemire, Jeffries, Lindsay, and Unger—4.

Absent: Mann and Woelfel—2.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2193) was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2193) passed with its title.

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

Eng. Com. Sub. for House Bill 2204, Prohibiting state licensing boards from hiring lobbyists.

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

Senator Takubo moved that the constitutional rule requiring a bill to be read on three separate days be suspended.

Following discussion,

Senator Trump arose to a point of order stating that under Rule 40 of the Rules of the Senate the motion to suspend the constitutional rule is not a debatable motion.

Which point of order, the President ruled well taken.

The question being on the adoption of Senator Takubo's motion that the constitutional rule requiring a bill to be read on three separate days be suspended.

Following a point of inquiry to the President,

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—27.

The nays were: Beach, Facemire, Jeffries, Lindsay, and Unger—5.

Absent: Mann and Woelfel—2.

So, four fifths of the members present and voting having voted in the affirmative, the President declared the motion to suspend to the constitutional rule adopted.

Following a point of inquiry to the President, with resultant response thereto,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2204) was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2204) passed with its title.

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

Eng. Com. Sub. for House Bill 2359, Relating to exemptions to the commercial driver's license requirements.

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

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

On page one, section eight-a, line nine, by striking out the words "enumerated in 49 C.F.R. Part §383.3(f)" and inserting in lieu thereof the following: and restrictions set forth in 49 C.F.R. § 383.3(f), including any seasonal periods defined by the commissioner;

(c) The fee for the issuance of a restricted commercial driver's license pursuant to this section is \$10 per seasonal period.

The bill (Eng. Com. Sub. for H. B. 2359), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2476, Relating to the valuation of a motor vehicle involved in an insurance claim.

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

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

On page one, section thirty-three, line eight, after the word “code” by changing the comma to a period and striking out the remainder of the bill.

The bill (Eng. Com. Sub. for H. B. 2476), as amended, was then ordered to third reading.

Eng. House Bill 2510, Relating to special funds of boards of examination or registration.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—31.

The nays were: Unger—1.

Absent: Mann and Woelfel—2.

Having been engrossed, the bill (Eng. H. B. 2510) was then read a third time and put upon its passage.

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

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

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2510) passed with its title.

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

Eng. House Bill 2525, Tobacco Cessation Therapy Access Act.

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

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

Eng. House Bill 2530, Creating a voluntary certification for recovery residences.

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

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

Eng. Com. Sub. for House Bill 2531, Permitting trained nurses to provide mental health services in a medication-assisted treatment program.

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

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

On page three, section five, line sixty, after the word “counselor:” by striking out the word “or”;

And,

On page three, section five, line sixty-two, after the word “specialist“ by changing the period to a semicolon and inserting the following: or

(8) Be a psychiatry CAQ-certified physician assistant.

The bill (Eng. Com. Sub. for H. B. 2531), as amended, was then ordered to third reading.

Eng. House Bill 2547, Relating to the election prohibition zone.

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

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

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

ARTICLE 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 ~~one hundred~~ 200 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 ~~one hundred~~ 200 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 ~~one hundred~~ 200 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 ~~one hundred~~ 200 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 ~~one hundred~~ 200 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 §3-1-34 of this code shall have additional time, up to 10 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 §3-1-34 of this code or to any child 14 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.

§3-9-6. Unauthorized presence in election room; ~~three hundred~~ 200 foot limit; penalties.

If any person, not herein authorized so to do, enters or attempts to enter the election room, except upon a lawful errand and for a proper purpose, or remains within ~~three hundred~~ 200 feet of the outside entrance to the building housing the polling place, contrary to the provisions of this chapter, ~~he~~ the person shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than \$50 nor more than \$500, or confined in the county jail for not more than 30 days.

Excepting those individuals provided for expressly in this or other sections of the code, only full-time employees of the Secretary of State's office or full-time employees of the respective county offices of the county clerk or the county prosecutor may enter or otherwise disturb the polling place.

§3-9-9. Electioneering defined; 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~~ 200 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 ~~one hundred~~ 200 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~~ 200 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 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.

The bill (Eng. H. B. 2547), as amended, was then ordered to third reading.

Eng. House Bill 2608, Repealing the requirement of printing the date a consumer deposit account was opened on paper checks.

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

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—30.

The nays were: Unger—1.

Absent: Facemire, Mann, and Woelfel—3.

Having been engrossed, the bill (Eng. H. B. 2608) was then read a third time and put upon its passage.

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he serves as a director of a community bank.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2608) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 2691, Providing that a license to carry a concealed deadly weapon expires on the holder's birthday.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

(a) Except as provided in §61-7-4(h) of this code, any person desiring to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, and pay to the sheriff, at the time of application, a fee of \$75, of which \$15 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code. Concealed weapons license may only be issued for pistols and revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U.S.C. § 922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide United States citizen or legal resident thereof and resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is twenty-one years of age or older;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this subsection in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33), or a misdemeanor offense of assault or battery either under §61-2-

28 of this code or §61-2-9(b) or §61-2-9(c) of this code, in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. § 922(g) or (n), from receiving, possessing, or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal

background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. § 922(g) or (n).

(c) Sixty dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course includes the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college or private or public institution or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States military, reserve or National Guard or proof of other handgun qualification received while serving in any branch of the United States military, reserve or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section and shall include the instructor's name, signature and NRA or state instructor identification number, if applicable.

(e) All concealed weapons license applications must be notarized by a notary public duly licensed under §39-4-1 *et seq.* of this code. Falsification of any portion of the application constitutes false swearing and is punishable under §61-5-2 of this code.

(f) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue, or deny the license within 45 days after the application is filed if all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West Virginia State Police within 30 days of receipt. ~~The license is valid for five years throughout the state, unless sooner revoked~~ A license in effect as of the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause, be valid until the licensee's

birthday during the fifth year from the date of issuance or five years from the date of issuance, whichever is later in time. Renewals of such licenses and licenses newly issued after the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause, be valid for a period of five years from the licensees' most recent birthday.

(h) Each license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. All duplicate license cards issued on or after July 1, 2017, shall be uniform across all 55 counties in size, appearance and information and shall feature a photograph of the licensee.

(i) The Superintendent of the West Virginia State Police, in cooperation with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within 30 days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be

entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a concealed weapon license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days thereafter, notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Notwithstanding subsection (a) of this section, with respect to application by a former law-enforcement officer honorably

retired from agencies governed by §7-14-1 *et seq.* of this code; §8-14-1 *et seq.* of this code; §15-2-1 *et seq.* of this code; and §20-7-1 *et seq.* of this code, an honorably retired officer is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this section are applicable to these applicants.

(q) Information collected under this section, including applications, supporting documents, permits, renewals or any other information that would identify an applicant for or holder of a concealed weapon license, is confidential: *Provided*, That this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(r) A person who pays fees for training or application pursuant to this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid for training not to exceed \$50: *Provided*, That if such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application.

(s) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon license issued in accordance with the provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver on the lands or waters of this state.

The bill (Eng. H. B. 2691), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2737, Relating to training of State Tax Division employees.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—30.

The yeas were: Facemire and Unger—2.

Absent: Mann and Woelfel—2.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2737) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2737) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 2743, Eliminating reference to municipal policemen's pension and relief funds and firemen's pension and relief funds in section restricting investment.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—29.

The yeas were: Facemire and Unger—2.

Absent: Lindsay, Mann, and Woelfel—3.

Having been engrossed, the bill (Eng. H. B. 2743) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2743) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 2813, Relating generally to collection of use tax.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section one, line twenty-four, after the words “personal property,” by inserting the words “custom software,”;

On page four, section one, line eighty-six, by striking out the word “forum” and inserting in lieu thereof the word “platform”;

On page eight, section six-b, lines one through three, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

(a) *Duty to collect tax.* — For purposes of §11-15A-1 *et seq.* of this code and for collection of use tax required under §11-15A-6 and §11-15A-6b of this code, the phrase retailer engaging in business in this state also means and includes a remote seller, marketplace facilitator, or referrer that meets the requirements of subsection (e) of this section. A marketplace facilitator or referrer is required to collect and remit the use tax on all taxable sales of tangible personal property, [custom software] or services: (i) Made by the marketplace facilitator or referrer; or (ii) facilitated for marketplace sellers, to purchasers in this state.;

And,

On page nine, section six-b, lines twenty-three through twenty-eight, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) *Economic nexus.* — A marketplace facilitator, referrer, or remote seller shall collect the tax imposed by §11-15A-2 of the code when:

(1) The marketplace facilitator, referrer, or remote seller makes or facilitates West Virginia sales on its own behalf or on behalf of one or more marketplace sellers equal to or exceeding \$100,000 in gross revenue for an immediately preceding calendar year, or a current calendar year; or

(2) The marketplace facilitator, referrer, or remote seller makes or facilitates West Virginia sales on its own behalf or on behalf of one or more marketplace sellers in in 200 or more separate transactions for an immediately preceding calendar year or a current calendar year.

On motion of Senator Blair, the following amendment to the bill (Eng. Com. Sub. for H. B. 2813) was next reported by the Clerk and adopted:

On page three, section one, after line forty-eight, by inserting the following:

(C) This term does not include a payment processor business appointed by a merchant to handle payment transactions from various channels, such as credit cards and debit cards, and whose sole activity with respect to marketplace sales is to handle payment transactions between two parties.

The bill (Eng. Com. Sub. for H. B. 2813), as amended, was then ordered to third reading.

Eng. House Bill 2829, Relating to the termination of severance taxes on limestone and sandstone.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—28.

The nays were: Baldwin, Facemire, Romano, and Unger—4.

Absent: Mann and Woelfel—2.

Having been engrossed, the bill (Eng. H. B. 2829) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—26.

The nays were: Baldwin, Beach, Ihlenfeld, Prezioso, Romano, and Unger—6.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2829) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 2848, Relating to the West Virginia ABLE Act.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—30.

The nays were: Facemire and Unger—2.

Absent: Mann and Woelfel—2.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2848) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2848) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 2854, Exempting sales from the consumers sales and service tax and use tax by not for profit volunteer school support groups raising funds for schools.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—29.

The nays were: Facemire, Romano, and Unger—3.

Absent: Mann and Woelfel—2.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2854) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2854) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 3007, Authorizing the Commissioner of Agriculture to require background checks.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—30.

The nays were: Facemire and Unger—2.

Absent: Mann and Woelfel—2.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 3007) was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 3007 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3007) passed.

The following amendment to the title of the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 3007—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-3b, relating to authorizing the Commissioner of Agriculture to require background checks as a condition of employment; legislative finding; describing background check procedure; making background check results confidential; providing exception; designating background checks and related documents not to be considered public records under chapter 29B of said code; prohibiting disqualification of applicant for criminal conviction not bearing rational nexus to employment category; barring consideration of crimes of moral turpitude in hiring; allowing reapplication after disqualification from

employment; establishing procedure for individual obtaining preapplication determination if criminal record will disqualify individual from employment; and requiring rulemaking.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3093, Relating to standards for factory-built homes.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—28.

The nays were: Beach, Facemire, Romano, and Unger—4.

Absent: Mann and Woelfel—2.

Having been engrossed, the bill (Eng. H. B. 3093) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—30.

The nays were: Jeffries and Lindsay—2.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3093) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 3140, Relating to the Division of Natural Resources Infrastructure.

On second reading, coming up in regular order, was read a second time.

On motions of Senators Plymale, Stollings, Woelfel, and Hardesty, the following amendment to the bill was reported by the Clerk:

On page six, section seven, line one hundred twenty-two, after the word "state" by inserting the following: "including, completing the feasibility study for the Beech Fork State Park Lodge as follows:

(A) The director shall convene, prior to October 1, 2019, two public hearings:

(i) An initial public hearing shall be for the purpose of seeking public input regarding options for the construction of a lodge and a conference center, including all available public, private, or public-private partnership (PPP) funding and financing options; and

(ii) A subsequent public hearing at which the feasibility study and any recommendation shall be available for public comment;

(B) The public hearings required by this subdivision must be held in a suitable location reasonably close to Beech Fork State Park so as to accommodate public participation from the citizens of Cabell, Lincoln, and Wayne counties; and

(C) Upon completion of the feasibility study it shall be submitted by the director to the Joint Committee on Government and Finance on or before December 1, 2019.

Following discussion,

The question being on the adoption of the amendment offered by Senators Plymale, Stollings, Woelfel, and Hardesty to the bill, the same was put and prevailed.

The bill (Eng. H. B. 3140), as amended, was then ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—29.

The nays were: Facemire, Romano, and Unger—3.

Absent: Mann and Woelfel—2.

Having been engrossed, the bill (Eng. H. B. 3140) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3140) passed.

On motion of Senator Plymale, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. House Bill 3140—A Bill to amend and reenact §20-1-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-5-4 of said code, all related to the ability of the Director of the Division of Natural Resources to authorize repair, renovation and rehabilitation for existing facilities, buildings, amenities, and infrastructure and exempting these certain Division of Natural Resource's purchases from review and approval of the Division of Purchasing; adding state forests to the definition of recreational facilities; authorizing the completing the feasibility study for the Beech Fork State Park Lodge; requiring two public hearings; and requiring the completed feasibility study to be submitted to the Joint Committee on Government and Finance.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3140) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Eng. Com. Sub. for House Bill 2183, Clarifying where a charge of DUI may be brought against an individual.

Eng. Com. Sub. for House Bill 2362, Ardala Miller Memorial Act.

Eng. Com. Sub. for House Bill 2609, Relating to presumptions of abandonment and indication of ownership in property.

Eng. Com. Sub. for House Bill 2907, Requiring a form of a certified commitment order to the Division of Corrections and Rehabilitation.

Eng. Com. Sub. for House Bill 2975, Relating to imposition of sexual acts on persons incarcerated.

And,

Eng. House Bill 3083, Adding temporary work during the legislative session as exclusion to the term employment for purposes of unemployment compensation.

The Senate proceeded to the eleventh order of business and the introduction of guests.

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Hamilton and Blair.

At the request of Senator Takubo, unanimous consent being granted, leaves of absence for the day were granted Senators Mann and Woelfel.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:11 p.m., the Senate adjourned until tomorrow, Saturday, March 2, 2019, at 9 a.m.

SATURDAY, MARCH 2, 2019

The Senate met at 9:22 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by the Honorable Glenn D. Jeffries, a senator from the eighth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Bill Hamilton, a senator from the eleventh district.

Pending the reading of the Journal of Friday, March 1, 2019,

At the request of Senator Azinger, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 295, Relating to crimes against public justice.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, section seventeen, line three, by striking out the words “court security officer”;

On page one, section seventeen, line eight, by striking out the words “court security officer”;

And,

On page two, section seventeen, line twenty-four, by striking out the words “court security officer”.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 295) and requested the House of Delegates to recede therefrom.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 518, Restricting sale and trade of dextromethorphan.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, after line seven, by inserting a new subsection, designated subsection (d), to read as follows:

(d) A person making a retail sale of a finished drug product containing any quantity of dextromethorphan shall require and obtain proof of age from the purchaser before completing the sale, unless from the purchaser’s outward appearance the person making the sale would reasonably presume the purchaser to be at least 25 years of age.;

And,

By relettering the remaining subsections.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 518, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Palumbo, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—29.

The nays were: None.

Absent: Beach, Mann, Maroney, Prezioso, and Woelfel—5.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 518) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 545, Relating to HIV testing.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

§64-7-4. Office of the Insurance Commission.

The legislative rule filed in the State Register on April 3, 2003, authorized under the authority of §33-2-10(a) of this code, relating

to standards for AIDS-related underwriting questions and AIDS testing in connection with applications for life or health insurance policies (AIDS Regulations, 114 CSR 27) is authorized with the following: amendment:

~~“5.9. The testing is required to be administered on a nondiscriminatory basis for all individuals in the same underwriting class. No proposed insured may be denied coverage or rated a substandard risk on the basis of HIV testing unless acceptable testing protocol is followed including the use of FDA-licensed tests. The following is the acceptable HIV testing protocol for use in this state:~~

~~a. An initial enzyme linked immunosorbent assay (ELISA) test is administered to the proposed insured, and it indicates the presence of HIV antibodies; and~~

~~b. A second ELISA test is administered and it indicates the presence of HIV; and~~

~~c. A Western Blot test is conducted and it confirms the results of the two ELISA tests.~~

~~5.10. If any of the tests in the ELISA-ELISA-Western Blot series produce confirmatory test produces a negative result, the testing ceases and the proposed insured cannot be denied coverage based on AIDS-related testing.~~

~~For Example: If the initial ELISA test yields a negative result, the testing ceases. If the initial ELISA test yields a positive result and the subsequent ELISA test yields a negative result, the testing ceases. If both ELISA tests yield a positive result and the Western Blot test yields a negative result, for purposes of insurability, the results are negative.;~~

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 545—A Bill to amend and reenact §64-7-4, of the Code of West Virginia, 1931, as amended, relating to authorizing the Office of the Insurance Commission to promulgate a legislative rule relating HIV testing; and eliminating outdated testing protocols.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 545, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Palumbo, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: Baldwin—1.

Absent: Beach, Mann, Maroney, Prezioso, and Woelfel—5.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 545) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Palumbo, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: Baldwin—1.

Absent: Beach, Mann, Maroney, Prezioso, and Woelfel—5.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 545) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 593, Permitting critical access hospital become community outpatient medical center.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 35, Designating days for displaying Honor and Remember Flag at WV Veterans Memorial.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

Eng. Com. Sub. for House Bill 2740, Barring a parent from inheriting from a child in certain instances.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

Eng. House Bill 2759, Providing for the ancillary administration of West Virginia real estate owned by nonresidents by affidavit and without administration.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 15—Requesting the Joint Committee on Government and Finance study the impact of business regulations and economic development incentives to recruit and retain small business in West Virginia.

Referred to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 20—Requesting the Division of Highways name bridge number 18-13-0-.12, near Sandyville in Jackson County, locally known as the Sandyville Bridge, the “PFC Charles Everett Hurd Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 65—Requesting the Division of Highways name a portion of WV 3, starting at the eastern city limits of Union and ending at the intersection with CR 11, Keenan Road, in Monroe County, the “Vietnam Veterans Memorial Highway”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 66—Requesting the Division of Highways name bridge number 20-4-0.01 (20A006), (38.49033, -81.34935) locally known as Big Sandy Bridge, carrying WV Rt. 4 over Big Sandy Creek in Clendenin, Kanawha County, the “U. S. Army SPC Thurman ‘Duwayne’ Young Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 74—Requesting the Division of Highways name a portion of Two-Mile Road (WV Route 36) beginning 1.3 miles from the start of the hollow and Two-Mile Road a distance of .6 mile total, or 1.9 miles from the start of the hollow, in Lincoln County, the “U. S. Army PFC James Leslie Pridemore Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 81—Requesting the Capitol Building Commission to create a subcommittee to raise private funds sufficient to erect a statue of Charles Elwood “Chuck” Yeager on the State Capitol Complex grounds wherein the end of Washington Street East intersects California Avenue.

Referred to the Committee on Rules.

Executive Communications

The Clerk then presented communications from His Excellency, the Governor, advising that on March 1, 2019, he had approved **Enr. Senate Bill 377, Enr. Committee Substitute for Senate Bill 489, Enr. Committee Substitute for House Bill 2324, Enr. House Bill 2351, Enr. Committee Substitute for House Bill 2607, Enr. House Bill 2666, and Enr. House Bill 2668.**

The Senate proceeded to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 2009, Creating a new category of Innovation in Education grant program.

With amendments from the Committee on Education pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on Finance.

Respectfully submitted,

Craig Blair,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 2010, Relating to foster care.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2010) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Health and Human Resources pending.

Senator Swope, from the Committee on the Workforce, submitted the following report, which was received:

Your Committee on the Workforce has had under consideration

Eng. Com. Sub. for House Bill 2049, Relating to a prime contractor's responsibility for wages and benefits.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Chandler Swope,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2049) contained in the preceding report from the Committee on the Workforce was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on the Workforce pending.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2363, Relating to the Upper Kanawha Valley Resiliency and Revitalization Program.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2363) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Government Organization, with an amendment from the Committee on Education pending.

Senator Maynard, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 2550, Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2550) contained in the preceding report from the Committee on Economic Development was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with

amendments from the Committee on Economic Development pending.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Eng. Com. Sub. for House Bill 2673, Creating the Oil and Gas Abandoned Well Plugging Fund.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Randy E. Smith,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2673) contained in the preceding report from the Committee on Energy, Industry, and Mining was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Energy, Industry, and Mining pending.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 2853, Establishing the West Virginia Program for Open Education Resources.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 2853) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2359, Relating to exemptions to the commercial driver's license requirements.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Jeffries, Lindsay, Maynard, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—25.

The nays were: Facemire, Ihlenfeld, Palumbo, Plymale, and Stollings—5.

Absent: Beach, Mann, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2359) passed.

The following amendment to the title of the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2359—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17E-1-8a, relating to providing for a restricted commercial driver's license for employees of designated farm-related service industries; establishing fee for the issuance of such license; and authorizing the Commissioner of Motor Vehicles to define seasonal periods.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2476, Relating to the valuation of a motor vehicle involved in an insurance claim.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Palumbo, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Beach, Mann, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2476) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2531, Permitting trained nurses to provide mental health services in a medication-assisted treatment program.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. House Bill 2547, Relating to the election prohibition zone.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 2547 pass?”

On the passage of the bill, the yeas were: Baldwin, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Lindsay, Palumbo, Roberts, Romano, Smith, Stollings, Swope, Takubo, Trump, Weld, Woelfel, and Carmichael (Mr. President)—20.

The nays were: Azinger, Facemire, Ihlenfeld, Jeffries, Maynard, Plymale, Rucker, Sypolt, Tarr, and Unger—10.

Absent: Beach, Mann, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2547) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. House Bill 2547—A Bill to amend and reenact §3-1-37 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-9-6 and §3-9-9 of said code, all relating to restrictions on presence and conduct at or within 200 feet of polling places; prohibiting persons other than voters and election officials from being or remaining within 200 feet of entrance of polling place while polls are open; permitting person delivering voter to polling place to discharge voter within 200 feet of entrance of polling place; requiring person delivering voter to remove vehicle 200 feet

until the voter with is to be transported from polling place or another voter delivered; permitting vehicles delivering voters who require assistance to remain within 200 feet of entrance until voter is to be transported from polling place; providing that a person violating restrictions on remaining within 200 feet of a polling place is guilty of a misdemeanor and subject to criminal penalties; prohibiting electioneering in or within 200 feet of polling place on election day; prohibiting electioneering in or within 200 feet of early voting polling places during early voting periods; and providing that person electioneering within 200 feet of polling places or early voting polling places is guilty of a misdemeanor and is subject to criminal penalties.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2691, Providing that a license to carry a concealed deadly weapon expires on the holder's birthday.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Palumbo, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Beach, Mann, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2691) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. House Bill 2691—A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to providing that a license to carry a concealed deadly weapon currently in effect expires on the holder's birthday occurring during the fifth year of licensure or five years from the date of issuance, whichever is later in time; providing that renewals of such licenses and licenses newly issued after the effective date of the amendments to this section are valid for five years from the licensee's birthday, and maintaining provisions making licenses subject to revocation for cause.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Palumbo, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Beach, Mann, Maroney, and Prezioso—4.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2691) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2813, Relating generally to collection of use tax.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maynard, Palumbo, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope,

Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Beach, Mann, Maroney, and Prezioso—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2813) passed.

On motion of Senator Blair, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2813—A Bill to amend and reenact §11-15A-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-15A-6b, all relating generally to collection of use tax; defining terms, requiring collection of use tax by marketplace facilitators, remote sellers, and referrers satisfying certain economic nexus requirements; and specifying internal effective date.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 150, Budget Bill.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 2183, Clarifying where a charge of DUI may be brought against an individual.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-2. Driving under influence of alcohol, controlled substances or drugs; penalties.

(a) *Definitions-*

(1) "Impaired state" means a person:

(A) Is under the influence of alcohol;

(B) Is under the influence of any controlled substance;

(C) Is under the influence of any other drug or inhalant substance;

(D) Is under the combined influence of alcohol and any controlled substance or any other drug; or

(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight.

(2) "Bodily Injury" means injury that causes substantial physical pain, illness or any impairment of physical condition.

(3) "Serious Bodily Injury" means bodily injury that creates a substantial risk of death, that causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(b) Any person who drives a vehicle in this state while he or she is in an impaired state and such impaired state proximately causes the death of any person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than 15 years and shall be fined not less than \$1,000 nor more than \$3,000: *Provided*, That

any death charged under this subsection must occur within one year of the offense.

(c) Any person who drives a vehicle in this state while he or she is in an impaired state and such impaired state proximately causes serious bodily injury to any person other than himself or herself, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years and shall be fined not less than \$1,000 nor more than \$3,000.

(d) Any person who drives a vehicle in this state while he or she is in an impaired state and such impaired state proximately causes a bodily injury to any person other than himself or herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day more than one year and shall be fined not less than \$200 nor more than \$1,000: *Provided*, That such jail term shall include actual confinement of not less than 24 hours: *Provided, however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(e) Any person who drives a vehicle in this state: (i) While he or she is in an impaired state or (ii) while he or she is in an impaired state but has an alcohol concentration in his or her blood of less than fifteen hundredths of one percent by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for up to six months and shall be fined not less than \$100 nor more than \$500: *Provided*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(f) Any person who drives a vehicle in this state while he or she has an alcohol concentration in his or her blood of fifteen hundredths of one percent or more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$200 nor more than \$1,000. A person sentenced pursuant to this subdivision shall receive credit for any

period of actual confinement he or she served upon arrest for the subject offense.

(g) Any person who, being a habitual user of narcotic drugs or amphetamine or any derivative thereof, drives a vehicle in this state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$100 nor more than \$500. A person sentenced pursuant to this subdivision shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(h) Any person who knowingly permits his or her vehicle to be driven in this state by any other person who is in an impaired state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500.

(i) Any person who knowingly permits his or her vehicle to be driven in this state by any other person who is a habitual user of narcotic drugs or amphetamine or any derivative thereof is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500.

(j) Any person under the age of 21 years who drives a vehicle in this state while he or she has 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, for a first offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100. For a second or subsequent offense under this subsection, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for 24 hours and shall be fined not less than \$100 nor more than \$500. A person who is charged with a first offense under the provisions of this subsection may move for a continuance of the proceedings, from time to time, to allow the person to participate in the Motor Vehicle Alcohol Test and Lock Program as provided in §17C-5A-3a of this code. Upon successful

completion of the program, the court shall dismiss the charge against the person and expunge the person's record as it relates to the alleged offense. In the event the person fails to successfully complete the program, the court shall proceed to an adjudication of the alleged offense. A motion for a continuance under this subsection may not be construed as an admission or be used as evidence.

A person arrested and charged with an offense under the provisions of this subsection or subsection (b), (c), (d), (e), (f), (g), (h) or (i) of this section may not also be charged with an offense under this subsection arising out of the same transaction or occurrence.

(k) Any person who drives a vehicle in this state while he or she is in an impaired state and has within the vehicle one or more other persons who are unemancipated minors who have not yet reached their 16th birthday is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than 12 months, and shall be fined not less than \$200 nor more than \$1,000: *Provided*, That such jail term shall include actual confinement of not less than 48 hours: *Provided, however*, That a person sentenced pursuant to this subdivision shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(l) A person violating any provision of subsection (d), (e), (f), (g), (h), or (j) of this section, for the second offense under this section, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than six months nor more than one year and the court may, in its discretion, impose a fine of not less than \$1,000 nor more than \$3,000.

(m) A person violating any provision of subsection (d), (e), (f), (g), (h) or (j) of this section, for the third or any subsequent offense under this section, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than five years and the court may, in its discretion, impose a fine of not less than \$3,000 nor more than \$5,000.

(n) For purposes of subsections (l) and (m) of this section relating to second, third and subsequent offenses, the following events shall be regarded as offenses under this section:

(1) Any conviction under the provisions of subsection (b), (c), (d), (e), (f), (g) or (h) of this section or under a prior enactment of this section for an offense which occurred within the 10-year period immediately preceding the date of arrest in the current proceeding;

(2) Any conviction under a municipal ordinance of this state or any other 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 subsection (b), (c), (d), (e), (f), (g), (h) or (i) of this section, which offense occurred within the 10-year period immediately preceding the date of arrest in the current proceeding; and,

(3) Any period of conditional probation imposed pursuant to §17C-5-2b of this code for violation of subsection (e) of this section, which violation occurred within the 10-year period immediately preceding the date of arrest in the current proceeding.

(o) A person may be charged in a warrant or indictment or information for a second or subsequent offense under this section if the person has been previously arrested for or charged with a violation of this section which is alleged to have occurred within the applicable time period for prior offenses, notwithstanding the fact that there has not been a final adjudication of the charges for the alleged previous offense. In that case, the warrant or indictment or information must set forth the date, location and particulars of the previous offense or offenses. No person may be convicted of a second or subsequent offense under this section unless the conviction for the previous offense has become final, or the person has previously had a period of conditional probation imposed pursuant to §17C-5-2b of this article.

(p) The fact that any person charged with a violation of subsection (b), (c), (d), (e), (f) or (g) of this section, or any person permitted to drive as described under subsection (h) or (i) of this section, is or has been legally entitled to use alcohol, a controlled substance or a drug does not constitute a defense against any charge

of violating subsection (b), (c), (d), (e), (f), (g), (h) or (i) of this section.

(q) For purposes of this section, the term “controlled substance” has the meaning ascribed to it in §60A-1-101 *et seq.* of this code.

(r) The sentences provided in this section upon conviction for a violation of this article are mandatory and are not subject to suspension or probation: *Provided*, That the court may apply the provisions of §62-11A-1 *et seq.* of this code to a person sentenced or committed to a term of one year or less for a first offense under this section: *Provided, however*, That the court may impose a term of conditional probation pursuant to §17C-5-2b of this code to persons adjudicated thereunder. An order for home detention by the court pursuant to the provisions of §62-11B-1 *et seq.* of this code may be used as an alternative sentence to any period of incarceration required by this section for a first or subsequent offense: *Provided further*, That for any period of home incarceration ordered for a person convicted of a second offense under this section, electronic monitoring shall be required for no fewer than five days of the total period of home confinement ordered and the offender may not leave home for those five days notwithstanding the provisions of §62-11B-5 of this code: *And provided further*, That for any period of home incarceration ordered for a person convicted of a third or subsequent violation of this section, electronic monitoring shall be included for no fewer than 10 days of the total period of home confinement ordered and the offender may not leave home for those 10 days notwithstanding §62-11B-5 of this code.

(s) As used in subsections (e), (f), (g), (h), (i), and (j) of this section, the words “drives a vehicle in this state” do not mean or include driving or operating a vehicle solely and exclusively on one’s own property.

The bill (Eng. Com. Sub. for H. B. 2183), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2362, Ardala Miller Memorial Act.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-1. Persons eligible to vote absentee ballots.

(a) All registered and other qualified voters of the county may vote an absentee ballot during the period of early voting in person.

(b) Registered voters and other qualified voters in the county are authorized to vote an absentee ballot by mail in the following circumstances:

(1) Any voter who is confined to a specific location and prevented from voting in person throughout the period of voting in person because of:

(A) Illness, injury, or other medical reason;

(B) Physical disability or immobility due to extreme advanced age; or

(C) Incarceration or home detention: *Provided*, That the underlying conviction is not for a crime which is a felony or a violation of §3-9-12, §3-9-13, or §3-9-16 of this code involving bribery in an election;

(2) Any voter who is absent from the county throughout the period and available hours for voting in person because of:

(A) Personal or business travel;

(B) Attendance at a college, university, or other place of education or training; or

(C) Employment which because of hours worked and distance from the county seat make voting in person impossible;

(3) Any voter absent from the county throughout the period and available hours for voting in person and who is an absent uniformed services voter or overseas voter, as defined by 42 U.S.C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, including members of the uniformed services on active duty, members of the merchant marine, spouses and dependents of those members on active duty and persons who reside outside the United States and are qualified to vote in the last place in which the person was domiciled before leaving the United States;

(4) Any voter who is required to dwell temporarily outside the county and is absent from the county throughout the time for voting in person because of:

(A) Serving as an elected or appointed federal or state officer; or

(B) Serving in any other documented employment assignment of specific duration of four years or less;

(5) Any voter for whom the designated area for absentee voting within the county courthouse or annex of the courthouse and the voter's assigned polling place are inaccessible because of his or her physical disability; and

(6) Any voter who is participating in the Address Confidentiality Program as established by §48-28A-103 of this code.

(c) Registered voters and other qualified voters in the county may, in the following circumstances, vote an emergency absentee ballot, subject to the availability of the services as provided in this article:

(1) Any voter who is confined or expects to be confined in a hospital or other duly licensed health care facility within the county of residence or other authorized area, as provided in this article, on the day of the election;

(2) Any voter who resides in a nursing home within the county of residence and would be otherwise unable to vote in person, providing the county commission has authorized the services if the voter has resided in the nursing home for a period of less than 30 days; ~~and~~

(3) Any voter who becomes confined, on or after the seventh day preceding an election, to a specific location within the county because of illness, injury, physical disability, immobility due to advanced age, or another medical reason: *Provided*, That the county clerk may require a written confirmation by a licensed physician that the voter meets the criteria of this subdivision before permitting such voter to vote an emergency absentee ballot; and

~~(3)~~ (4) Any voter who is working as a replacement poll worker and is assigned to a precinct out of his or her voting district, if the assignment was made after the period for voting an absentee ballot in person has expired.

§3-3-5c. Procedures for voting an emergency absentee ballot by qualified voters.

(a) Notwithstanding any other provision of this chapter, a person qualified to vote an emergency absentee ballot, as provided in §3-3-1(c) of this code, may vote an emergency absentee ballot under the procedures established in this section. The county commission may adopt a policy extending the emergency absentee voting procedures to: (1) Qualified voters in hospitals or other duly licensed health care facilities within an adjacent county or within 35 miles of the county seat; ~~or~~ (2) qualified voters in nursing homes within the county; or (3) qualified voters who become confined, on or after the seventh day preceding an election, to a specific location within the county because of illness, injury, physical disability, immobility due to advanced age, or another medical reason: *Provided*, That the policy is to be adopted by the county

commission at least 90 days prior to the election that will be affected and a copy of the policy is to be filed with the Secretary of State.

(b) On or before the 56th day preceding the date on which any election is to be held, the official designated to supervise and conduct absentee voting shall notify the county commission of the number of sets of emergency absentee ballot commissioners which he or she determines necessary to perform the duties and functions pursuant to this section.

(c) A set of emergency absentee ballot commissioners at-large shall consist of two persons with different political party affiliations appointed by the county commission in accordance with the procedure prescribed for the appointment of election commissioners under the provisions of §3-1-1 *et seq.* of this code. Emergency absentee ballot commissioners have the same qualifications and rights and take the same oath required under the provisions of this chapter for commissioners of elections. Emergency absentee ballot commissioners are to be compensated for services and expenses in the same manner as commissioners of election or poll clerks obtaining and delivering election supplies under the provisions of §3-1-44 of this code.

(d) Upon request of the voter or a member of the voter's immediate family or, when the county commission has adopted a policy to provide emergency absentee voting services to nursing home residents within the county, upon request of a staff member of the nursing home, the official designated to supervise and conduct absentee voting, upon receiving a proper request for voting an emergency absentee ballot no earlier than the seventh day next preceding the election and no later than noon of election day shall supply to the emergency absentee ballot commissioners the application for voting an emergency absentee ballot and the balloting materials. The emergency absentee ballot application is to be prescribed by the Secretary of State and is to include the name, residence address and political party affiliation of the voter, the date, location and reason for confinement in the case of an emergency, and the name of the attending physician.

(e) The application for an emergency absentee ballot is to be signed by the person applying. If the person applying for an emergency absentee ballot is unable to sign his or her application because of illiteracy or physical disability, he or she is to make his or her mark on the signature line provided for an illiterate or disabled applicant, the mark is to be witnessed. The person assisting the voter and witnessing the mark of the voter shall sign his or her name in the space provided.

(f) A declaration is to be completed and signed by each of the emergency absentee ballot commissioners, stating their names, the date on which they appeared at the place of confinement of the person applying for an emergency absentee ballot, and the particulars of the confinement.

(g) At least one of the emergency absentee ballot commissioners receiving the balloting materials shall sign a receipt which is to be attached to the application form. Each of the emergency absentee ballot commissioners shall deliver the materials to the absent voter, await his or her completion of the application and ballot and return the application and the ballot to the official designated to supervise and conduct absentee voting. Upon delivering the application and the voted ballot to the official, the emergency absentee ballot commissioners shall sign an oath that no person other than the absent voter voted the ballot. The application and the voted ballot are to be returned to the official designated to supervise and conduct absentee voting prior to the close of the polls on election day. Any ballots received by the official after the time that delivery may reasonably be made but before the closing of the polls are to be delivered to the canvassing board along with the absentee ballots challenged in accordance with the provisions of §3-3-10 of this code.

(h) Upon receiving the application and emergency absentee ballot, the official designated to supervise and conduct absentee voting shall ascertain whether the application is complete, whether the voter appears to be eligible to vote an emergency absentee ballot, and whether the voter is properly registered to vote with the office of the clerk of the county commission. If the voter is found to be properly registered in the precinct shown on the application,

the ballot is to be delivered to the precinct election commissioner pursuant to §3-3-7 of this code. If the voter is found not to be registered or is otherwise ineligible to vote an emergency ballot, the ballot is to be challenged for the appropriate reason provided for in §3-3-10 of this code.

(i) If either or both of the emergency absentee ballot commissioners refuse to sign any application for voting an emergency absentee ballot, the voter may vote as an emergency absentee and the ballot will be challenged in accordance with the provisions of §3-3-10 of this code, in addition to those absentee ballots subject to challenge as provided in that section.

(j) Any voter who receives assistance in voting an emergency absentee ballot shall comply with the provisions of §3-3-6 of this code. Any other provisions of this chapter relating to absentee ballots not altered by the provisions of this section are to govern the treatment of emergency absentee ballots.

Following discussion,

At the request of Senator Trump, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the Judiciary committee amendment to the bill pending.

Eng. House Bill 2525, Tobacco Cessation Therapy Access Act.

Having been read a second time on yesterday, Friday, March 1, 2019, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. House Bill 2530, Creating a voluntary certification for recovery residences.

Having been read a second time on yesterday, Friday, March 1, 2019, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for House Bill 2609, Relating to presumptions of abandonment and indication of ownership in property.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2907, Requiring a form of a certified commitment order to the Division of Corrections and Rehabilitation.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 7. EXECUTION OF SENTENCES; STAYS.

§62-7-10. Prison Commitment order.

The clerk of a circuit court in which a person is sentenced to serve a period of incarceration in a state ~~correctional facility~~ prison shall transmit to the Commissioner of the Division of Corrections and ~~the West Virginia Regional Jail Authority~~ Rehabilitation a certified commitment order in the same as, or similar to, the form provided for in this section. A person may not be committed to a prison unless the commitment order is signed by the circuit judge with jurisdiction over the matter. The amendments to this section enacted during the 2019 regular session of the Legislature are

~~effective July 1, 2019. If a commitment order in a form other than the one provided in this section is issued, the commitment order is required, at a minimum, to contain the same information.~~

IN THE CIRCUIT COURT OF
_____ COUNTY, WEST VIRGINIA

State of West Virginia

v. circuit court Case No. _____

Defendant: _____

DOB: ___ SSN: XXX-XX-___ Gender: ___ Male/ ___ Female

WEST VIRGINIA DIVISION OF CORRECTIONS AND REHABILITATION CERTIFIED PRISON COMMITMENT ORDER

On the _____ day of _____, 20___, the State of West Virginia, by _____, and the defendant appeared in person and with counsel, _____.

The defendant has been convicted of the following offense(s):

The defendant is committed to the custody of the Commissioner of Corrections and Rehabilitation for a period of:

Conviction Date: _____ Sentence Date: _____

Effective Sentence Date: _____ Resentence Date: _____

_____ Consecutive to: ___ Concurrent with: _____

Credit for Jail/Prison Time Served: _____ days Credit for Home Incarceration: _____ days

Credit for Home Incarceration Parole: _____ days Other NonPenal Credit: _____ days

Additionally, the court finds:

The defendant shall be transported to and held in a ~~West Virginia Regional Jail Authority~~ facility ~~until transfer into the physical custody of the Commissioner~~ under the control of the Commissioner of the Division of Corrections and Rehabilitation. The court further orders that the cost of incarceration in the ~~regional~~ jail pending transfer shall be paid by the Commissioner ~~from the date entry of this order forward~~ consistent with the provisions of §15A-3-16 of this code.

Special Instructions: _____

It is further ordered that the Circuit Clerk shall immediately transmit a certified copy of this commitment order to the ~~West Virginia Regional Jail Authority and to the~~ Central Office Inmate Records Manager of the Division of Corrections and Rehabilitation by facsimile at (fax number), by email at (email address) or other electronic transmission, or by mail at (street address).

Enter this _____ day of _____, 2____.

Circuit Judge

§62-7-10a. Jail Commitment order.

The clerk of a circuit court or magistrate court in which a person is sentenced to serve a period of incarceration in a jail facility under the control of the Commissioner of Corrections and Rehabilitation shall transmit to the Commissioner of the Division of Corrections and Rehabilitation a certified commitment order in the form provided for in this section. A person may not be

committed to a jail unless the commitment order is signed by the circuit court judge or magistrate with jurisdiction over the matter. The amendments to this section enacted during the 2019 regular session of the Legislature are effective on July 1, 2019.

IN THE CIRCUIT/MAGISTRATE COURT OF COUNTY, WEST VIRGINIA

State of West Virginia

v. circuit/magistrate court Case No. _____

Defendant: _____

DOB: SSN:XXX-XX- Gender: Male/ Female

WEST VIRGINIA DIVISION OF CORRECTIONS AND REHABILITATION CERTIFIED JAIL COMMITMENT ORDER

On the _____ day of _____, 20____, the State of _____ West _____ Virginia, _____ by _____, and the defendant appeared in _____ person and _____ with counsel, _____.

The defendant has been convicted of the following offense(s):

The defendant is committed to the custody of the Commissioner of Corrections and Rehabilitation for a period of:

_____.

Conviction Date: _____ Sentence Date: _____

Effective Sentence Date: _____ Resentence Date: _____

Consecutive to: _____ Concurrent with:

Credit for Time Served: _____ days Credit for Home
Incarceration: _____ days

Credit for Home Incarceration Parole: _____ days Other
NonPenal Credit: _____ days

Additionally, the court finds:

The defendant shall be transported to and held in a jail facility
for the prescribed period of confinement in accordance with law.
The court further orders that the cost of incarceration of
misdemeanants sentenced to confinement in a jail shall be paid in
accordance with the provisions of §15A-3-16 of this code.

Special Instructions: _____

It is further ordered that the Circuit Clerk or Magistrate Court
Clerk shall immediately transmit a certified copy of this
commitment order to the Central Office Inmate Records Manager
of the Division of Corrections and Rehabilitation by facsimile at
(fax number), by email at (email address) or other electronic
transmission, or by mail at (street address).

Enter this _____ day of _____, 2_____.

_____ Circuit Judge/Magistrate

The bill (Eng. Com. Sub. for H. B. 2907), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2975, Relating to imposition of sexual acts on persons incarcerated.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-2. Lack of consent.

(a) Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without the consent of the victim.

(b) Lack of consent results from:

(1) Forcible compulsion;

(2) Incapacity to consent; or

(3) If the offense charged is sexual abuse, any circumstances in addition to the forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

(c) A person is deemed incapable of consent when such person is:

(1) Less than sixteen years old;

(2) Mentally defective;

(3) Mentally incapacitated;

(4) Physically helpless; or

(5) Subject to incarceration, confinement or supervision by a state, county, or local government entity, when the actor is a person prohibited from having sexual intercourse or causing sexual intrusion or sexual contact pursuant to §61-8B-10 of this code. ~~subsections (a) and (b) of section ten of this article.~~

§61-8B-10. Imposition of sexual acts on persons incarcerated or under supervision; penalties.

(a) Any person employed by the Division of Corrections and Rehabilitation, any person working at a correctional facility managed by the Commissioner of Corrections and Rehabilitation pursuant to contract or as an employee of a state agency or as a volunteer ~~any person working at a correctional facility managed by the Division of Juvenile Services pursuant to contract or as an employee of a state agency, any person employed by a jail or by the Regional Jail and Correctional Facility Authority, any person working at a facility managed by the Regional Jail and Correctional Facility Authority or a jail~~ or any person employed by, or acting pursuant to, the authority of any sheriff, county commission, or court to ensure compliance with the provisions of §62-11B-1 *et seq.* of this code who engages in sexual intercourse, sexual intrusion, or sexual contact with a person who is incarcerated in this state is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned ~~confined~~ in a state correctional facility ~~under the control of the Commissioner of Corrections~~ for not less than one nor more than five years or ~~fined not more than \$5,000~~ both fined and imprisoned.

(b) Any person employed by the Division of Corrections and Rehabilitation as a parole officer or by the West Virginia Supreme Court of Appeals as an adult or juvenile probation officer, who engages in sexual intercourse, sexual intrusion, or sexual contact with a person said parole officer or probation officer is charged as part of his or her employment with supervising, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned ~~confined~~ in a state correctional facility ~~under the control of the Commissioner of Corrections~~ for not less than one nor more than five years, or both fined and imprisoned. ~~or fined not more than \$5,000, or both.~~

(c) Any person working or volunteering in an alternative sentence program authorized by the provisions of §62-11C-1, et seq. of this code who, as part of his or her employment or volunteer duties, supervises program participants, engages in sexual intercourse, sexual intrusion, or sexual contact with a program participant is guilty of a felony and upon conviction, shall be fined not more than \$5,000, imprisoned in a state correctional facility for

not less than one nor more than five years, or both fined and imprisoned.

(e) (d) The term “incarcerated in this state” for purposes of this section includes in addition to its usual meaning, offenders serving a sentence under the provisions of article §62-11B-1 *et seq.* of this code.

(d)(e) Authorized pat-down, strip search or other security related tasks does not constitute sexual contact pursuant to this section.

The bill (Eng. Com. Sub. for H. B. 2975), as amended, was then ordered to third reading.

Eng. House Bill 3083, Adding temporary work during the legislative session as exclusion to the term employment for purposes of unemployment compensation.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

~~**ARTICLE 1. UNEMPLOYMENT COMPENSATION.**~~

ARTICLE 1A. DEFINITIONS.

§21A-1A-17. Exclusions from employment.

The term “employment” does not include:

(1) Service performed in the employ of the United States or any instrumentality of the United States exempt under the Constitution of the United States from the payments imposed by this law, except that to the extent that the Congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this law are applicable

to the instrumentalities and to service performed for the instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services: *Provided*, That if this state is not certified for any year by the Secretary of Labor under 26 U.S.C. § 3404, subsection (c), the payments required of the instrumentalities with respect to the year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in §21A-5-19 of this code with respect to payments erroneously collected;

(2) Service performed with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act and service with respect to which unemployment benefits are payable under an unemployment compensation system for maritime employees established by an Act of Congress. The Commissioner may enter into agreements with the proper agency established under an Act of Congress to provide reciprocal treatment to individuals who, after acquiring potential rights to unemployment compensation under an Act of Congress or who have, after acquiring potential rights to unemployment compensation under an act of Congress, acquired rights to benefit under this chapter. Such agreement shall become effective 10 days after the publications which shall comply with the general rules of the Department;

(3) Service performed by an individual in agricultural labor, except as provided in §21A-1A-16(12) of this code, the definition of “employment”. For purposes of this subdivision, the term “agricultural labor” includes all services performed:

(A) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(B) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of the farm and its tools and

equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of the service is performed on a farm;

(C) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section fifteen (g) of the Agricultural Marketing Act, as amended, as codified in 12 U.S.C. § 1141j, subsection (g), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(D) (i) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if the operator produced more than one half of the commodity with respect to which the service is performed; or (ii) in the employ of a group of operators of farms (or a cooperative organization of which the operators are members) in the performance of service described in subparagraph (i) of this paragraph, but only if the operators produced more than one half of the commodity with respect to which the service is performed; but the provisions of subparagraphs (i) and (ii) of this paragraph are not applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;

(E) On a farm operated for profit if the service is not in the course of the employer's trade or business or is domestic service in a private home of the employer. As used in this subdivision, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, truck farms, plantations, ranches, greenhouses, ranges, and nurseries, or other similar land areas or structures used primarily for the raising of any agricultural or horticultural commodities;

(4) Domestic service in a private home except as provided in §21A-1A-16(13) of this code, the definition of “employment”;

(5) Service performed by an individual in the employ of his or her son, daughter, or spouse;

(6) Service performed by a child under the age of 18 years in the employ of his or her father or mother;

(7) Service as an officer or member of a crew of an American vessel, performed on or in connection with the vessel, if the operating office, from which the operations of the vessel operating on navigable waters within or without the United States are ordinarily and regularly supervised, managed, directed, and controlled, is without this state;

(8) Service performed by agents of mutual fund broker-dealers or insurance companies, exclusive of industrial insurance agents, or by agents of investment companies, who are compensated wholly on a commission basis;

(9) Service performed: (A) In the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or (B) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by the order; or (C) by an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of either: (i) Rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury; or (ii) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market: *Provided*, That this exemption does not apply to services performed by individuals if they are not receiving rehabilitation or remunerative work on account of their impaired capacity; or (D) as part of an unemployment work-relief or work-training program assisted or financed, in whole or in part, by any

federal agency or an agency of a state or political subdivision thereof, by an individual receiving the work relief or work training; or (E) by an inmate of a custodial or penal institution;

(10) Service performed in the employ of a school, college, or university, if the service is performed: (A) By a student who is enrolled and is regularly attending classes at the school, college, or university; or (B) by the spouse of a student, if the spouse is advised, at the time the spouse commences to perform the service, that: (i) The employment of the spouse to perform the service is provided under a program to provide financial assistance to the student by the school, college, or university; and (ii) the employment will not be covered by any program of unemployment insurance;

(11) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution, which combines academic instruction with work experience, if the service is an integral part of the program and the institution has so certified to the employer, except that this subdivision does not apply to service performed in a program established for or on behalf of an employer or group of employers;

(12) Service performed in the employ of a hospital, if the service is performed by a patient of the hospital, as defined in this article;

(13) Service in the employ of a governmental entity referred to in §21A-1A-16(9) of this code, the definition of “employment”, if the service is performed by an individual in the exercise of duties: (A) As an elected official; (B) as a member of a legislative body, or a member of the judiciary, of a state or political subdivision; (C) as an employee serving on a temporary basis for the legislature during, or in support of, the legislative session; (D) as a member of the state National Guard or air National Guard, except as provided in §21A-1A-28 of this code; ~~(D)~~ (E) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or

similar emergency; ~~(E)~~ (F) in a position which, under or pursuant to the laws of this state, is designated as: (i) A major nontenured policymaking or advisory position; or (ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week; or ~~(F)~~ (G) as any election official appointed to serve during any municipal, county, or state election, if the amount of remuneration received by the individual during the calendar year for services as an election official is less than \$1,000;

(14) Service performed by a bona fide partner of a partnership for the partnership; and

(15) Service performed by a person for his or her own sole proprietorship.

Notwithstanding the foregoing exclusions from the definition of “employment”, services, except agricultural labor and domestic service in a private home, are in employment if with respect to the services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a State Unemployment Compensation Fund, or which as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act are required to be covered under this chapter.

The bill (Eng. H. B. 3083), as amended, was then ordered to third reading.

Eng. House Bill 3148, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Eng. House Bill 2311, Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

Eng. Com. Sub. for House Bill 2405, Imposing a healthcare related provider tax on certain health care organizations.

Eng. Com. Sub. for House Bill 2439, Relating to fire service equipment and training funds for volunteer and part-volunteer fire companies.

Eng. House Bill 2509, Clarifying that theft of a controlled substance is a felony.

Eng. Com. Sub. for House Bill 2538, Providing banking services for medical cannabis.

Eng. Com. Sub. for House Bill 2600, Relating to publication of sample ballots.

Eng. Com. Sub. for House Bill 2734, Relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities.

Eng. House Bill 2872, Authorizing law-enforcement officers to assist the State Fire Marshal.

Eng. House Bill 2958, Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

Eng. Com. Sub. for House Bill 3021, Relating to the disposition of permit fees, registration fees and civil penalties imposed against thoroughbred horse racing licensees.

Eng. House Bill 3045, Exempting certain complimentary hotel rooms from hotel occupancy tax.

And,

Eng. House Bill 3095, Establishing a minimum monthly retirement annuity for certain retirants.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Plymale and Trump.

Thereafter, at the request of Senator Stollings, and by unanimous consent, the remarks by Senator Plymale were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, unanimous consent being granted, leaves of absence for the day were granted Senators Beach, Mann, Maroney, and Prezioso.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 10:14 a.m., the Senate adjourned until Monday, March 4, 2019, at 11 a.m.

MONDAY, MARCH 4, 2019

The Senate met at 11:07 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Pastor Jeff Davenport, First Baptist Church of Hurricane, Hurricane, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Eric J. Tarr, a senator from the fourth district.

Pending the reading of the Journal of Saturday, March 2, 2019,

At the request of Senator Jeffries, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 310,
Establishing certain requirements for dental insurance.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Com. Sub. for Com. Sub. for Senate Bill 310—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-6-39, relating to dental insurance plans; defining terms; prohibiting insurers from requiring dentists to provide a discount on noncovered services; prohibiting dentists from charging covered persons more for noncovered services than his or her customary or usual rate for the services; providing that insurers may not provide for a nominal reimbursement for a service in order to claim that the service or material is covered; and providing an effective date.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 310, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 310) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 310) takes effect July 1, 2019.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 408, Determining indigency for public defender services.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page two, section sixteen, lines twenty-eight through thirty, by striking out the following: In circuits in which a public defender office is in operation, all determinations of indigency shall be made by a public defender office employee designated by the executive director.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 408, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 408) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 641, Relating to Primary Care Support Program.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page one, section two, after line nineteen, by inserting the following:

Additionally, the Secretary may use certain portions of funds within this account for activities in support of rural and primary care.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 641, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 641) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 641) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 2020—A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

At the request of Senator Takubo, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 4th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 2036), Permitting vehicles displaying disabled veterans' special registration plates to park in places where persons with mobility impairments may park.

And,

(H. B. 2821), Updating provisions for command, clerical and other pay.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Senator Carmichael (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Senate Concurrent Resolution 48, Requesting study of eliminating use of minimum wage for people with intellectual, developmental or other disabilities.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Mitch Carmichael,
Chairman ex officio.

Senator Carmichael (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

Eng. Com. Sub. for House Bill 2083, Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license.

With amendments from the Committee on the Judiciary pending;

Now on second reading, having been referred to the Committee on Rules on February 20, 2019;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Mitch Carmichael,
Chairman ex officio.

Senator Maynard, from the Committee on Economic Development, submitted the following report, which was received:

Your Committee on Economic Development has had under consideration

Eng. Com. Sub. for House Bill 2420, Establishing the Mountaineer Trail Network Recreation Authority.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Trump, as chair of the Committee on the Judiciary, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Economic Development.

At the request of Senator Takubo, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 2420) was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 2515, Exempting the sale and installation of mobility enhancing equipment from the sales and use tax.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 2515) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2617, Relating to the form for making offer of optional uninsured and underinsured coverage by insurers.

And has amended same.

And,

Eng. House Bill 2647, Self Storage Limited License Act.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 2617 and Eng. H. B. 2647) contained in the preceding report from the Committee on the

Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the sixth order of business.

Senators Baldwin, Mann, Hamilton, Lindsay, Hardesty, and Swope offered the following resolution:

Senate Resolution 67—Recognizing the West Virginia School of Osteopathic Medicine for excellence in medical education and its many contributions to the state of West Virginia.

Whereas, The West Virginia School of Osteopathic Medicine’s main campus is located in Lewisburg, West Virginia, and its statewide campus offices are located throughout the Mountain State; and

Whereas, The mission of the West Virginia School of Osteopathic Medicine is to educate students from diverse backgrounds as life-long learners in osteopathic medicine and complementary health-related programs; to support and develop graduate medical education training; to advance scientific knowledge through academic, clinical, and basic science research; and to promote patient-centered, evidence-based medicine; and

Whereas, The West Virginia School of Osteopathic Medicine is dedicated to serving, first and foremost, the state of West Virginia and the health care needs of its residents, emphasizing primary care in rural areas; and

Whereas, The West Virginia School of Osteopathic Medicine is a leader in producing graduates who practice in rural settings, has a nationally recognized faculty, and has developed innovative programs using funding from the Rural Health Initiative, such as the Green Coat Program; and

Whereas, U. S. News & World Report has ranked the West Virginia School of Osteopathic Medicine among the top medical schools in the nation in primary care, rural, and family medicine for the past 20 years, solidifying the school’s reputation as a place

where scientific study and compassion are joined in one curriculum; and

Whereas, The West Virginia School of Osteopathic Medicine is known nationwide for its efforts in rural, family, and primary care medicine and has earned many accolades to support its efforts, including: First among all medical schools in the United States graduating physicians who practice in rural areas (Academic Medicine, 2010 Study); and fourth in the nation for percentage of medical school graduates entering primary care residency specialties (U. S. News & World Report, 2019); and

Whereas, Third- and fourth-year students from the West Virginia School of Osteopathic Medicine completed 1,434 rural clinical rotations in West Virginia this past academic year; and

Whereas, The West Virginia School of Osteopathic Medicine has been recognized by the Chronicle of Higher Education for seven consecutive years as a “great college to work for”, and has also been included on the Honor Roll, a distinction awarded to institutions that are cited most often across all recognition categories; and

Whereas, Graduates of the West Virginia School of Osteopathic Medicine practice medicine in 48 of West Virginia’s 55 counties and in all 50 states and the District of Columbia, making a significant contribution to the health care needs of the citizens of West Virginia and the nation; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the West Virginia School of Osteopathic Medicine for excellence in medical education and its many contributions to the state of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia School of Osteopathic Medicine.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senators Baldwin and Takubo regarding the adoption of Senate Resolution 67 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:31 a.m., the Senate recessed to present Senate Resolution 67.

The Senate reconvened at 11:35 a.m. and, at the request of Senator Boso, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate proceeded to the eighth order of business.

Com. Sub. for Senate Bill 150, Budget Bill.

On third reading, coming up in regular order, with the right having been granted on Saturday, March 2, 2019, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect.

Eng. Com. Sub. for House Bill 2183, Clarifying where a charge of DUI may be brought against an individual.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—25.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, and Romano—9.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2183) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2183—A Bill to amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended, relating to driving a vehicle under the influence of alcohol, controlled substances, drugs, or a combination thereof; and clarifying that certain misdemeanor offenses of driving under the influence do not encompass or include operating a vehicle solely and exclusively on one's own property.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2531, Permitting trained nurses to provide mental health services in a medication-assisted treatment program.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2531) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2609, Relating to presumptions of abandonment and indication of ownership in property.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he serves as a director of a community bank and this bill could have some effect upon banking operations.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2609) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 2907, Requiring a form of a certified commitment order to the Division of Corrections and Rehabilitation.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2907) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2907—A Bill to amend and reenact §62-7-10 of the Code of West Virginia, 1931, as amended; and to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §62-7-10a, all relating to commitment order forms; providing forms for state correctional facility and jail commitments; requiring use of statutory forms after July 1, 2019; requiring magistrate court and circuit court clerks immediately provide judicially entered orders to the Division of Corrections and Rehabilitation; requiring that orders sent to prisons must be signed by the circuit judge with jurisdiction over the matter; requiring that orders sent to jails must be signed by the circuit court judge or magistrate with jurisdiction over the matter; acknowledging that the costs of incarceration in jail pending transfer to a state correctional facility shall be paid by the Commissioner from the calendar date following the date of the

conviction forward as of July 1, 2019; clarifying the method of transmittal of commitment orders; and establishing an internal effective date.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2907) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2975, Relating to imposition of sexual acts on persons incarcerated.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2975) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2975—A Bill to amend and reenact §61-8B-2 and §61-8B-10 of the Code of West Virginia, 1931, as amended, all relating generally to protecting persons incarcerated or under corrections or court supervision from sexual exploitation by persons supervising them; clarifying that persons participating in community corrections programs lack consent to engage in sexual conduct with persons supervising them in such programs; clarifying that volunteers supervising incarcerated persons or persons under corrections or court supervision are prohibited from engaging in sexual acts with incarcerated persons, supervisees, or participants; updating agency and code references; and establishing criminal penalties.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3083, Adding temporary work during the legislative session as exclusion to the term employment for purposes of unemployment compensation.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 3083 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Facemire, Lindsay, and Romano—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3083) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3148, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Baldwin and Lindsay—2.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3148) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Baldwin and Lindsay—2.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3148) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

Eng. House Bill 2311, Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 1. SUPERVISION.

§11-1-9. Holders of short-term permits and licenses to sell; rulemaking.

(a) Notwithstanding any provision of this chapter to the contrary, holders of short-term permits or licenses to sell specific items, e.g., fireworks, beer, food, or wine at festivals, may not be required to submit any information to the Tax Commissioner after the term of the permit or license has expired: *Provided*, That the permit or license holder has filed with the Tax Commissioner all necessary information specific to the time period the permit or license was authorized and remitted to the Tax Commissioner and the permit or license holder as remitted all taxes and fees that are due under this code. This section does not prevent the Tax

Commissioner from auditing the books and records of the license or permit holder for compliance with the provisions of this code.

(b) The Tax Commissioner shall propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to implement this section.

The bill (Eng. H. B. 2311), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2362, Ardala Miller Memorial Act.

Having been read a second time on Saturday, March 2, 2019, and now coming up in regular order with the Judiciary committee amendment to the bill (*as shown in the Senate Journal of that day, pages 1748 to 1753, inclusive*) pending, was reported by the Clerk.

The question being on the adoption of the Judiciary committee amendment to the bill.

On motions of Senators Stollings and Trump, the following amendment to the Judiciary committee amendment to the bill was reported by the Clerk:

On page three, section one, subsection (c), subdivision (3), line forty-seven, after the word “physician” by inserting a comma and the words “physician’s assistant, or advanced practice registered nurse”.

Following discussion,

The question being on the adoption of the amendment offered by Senators Stollings and Trump to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2362), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2405, Imposing a healthcare related provider tax on certain health care organizations.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On pages two through four, by striking out all of section three and inserting in lieu thereof a new section, designated section three, to read as follows:

§11-27-3. Definitions.

(a) *General.* — When used in this article, words defined in subsection (b) of this section have the meaning ascribed to them in this section, except in those instances where a different meaning is distinctly expressed or the context in which the word is used clearly indicates that a different meaning is intended.

(b) *Definitions.* —

“Business” includes all health care activities engaged in, or caused to be engaged in, with the object of gain or economic benefit, direct or indirect, and whether engaged in for profit, or not for profit, or by a governmental entity. ~~Provided that~~ “Business” does not include services rendered by an employee within the scope of his or her contract of employment. Employee services, services by a partner on behalf of his or her partnership, and services by a member of any other business entity on behalf of that entity, are the business of the employer, or partnership, or other business entity, as the case may be, and reportable as such for purposes of the taxes imposed by this article.

“Broad-based health care related tax” means a broad-based health care related tax as defined in Section 1903 of the Social Security Act, including a health-care related tax for which a waiver from the broad-based or uniformity requirements has been granted and is in effect by the federal Centers for Medicare and Medicaid

Services pursuant to the provisions of Section 1903 of the Social Security Act and implementing regulations.

“Corporation” includes associations, joint-stock companies and insurance companies. It also includes governmental entities when and to the extent such governmental entities engaged in activities taxable under this article.

“Department” means the West Virginia Department of Health and Human Resources.

“Includes” and “including” when used in a definition contained in this article shall not be deemed to exclude other things otherwise within the meaning of the term being defined.

“Partner” includes a member in a “partnership”, as defined in this section.

“Partnership” includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any privilege taxable under this article is exercised, and which is not within the meaning of this article a trust or estate or corporation. It includes a limited liability company when such company is treated as a partnership for federal income tax purposes.

“Person” means any individual, partnership, association, company, corporation or other entity engaging in a privilege taxed under this article.

“Secretary” means the Secretary of West Virginia Department of Health and Human Resources.

“Social Security Act” means the Social Security Act of the United States, as amended by ~~Public Law 102-234~~ Public Law 109-171, and codified in Title 42, Section 1396b of the United States Code.

“Tax” means any tax imposed by this article and, for purposes of administration and collection of such tax, includes any interest,

additions to tax or penalties imposed with respect thereto under article 10 of this chapter.

“Taxable year” means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the tax imposed by this article is computed. In the case of a return made under this article, or regulations of the Tax Commissioner, for a fractional part of a year, the term “taxable year” means the period for which such return is made.

“Taxpayer” means any person subject to any tax imposed by this article.

“This code” means the Code of West Virginia, 1931, as amended.

“This state” means the State of West Virginia.;

And,

On pages four and five, section ten-a, by striking out all of subsection section (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

(b) *Rate and measure of tax.* — The tax imposed by this section shall be based on the following rates applied to each taxable health plan’s total Medicaid member months within tiers I, II and III, and to non-Medicaid member months within tiers IV and V:

(1) Tier I — \$17.00 for each Medicaid member month under 250,000;

(2) Tier II — \$15.00 for each Medicaid member month between 250,000 and 500,000;

(3) Tier III — \$7.00 for each Medicaid member month greater than 500,000;

(4) Tier IV — \$0.25 for each non-Medicaid member month under 150,000; and

(5) Tier V — \$0.10 for each non-Medicaid member month of 150,000 or more.

The bill (Eng. Com. Sub. for H. B. 2405), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2439, Relating to fire service equipment and training funds for volunteer and part-volunteer fire companies.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2509, Clarifying that theft of a controlled substance is a felony.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2525, Tobacco Cessation Therapy Access Act.

Having been read a second time on Friday, March 1, 2019, and now coming up in regular order, was reported by the Clerk.

The following amendments to the bill, from the Committee on Health and Human Resources, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section four, line one, by striking out the word “may” and inserting in lieu thereof the words “or designee shall”;

And,

On page three, section six, after line nineteen, by adding a new subsection, designated subsection (c), to read as follows:

(c) The Board of Pharmacy regulates a pharmacist who dispenses a tobacco cessation noncontrolled prescription medication, over-the-counter medication, or other professional service.

The bill (Eng. H. B. 2525), as amended, was then ordered to third reading.

Eng. House Bill 2530, Creating a voluntary certification for recovery residences.

Having been read a second time on Friday, March 1, 2019, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for House Bill 2538, Providing banking services for medical cannabis.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2600, Relating to publication of sample ballots.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub numbers.

(a) The board of ballot commissioners in counties using ballots upon which votes may be recorded by means of marking with electronically sensible ink or pencil and which marks are tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the electronic voting system for use in elections.

(b) (1) For the primary election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and arrangement of candidates within each office are to conform as nearly as possible to §3-5-13 and §3-5-13a of this code.

(2) For the general election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and the arrangement of candidates within each office are to conform as nearly as possible to §3-6-2 of this code.

(3) Effective with the primary election held in 2016 and thereafter, the following nonpartisan elections are to be separated from the partisan ballot and separately headed in display type with a title clearly identifying the purpose of the election and constituting a separate ballot wherever a separate ballot is required under this chapter:

(A) Nonpartisan elections for judicial offices, by division, of:

(i) Justice of the Supreme Court of Appeals;

(ii) Judge of the circuit court;

(iii) Family court judge; and

(iv) Magistrate;

(B) Nonpartisan elections for board of education; and

(C) Any question to be voted upon.

(4) Beginning in the primary election to be held in the year 2020 and in each election thereafter, the nonpartisan judicial elections described in subparagraphs (i) through (iv), paragraph (A), subdivision (3), of this subsection shall appear immediately after the state ticket and shall immediately precede the county ticket, in the same manner prescribed in §3-5-13a of this code.

(4) (5) Both the face and the reverse side of the ballot may contain the names of candidates only if means to ensure the secrecy of the ballot are provided and lines for the signatures of the poll clerks on the ballot are printed on a portion of the ballot which is

deposited in the ballot box and upon which marks do not interfere with the proper tabulation of the votes.

(5) (6) The arrangement of candidates within each office is to be determined in the same manner as for other electronic voting systems, as prescribed in this chapter. On the general election ballot for all offices, and on the primary election ballot only for those offices to be filled by election, except delegate to national convention, lines for entering write-in votes are to be provided below the names of candidates for each office, and the number of lines provided for any office shall equal the number of persons to be elected, or three, whichever is fewer. The words "WRITE-IN, IF ANY" are to be printed, where applicable, directly under each line for write-ins. The lines are to be opposite a position to mark the vote.

(c) Except for electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary election ballots are to be printed in the color of ink specified by the Secretary of State for the various political parties, and the general election ballot is to be printed in black ink. For electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary ballots and the general election ballot are to be printed in black ink. All ballots are to be printed, where applicable, on white paper suitable for automatic tabulation and are to contain a perforated stub at the top or bottom of the ballot, which is to be numbered sequentially in the same manner as provided in §3-5-13 of this code, or are to be displayed on the screens of the electronic voting system upon which votes are recorded by means of a stylus or touch. The number of ballots printed and the packaging of ballots for the precincts are to conform to the requirements for paper ballots provided in this chapter.

(d) In addition to the official ballots, the ballot commissioners shall provide all other materials and equipment necessary to the proper conduct of the election.

§3-4A-15. Instructions and help to voters; vote-recording device models; facsimile diagrams; sample ballots; legal ballot advertisements.

(a) For the instruction of the voters on any election day in counties utilizing an electronic voting system that uses a screen upon which votes may be recorded by means of a stylus or by means of touch, the ballot commissioners shall provide for each polling place a sample ballot with each screen as it will appear on the devices, together with written instructions regarding the operation of the devices. Upon request, the election officers shall offer instruction to each voter, before voting, in the operation of the vote-recording device.

(b) The ballot commissioners shall also provide facsimile ballots, at least two of which, or complete sets of which, are to be posted on the walls of each polling place. The facsimile diagrams are exact diagrams of the ballots or screens so that the voter may become familiar with the location of the parties, offices, candidates, and questions as they appear on the ballot to be used in his or her precinct.

(c) The ballot commissioners may, with the consent of the county commission, or the county commission may, prepare and mail to each qualified voter at the address shown on the registration books a facsimile sample of the ballot or screens for his or her precinct.

(d) In counties where an electronic voting system has been adopted, the legal ballot advertisements required by §3-5-1 *et seq.* and §3-6-1 *et seq.*, which specify the publication of a facsimile sample ballot, are to consist of a facsimile of the absentee ballot, or a facsimile of each of the electronic voting system screens or screens with the names of the candidates and the offices for which they are running shown in their proper positions: Provided, That when the sample ballots for the precincts within the county contain different senatorial, delegate, magisterial, or executive committee districts or when the sample ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in

order to accommodate the size of each ballot, the ballot or ballot pages must be divided between more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-10. Publication of sample ballots and lists of candidates.

(a) The ballot commissioners of each county shall prepare a sample official primary ballot for each party and, as the case may be, for the nonpartisan candidates to be voted for at the primary election, according to the provisions of this article ~~§3-4-1 et seq.~~, and §3-4A-1 *et seq.* of this code, as appropriate to the voting system. If any ballot issue is to be voted on in the primary election, the ballot commissioners shall likewise prepare a sample official ballot for that issue according to the provisions of law authorizing the election.

(b) The facsimile sample ballot for each political party and for nonpartisan candidates or ballot issues shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, not more than 26 nor less than 20 days preceding the primary election, the ballot commissioners shall publish each sample official primary election ballot as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, not more than 26 nor less than 20 days preceding the primary election, the ballot commissioners shall publish the sample official primary election ballot as a Class I legal advertisement in

the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code; and

(3) Each facsimile sample ballot shall be a photographic reproduction of the official sample ballot or ballot pages and shall be printed in a size no less than 65 percent of the actual size of the ballot, at the discretion of the ballot commissioners: Provided, That in counties where an electronic voting system has been adopted, the facsimile sample ballot may be a photographic reproduction of the absentee ballot; *Provided, however,* That when the ballots for the precincts within the county contain different senatorial, delegate, magisterial or executive committee districts or when the ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in order to accommodate the size of each ballot, the ballot or ballot pages must be divided onto more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.

(c) The ballot commissioners of each county shall prepare, in the form and manner prescribed by the Secretary of State, an official list of offices and candidates for each office which will appear on the primary election ballot for each party and, as the case may be, for the nonpartisan candidates to be voted for at the primary election. All information which appears on the ballot, including instructions as to the number of candidates for whom votes may be cast for the office, any additional language which will appear on the ballot below the name of the office, any identifying information relating to the candidates, such as his or her residence and magisterial district or presidential preference, shall be included in the list in the same order in which it appears on the ballot. Following the names of all candidates, the list shall include the full title, text and voting positions of any issue to appear on the ballot.

(d) The official list of candidates and issues as provided in subsection (c) of this section shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, on the last day on which a newspaper is published immediately preceding the primary election, the ballot commissioners shall publish the official list of candidates and issues as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, on the last day on which a newspaper is published immediately preceding the primary election, the ballot commissioners shall publish the sample official list of nominees and issues as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(3) The publication of the official list of candidates for each party and for nonpartisan candidates shall be in single or double columns, as required to accommodate the type size requirements as follows: (A) The words “official list of candidates”, the name of the county, the words “primary election”, the date of the election, the name of the political party or the designation of nonpartisan candidates shall be printed in all capital letters and in bold type no smaller than fourteen point. The designation of the national, state, district or other tickets shall be printed in all capital letters in type no smaller than 14 point; (B) the title of the office shall be printed in bold type no smaller than 12 point and any voting instructions or other language printed below the title shall be printed in bold type no smaller than 10 point; and (C) the names of the candidates shall be printed in all capital letters in bold type no smaller than 10 point and the residence information shall be printed in type no smaller than 10 point; and

(4) When any ballot issue is to appear on the ballot, the title of that ballot shall be printed in all capital letters in bold type no smaller than 14 point. The text of the ballot issue shall appear in no smaller than eight point type. The ballot commissioners may

require the publication of the ballot issue under this subsection in the facsimile sample ballot format in lieu of the alternate format.

(e) Notwithstanding the provisions of subsections (c) and (d) of this section, beginning with the primary election to be held in the year 2000, the ballot commissioners of any county may choose to publish a facsimile sample ballot for each political party and for nonpartisan candidates or ballot issues instead of the official list of offices and candidates for each office for purposes of the last publication required before any primary election.

§3-5-13. Form and contents of ballots.

The following provisions apply to the form and contents of election ballots:

(1) The face of every primary election ballot shall conform as nearly as practicable to that used at the general election.

(2) The heading of every ballot is to be printed in display type. The heading is to contain a ballot title, the name of the county, the state, the words "Primary Election" and the month, day and year of the election. The ballot title of the political party ballots is to contain the words "Official Ballot of the (Name) Party" and the official symbol of the political party may be included in the heading.

(A) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all judicial officers shall commence with the words "Nonpartisan Ballot of Election of Judicial Officers" and each such office shall be listed in the following order:

(i) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all justices of the Supreme Court of Appeals shall contain the words "Nonpartisan Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia". The names of the candidates for the Supreme Court of Appeals shall be printed by division without references to political party affiliation or registration.

(ii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all circuit court judges in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Circuit Court Judge(s)”. The names of the candidates for the respective circuit court judge office shall be printed by division without references to political party affiliation or registration.

(iii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all family court judges in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Family Court Judge(s)”. The names of the candidates for the respective family court judge office shall be printed by division without references to political party affiliation or registration.

(iv) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all magistrates in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Magistrate(s)”. The names of the candidates for the respective magistrate office shall be printed by division without references to political party affiliation or registration.

(B) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for the Board of Education is to contain the words “Nonpartisan Ballot of Election of Members of the _____ County Board of Education”. The districts for which ~~less~~ fewer than two candidates may be elected and the number of available seats are to be specified and the names of the candidates are to be printed without reference to political party affiliation and without designation as to a particular term of office.

(C) Any other ballot or portion of a ballot on a question is to have a heading which clearly states the purpose of the election according to the statutory requirements for that question.

(3) (A) For paper ballots, the heading of the ballot is to be separated from the rest of the ballot by heavy lines and the offices shall be arranged in columns with the following headings, from left to right across the ballot: “National Ticket”, “State Ticket”,

“Nonpartisan Judicial Ballot”, “County Ticket”, “Nonpartisan Ballot” and, in a presidential election year, “National Convention” or, in a nonpresidential election year, “District Ticket” or, in a presidential election year, “National Convention”. The columns are to be separated by heavy lines. Within the columns, the offices are to be arranged in the order prescribed in §3-5-13a of this code.

(B) For voting machines, electronic voting devices and any ballot tabulated by electronic means, the offices are to appear in the same sequence as prescribed in §3-5-13a of this code and under the same headings as prescribed in paragraph (A) of this subdivision. The number of pages, columns or rows, where applicable, may be modified to meet the limitations of ballot size and composition requirements subject to approval by the Secretary of State.

(C) The title of each office is to be separated from preceding offices or candidates by a line and is to be printed in bold type no smaller than eight point. Below the office is to be printed the number of the district, if any, the number of the division, if any, and the words “Vote for _____” with the number to be nominated or elected or “Vote For Not More Than _____” in multicandidate elections. For offices in which there are limitations relating to the number of candidates which may be nominated, elected or appointed to or hold office at one time from a political subdivision within the district or county in which they are elected, there is to be a clear explanation of the limitation, as prescribed by the Secretary of State, printed in bold type immediately preceding the names of the candidates for those offices on the ballot in every voting system. For counties in which the number of county commissioners exceeds three and the total number of members of the county commission is equal to the number of magisterial districts within the county, the office of county commission is to be listed separately for each district to be filled with the name of the magisterial district and the words “Vote for One” printed below the name of the office: *Provided*, That the office title and applicable instructions may span the width of the ballot so as it is centered among the respective columns.

(D) The location for indicating the voter’s choices on the ballot is to be clearly shown. For paper ballots, other than those tabulated

electronically, the official primary ballot is to contain a square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular column of squares before each column of names.

(4) (A) The name of every candidate certified by the Secretary of State or the board of ballot commissioners is to be printed in capital letters in no smaller than eight point type on the ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the name of each candidate is to appear in the form set out by the candidate on the certificate of announcement, but in no case may the name misrepresent the identity of the candidate nor may the name include any title, position, rank, degree or nickname implying or inferring any status as a member of a class or group or affiliation with any system of belief.

(B) The city of residence of every candidate, the state of residence of every candidate residing outside the state, the county of residence of every candidate for an office on the ballot in more than one county and the magisterial district of residence of every candidate for an office subject to magisterial district limitations are to be printed in lower case letters beneath the names of the candidates.

(C) The arrangement of names within each office must be determined as prescribed in §3-5-13a of this code.

(D) If the number of candidates for an office exceeds the space available on a column or ballot page and requires that candidates for a single office be separated, to the extent possible, the number of candidates for the office on separate columns or pages are to be nearly equal and clear instructions given the voter that the candidates for the office are continued on the following column or page.

(5) When an insufficient number of candidates has filed for a party to make the number of nominations allowed for the office or for the voters to elect sufficient members to the Board of Education or to executive committees, the vacant positions on the ballot shall be filled with the words "No Candidate Filed": *Provided*, That in paper ballot systems which allow for write-ins to be made directly

on the ballot, a blank line shall be placed in any vacant position in the office of Board of Education or for election to any party executive committee. A line shall separate each candidate from every other candidate for the same office. Notwithstanding any other provision of this code, if there are multiple vacant positions on a ballot for one office, the multiple vacant positions which would otherwise be filled with the words "No Candidate Filed" may be replaced with a brief detailed description, approved by the Secretary of State, indicating that there are no candidates listed for the vacant positions.

(6) In presidential election years, the words "For election in accordance with the plan adopted by the party and filed with the Secretary of State" is to be printed following the names of all candidates for delegate to national convention.

(7) All paper ballots are to be printed in black ink on paper sufficiently thick so that the printing or marking cannot be discernible from the back: *Provided*, That no paper ballot voted pursuant to the provisions of 42 U. S. C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type, envelope type, or notarization requirement. Ballot cards and paper for printing ballots using electronically sensible ink are to meet minimum requirements of the tabulating systems and are to conform in size and weight to ensure ease in tabulation.

(8) Ballots are to contain perforated tabs at the top of the ballots and are to be printed with unique sequential numbers from one to the highest number representing the total number of ballots printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth of an inch wide and the ballot is to be trimmed to within one-half inch of that border.

(9) On the back of every official ballot or ballot card the words "Official Ballot" with the name of the county and the date of the election are to be printed. Beneath the date of the election there are to be two blank lines followed by the words "Poll Clerks".

(10) The face of sample paper ballots and sample ballot labels are to be like other official ballots or ballot labels except that the word “sample” is to be prominently printed across the front of the ballot in a manner that ensures the names of candidates are not obscured and the word “sample” may be printed in red ink. No printing may be placed on the back of the sample.

§3-5-13a. Order of offices and candidates on the ballot; uniform drawing date.

(a) The order of offices for state and county elections on all ballots within the state shall be as prescribed herein. When the office does not appear on the ballot in an election, then it shall be omitted from the sequence. When an unexpired term for an office appears on the ballot along with a full term, the unexpired term shall appear immediately below the full term.

NATIONAL TICKET: President (and Vice President in the general election), United States Senator, member of the United States House of Representatives.

STATE TICKET: Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture, Attorney General, State Senator, member of the House of Delegates, any other multicounty office, state executive committee.

NONPARTISAN JUDICIAL BALLOT: Justice of the Supreme Court of Appeals, judge of the circuit court, family judge, magistrate.

COUNTY TICKET: Clerk of the circuit court, county commissioner, clerk of the county commission, prosecuting attorney, sheriff, assessor, surveyor, congressional district executive committee, senatorial district executive committee in multicounty districts, delegate district executive committee in multicounty districts.

NONPARTISAN BALLOT: Nonpartisan elections for board of education, conservation district supervisor, any question to be voted upon.

~~NATIONAL CONVENTION: Delegate to the national convention — at-large; Delegate to the national convention — congressional district.~~

DISTRICT TICKET: County executive committee.

NATIONAL CONVENTION: Delegate to the national convention — congressional district, delegate to the national convention — at-large.

(b) Except for office divisions in which no more than one person has filed a certificate of announcement, the arrangement of names for all offices shall be determined by lot according to the following provisions:

(1) On the fourth Tuesday following the close of the candidate filing, beginning at 9:00 a.m., a drawing by lot shall be conducted in the office of the clerk of the county commission in each county. Notice of the drawing shall be given on the form for the certificate of announcement and no further notice shall be required. The clerk of the county commission shall superintend and conduct the drawing and the method of conducting the drawing shall be prescribed by the Secretary of State.

(2) Except as provided herein, the position of each candidate within each office division shall be determined by the position drawn for that candidate individually: *Provided*, That if fewer candidates file for an office division than the total number to be nominated or elected, the vacant positions shall appear following the names of all candidates for the office.

(3) Candidates for delegate to national convention who have filed a commitment to a candidate for president shall be listed alphabetically within the group of candidates committed to the same candidate for president and uncommitted candidates shall be listed alphabetically in an uncommitted category. The position of each group of committed candidates and uncommitted candidates shall be determined by lot by drawing the names of the presidential candidates and for an uncommitted category.

(4) A candidate or the candidate's representative may attend the drawings.

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

§3-6-3. Publication of sample ballots and lists of candidates.

(a) The ballot commissioners of each county shall prepare a sample official general election ballot for all political party or nominees with no party affiliation unless those persons have actually been nominated by an independent party, nonpartisan candidates for election, if any, and all ballot issues to be voted for at the general election, according to the provisions of §3-4A-1 *et seq.* of this code, and for any ballot issue, according to the provisions of law authorizing the election.

(b) The facsimile sample general election ballot shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, not more than 26 nor less than 20 days preceding the general election, the ballot commissioners shall publish the sample official general election ballot as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, not more than 26 nor less than 20 days preceding the primary election, the ballot commissioners shall publish the sample official general election ballot as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code; and

(3) Each facsimile sample ballot shall be a photographic reproduction of the official sample ballot or ballot pages and shall be printed in a size no less than 65 percent of the actual size of the

ballot, at the discretion of the ballot commissioners: Provided, That in counties where an electronic voting system has been adopted, the facsimile sample ballot may be a photographic reproduction of the absentee ballot: *Provided, however,* That when the ballots for the precincts within the county contain different senatorial, delegate, magisterial or executive committee districts or when the ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in order to accommodate the size of each ballot, the ballot or ballot pages must be divided onto more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.

(c) The ballot commissioners of each county shall prepare, in the form and manner prescribed by the Secretary of State, an official list of offices and nominees for each office which will appear on the general election ballot for each political party or as nominees with no party affiliation unless those persons have actually been nominated by an independent party and, as the case may be, for the nonpartisan candidates to be voted for at the general election:

(1) All information which appears on the ballot, including instructions as to the number of candidates for whom votes may be cast for the office, any additional language which will appear on the ballot below the name of the office, any identifying information relating to the candidates, such as his or her residence and magisterial district or presidential preference. Following the names of all candidates, the list shall include the full title, text and voting positions of any issue to appear on the ballot.

(2) The order of the offices and candidates for each office and the manner of designating the parties shall be as follows:

(A) The offices shall be listed in the same order in which they appear on the ballot;

(B) The candidates within each office for which one is to be elected shall be listed in the order they appear on the ballot, from left to right or from top to bottom, as the case may be, and the candidate's political party affiliation or independent status shall be indicated by the one- or two-letter initial specifying the affiliation, placed in parenthesis to the right of the candidate's name; and

(C) The candidates within each office for which more than one is to be elected shall be arranged by political party groups in the order they appear on the ballot and the candidate's affiliation shall be indicated as provided in paragraph (B) of this subdivision.

(d) The official list of candidates and issues as provided in subsection (c) of this section shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, on the last day on which a newspaper is published immediately preceding the general election, the ballot commissioners shall publish the official list of nominees and issues as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily paper, or having only one or more qualified newspapers which publish weekly, on the last day on which a newspaper is published immediately preceding the general election, the ballot commissioners shall publish the sample official list of nominees and issues as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(3) The publication of the official list of nominees for each party and for nonpartisan candidates shall be in single or double columns, as required to accommodate the type size requirements as follows:

(A) The words "official list of nominees and issues", the name of the county, the words "General Election" and the date of the

election shall be printed in all capital letters and in bold type no smaller than 14 point; and

(B) The names of the candidates and the initial within parenthesis designating the candidate's affiliation shall be printed in all capital letters in bold type no smaller than 10 point and the residence information shall be printed in type no smaller than 10 point; and

(4) When any ballot issue is to appear on the ballot, the title of that ballot shall be printed in all capital letters in bold type no smaller than 12 point. The text of the ballot issue shall appear in no smaller than eight point type. The ballot commissioners may require the publication of the ballot issue under this subsection in the facsimile sample ballot format in lieu of the alternate format.

(e) Notwithstanding the provisions of subsections (c) and (d) of this section, the ballot commissioners of any county may choose to publish a facsimile sample general election ballot, instead of the official list of candidates and issues, for purposes of the last publication required before any general election.

The bill (Eng. Com. Sub. for H. B. 2600), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2734, Relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2872, Authorizing law-enforcement officers to assist the State Fire Marshal.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-12. Powers and duties of State Fire Marshal.

(a) *Enforcement of laws.* — The State Fire Marshal and any other person authorized to enforce the provisions of this article under the supervision and direction of the State Fire Marshal ~~has the authority to~~ may enforce all laws of the state having to do with:

(1) Prevention of fire;

(2) The storage, sale, and use of any explosive, combustible, or other dangerous article or articles in solid, flammable liquid, or gas form;

(3) The installation and maintenance of equipment of all sorts intended to extinguish, detect, and control fires;

(4) The means and adequacy of exit, in case of fire, from buildings and all other places in which persons work, live, or congregate, from time to time, for any purpose, except buildings used wholly as dwelling houses for no more than two families;

(5) The suppression of arson; and

(6) Any other thing necessary to carry into effect the provisions of this article including, but not limited to, confiscating any materials, chemicals, items, or personal property owned, possessed, or used in direct violation of the State Fire Code.

(b) *Assistance upon request.* — Upon request, the State Fire Marshal shall assist any chief of any recognized fire company or department. Upon the request of any federal law-enforcement officer, state police officer, Natural Resources police officer, or any county or municipal law-enforcement officer, the State Fire Marshal, any deputy state fire marshal, or assistant state fire marshal employed pursuant to §29-3-11 of this code and any person deputized pursuant to subsection (j) of this section may

assist in the lawful execution of the requesting officer's official duties: *Provided*, That the State Fire Marshal, or other person authorized to act under this subsection, shall at all times work under the direct supervision of the requesting officer.

(c) *Enforcement of rules.* — The State Fire Marshal shall enforce the rules promulgated by the State Fire Commission as authorized by this article.

(d) *Inspections generally.* — The State Fire Marshal shall inspect all structures and facilities, other than one- and two-family dwelling houses, subject to the State Fire Code and this article, including, but not limited to, state, county, and municipally owned institutions, all public and private schools, health care facilities, theaters, churches, and other places of public assembly to determine whether the structures or facilities are in compliance with the State Fire Code.

(e) *Right of entry.* — The State Fire Marshal may, at all reasonable hours, enter any building or premises, other than dwelling houses, for the purpose of making an inspection which he or she may consider necessary under the provisions of this article. The State Fire Marshal and any deputy state fire marshal or assistant state fire marshal approved by the State Fire Marshal may enter upon any property, or enter any building, structure or premises, including dwelling houses during construction and prior to occupancy, for the purpose of ascertaining compliance with the conditions set forth in any permit or license issued by the office of the State Fire Marshal pursuant to §29-3-12b(A)(1) ~~of this code~~ or §29-3B-1 *et seq.* of this code.

(f) *Investigations.* — The State Fire Marshal may, at any time, investigate as to the origin or circumstances of any fire or explosion or attempt to cause fire or explosion occurring in the state. The State Fire Marshal has the authority at all times of the day or night, in performance of the duties imposed by the provisions of this article, to investigate where any fires or explosions or attempt to cause fires or explosions may have occurred, or which at the time may be burning. Notwithstanding the above provisions of this subsection, prior to entering any building or premises for the

purposes of the investigation, the State Fire Marshal shall obtain a proper search warrant: *Provided*, That a search warrant is not necessary where there is permissive waiver or the State Fire Marshal is an invitee of the individual having legal custody and control of the property, building or premises to be searched.

(g) *Testimony.* — The State Fire Marshal, in making an inspection or investigation when in his or her judgment the proceedings are necessary, may take the statements or testimony under oath of all persons who may be cognizant of any facts or have any knowledge about the matter to be examined and inquired into and may have the statements or testimony reduced to writing; and shall transmit a copy of the statements or testimony so taken to the prosecuting attorney for the county wherein the fire or explosion or attempt to cause a fire or explosion occurred. Notwithstanding the above, no person may be compelled to testify or give any statement under this subsection.

(h) *Arrests; warrants.* — The State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal pursuant to §29-3-11 of this code is hereby authorized and empowered and any person deputized pursuant to §29-3-11 of this code may be authorized and empowered by the State Fire Marshal:

(1) To arrest any person anywhere within the confines of the State of West Virginia, or have him or her arrested, for any violation of the arson-related offenses of §61-3-1 *et seq.* of this code or of the explosives-related offenses of §61-3E-1 *et seq.* of said code: *Provided*, That any and all persons so arrested shall be forthwith brought before the magistrate or circuit court; *Provided, however, that the State Fire Marshal, any full-time deputy fire marshal or any full-time assistant fire marshal is authorized to arrest persons for violations of §61-5-17 of this code.*

(2) To make complaint in writing before any court or officer having jurisdiction and obtain, serve, and execute an arrest warrant when knowing or having reason to believe that anyone has committed an offense under any provision of this article, of the arson-related offenses of §61-3-1 *et seq.* of this code or of the

explosives-related offenses of §61-3E-1 *et seq.* of this code. Proper return shall be made on all arrest warrants before the tribunal having jurisdiction over the violation.

(3) To make complaint in writing before any court or officer having jurisdiction and obtain, serve, and execute a warrant for the search of any premises that may possess evidence or unlawful contraband relating to violations of this article, of the arson-related offenses of §61-3-1 *et seq.* of this code or of the explosives-related offenses of §61-3E-1 *et seq.* of said code. Proper return shall be made on all search warrants before the tribunal having jurisdiction over the violation.

(4) Any member of the West Virginia State Police, Natural Resources Police Officer, or any county or municipal law-enforcement officer may assist, upon request, the State Fire Marshal or any of his or her employees authorized to enforce the provisions of this section in any duties for which the State Fire Marshal has jurisdiction.

(i) *Witnesses and oaths.* — The State Fire Marshal is ~~empowered and authorized to~~ may issue subpoenas and subpoenas duces tecum to compel the attendance of persons before him or her to testify in relation to any matter which is, by the provision of this article, a subject of inquiry and investigation by the State Fire Marshal and cause to be produced before him or her such papers as he or she may require in making the examination. The State Fire Marshal ~~is hereby authorized to~~ may administer oaths and affirmations to persons appearing as witnesses before him or her. False swearing in any matter or proceeding ~~aforsaid~~ is considered perjury and is punishable as perjury.

(j) *Deputizing members of fire departments in this state.* — The State Fire Marshal may deputize a member of any fire department, duly organized and operating in this state, who is approved by the chief of his or her department and who is properly qualified to act as his or her assistant for the purpose of making inspections with the consent of the property owner or the person in control of the property and the investigations as may be directed by the State Fire Marshal, and the carrying out of orders as may be prescribed by

him or her, to enforce and make effective the provisions of this article and any and all rules promulgated by the State Fire Commission under authority of this article: *Provided*, That in the case of a volunteer fire department, only the chief thereof or his or her single designated assistant may be so deputized.

(k) *Written report of examinations.* — The State Fire Marshal shall, at the request of the county commission of any county or the municipal authorities of any incorporated municipality in this state, make to them a written report of the examination made by him or her regarding any fire happening within their respective jurisdictions.

(l) *Report of losses by insurance companies.* — ~~It is the duty of each~~ Each fire insurance company or association doing business in this state, within 10 days after the adjustment of any loss sustained by it that exceeds \$1,500, ~~to~~ shall report to the State Fire Marshal information regarding the amount of insurance, the value of the property insured, and the amount of claim as adjusted. This report is in addition to any information required by the State Insurance Commissioner. Upon the request of the owner or insurer of any property destroyed or injured by fire or explosion, or in which an attempt to cause a fire or explosion may have occurred, the State Fire Marshal shall report in writing to the owner or insurer the result of the examination regarding the property.

(m) *Issuance of permits and licenses.* — The State Fire Marshal ~~is authorized to~~ may issue permits, documents, and licenses in accordance with the provisions of this article or §29-3B-1 *et seq.* of this code: *Provided*, That unless otherwise provided, the State Fire Marshall shall take final action upon any completed permit applications within 30 days of receipt if the application is uncontested, or within 90 days if the application is contested. The State Fire Marshal may require any person who applies for a permit to use explosives, other than an applicant for a license to be a pyrotechnic operator under ~~§29-3-24~~ §29-3E-6 of this code, to be fingerprinted and to authorize the State Fire Marshal to conduct a criminal records check through the criminal identification bureau of the West Virginia State Police and a national criminal history check through the Federal Bureau of Investigation. The results of

any criminal records or criminal history check shall be sent to the State Fire Marshal.

(n) *Issuance of citations for fire and life safety violations.* — The State Fire Marshal, any deputy fire marshal, and any assistant fire marshal employed pursuant to §29-3-11 of this code ~~are hereby authorized~~, and any person deputized pursuant to subsection (j) of this section may be authorized by the State Fire Marshal to issue citations, in his or her jurisdiction, for fire and life safety violations of the State Fire Code and as provided for by the rules promulgated by the State Fire Commission in accordance with §29-3-1 *et seq.* of this code: *Provided*, That a summary report of all citations issued pursuant to this section by persons deputized under subsection (j) of this section shall be forwarded monthly to the State Fire Marshal in the form and containing information as he or she may by rule require, including the violation for which the citation was issued, the date of issuance, the name of the person issuing the citation, and the person to whom the citation was issued. The State Fire Marshal may at any time revoke the authorization of a person deputized pursuant to subsection (j) of this section to issue citations, if in the opinion of the State Fire Marshal, the exercise of authority by the person is inappropriate.

Violations for which citations may be issued include, but are not limited to:

- (1) Overcrowding places of public assembly;
- (2) Locked or blocked exits in public areas;
- (3) Failure to abate a fire hazard;
- (4) Blocking of fire lanes or fire department connections; and
- (5) Tampering with, or rendering inoperable except during necessary maintenance or repairs, on-premise firefighting equipment, fire detection equipment, and fire alarm systems.

(o) *Required training; liability coverage.* — No person deputized pursuant to subsection (j) of this section may be authorized to issue a citation unless that person has satisfactorily

completed a law-enforcement officer training course designed specifically for fire marshals. The course shall be approved by the Law-enforcement Training Subcommittee of the Governor's Committee on Criminal Justice and Highway Safety and the State Fire Commission. In addition, no person deputized pursuant to subsection (j) of this section may be authorized to issue a citation until evidence of liability coverage of the person has been provided, in the case of a paid municipal fire department, by the municipality wherein the fire department is located, or in the case of a volunteer fire department, by the county commission of the county wherein the fire department is located or by the municipality served by the volunteer fire department and that evidence of liability coverage has been filed with the State Fire Marshal.

(p) *Statewide contracts.* — The State Fire Marshal may cooperate with the Department of Administration, Purchasing Division, to establish one or more statewide contracts for equipment and supplies utilized by fire companies and departments in accordance with §5A-3-1 *et seq.* of this code.

(1) Any statewide contract established hereunder shall be made available to any fire company and department in this state, as well as any other state agency or political subdivision that has a need for the equipment or supplies included in those contracts.

(2) The State Fire Marshal may develop uniform standards for equipment and supplies used by fire companies and departments in accordance with §5A-3-1 *et seq.* of this code.

(3) The State Fire Commission shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to effectuate the provisions of this subsection.

(q) *Penalties for violations.* — Any person who violates any fire and life safety rule of the State Fire Code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail not more than 90 days, or both fined and confined. ~~Each and every~~ Every day during which any violation of the provisions of this article

continues after knowledge or official notice that ~~same~~ it is illegal is a separate offense.

(r) The State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal pursuant to §29-3-11 of this code may carry a firearm while acting in the course of his or her official duties, if he or she has successfully completed a firearms training and certification program equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy. The person shall thereafter successfully complete an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule. The State Fire Marshal may reimburse the person for the cost of the training and requalification.

The bill (Eng. H. B. 2872), as amended, was then ordered to third reading.

Eng. House Bill 2958, Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Government Organization, were reported by the Clerk and considered simultaneously:

On page one, section seven-a, line three, by striking out the words “should be so” and inserting in lieu thereof the words “shall be”;

And,

On page one, section seven-a, line six, by striking out the word “that” and inserting in lieu thereof the words “the five-year”.

Following discussion,

The question being on the adoption of the Government Organization committee amendments to the bill, the same was put and prevailed.

The bill (Eng. H. B. 2958), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3021, Relating to the disposition of permit fees, registration fees and civil penalties imposed against thoroughbred horse racing licensees.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 3045, Exempting certain complimentary hotel rooms from hotel occupancy tax.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 3095, Establishing a minimum monthly retirement annuity for certain retirants.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

The Senate proceeded to the tenth order of business.

Eng. House Bill 2009, Creating a new category of Innovation in Education grant program.

On first reading, coming up in regular order, was read a first time and ordered to second reading.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Blair.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the consideration of

Eng. House Bill 2958, Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

Having been read a second time, amended, and advanced to third reading in earlier proceedings today,

The following amendment to the bill, from the Committee on Government Organization, was next reported by the Clerk:

On page one, section seven-a, line ten, after the word “company” by changing the period to a colon and inserting the following proviso: *Provided, however*, That the State Auditor shall implement internal policies to ensure that any costs associated with an audit under this section of the code may be carried by the State Auditor or may be recouped by the volunteer fire company.

Following discussion,

The question being on the adoption of the Government Organization committee amendment to the bill, the same was put and prevailed.

The bill (Eng. H. B. 2958), as just amended, was again ordered to third reading.

The Senate again proceeded to the twelfth order of business.

Remarks were made by Senators Smith and Takubo.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Takubo, at 12:26 p.m., the Senate recessed until 5:30 p.m. today.

The Senate reconvened at 5:46 p.m. and, at the request of Senator Takubo, unanimous consent being granted, returned to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2001, Relating to exempting social security benefits from personal income tax.

And has amended same.

Eng. House Bill 3135, Expiring funds to the balance of the Department of Commerce, Development Office.

And has amended same.

And,

Eng. Com. Sub. for House Bill 3144, North Central Appalachian Coal Severance Tax Rebate Act.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Craig Blair,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2452, Creating the West Virginia Cybersecurity Office.

Eng. Com. Sub. for House Bill 2579, Relating to the collection of tax and the priority of distribution of an estate or property in receivership.

And,

Eng. House Bill 2667, Supplemental appropriation to the Department of Military Affairs and Public Safety, Division of Corrections.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Eng. House Bill 2480, Relating to the regulation of an internationally active insurance group.

And has amended same.

And,

Eng. House Bill 2954, Defining certain terms used in insurance.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Michael T. Azinger,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2550, Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program.

With amendments from the Committee on Economic Development pending;

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2019;

And reports the same back with the recommendation that it do pass as amended by the Committee on Economic Development to which the bill was first referred.

Respectfully submitted,

Craig Blair,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2703, Relating to refunds of excise taxes collected from dealers of petroleum products.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,
Chair.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Eng. Com. Sub. for House Bill 2807, Creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations engaged in banking.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Michael T. Azinger,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2807) contained in the preceding report from the Committee on Banking and Insurance was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Banking and Insurance pending.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Eng. House Bill 2968, Adding remote service unit to the definition of customer bank communications terminals.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Michael T. Azinger,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 2968) contained in the preceding report from the Committee on Banking and Insurance was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 2992, Relating to governmental websites.

With an amendment from the Committee on Government Organization pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as amended by the Committee on Government Organization to which the bill was first referred; and as last amended by the Committee on Finance.

Respectfully submitted,

Craig Blair,
Chair.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 5:52 p.m., the Senate adjourned until tomorrow, Tuesday, March 5, 2019, at 11 a.m.

TUESDAY, MARCH 5, 2019

The Senate met at 11:15 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Pastor Deborah Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Donna J. Boley, a senator from the third district.

Pending the reading of the Journal of Monday, March 4, 2019,

At the request of Senator Lindsay, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

At the request of Senator Takubo, unanimous consent being granted, the Senate proceeded to the sixth order of business.

Senators Azinger, Boley, Carmichael (Mr. President), Tarr, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Woelfel offered the following resolution:

Senate Resolution 68—Memorializing the life of the Honorable John Franklin Deem, veteran, businessman, former member of the West Virginia House of Delegates, former member of the West Virginia Senate, and dedicated public servant.

Whereas, The Honorable John Franklin Deem was born March 20, 1928, in Harrisville, West Virginia, the son of Lyyla Matheny and Fulton S. Deem; and

Whereas, The Honorable John Franklin Deem attended Mountain State Business College, West Virginia University, and graduated with a Bachelor of Science degree in petroleum engineering from Marietta College; and

Whereas, The Honorable John Franklin Deem served his country proudly in the United States Navy during World War II; and

Whereas, The Honorable John Franklin Deem owned Frank Deem's Market in Harrisville, Frank Deem Chevrolet in St. Mary's, and was owner and operator of JF Deem Oil and Gas for more than 50 years; and

Whereas, The Honorable John Franklin Deem served as a member of the West Virginia Legislature for nearly 48 years over the course of seven decades, having been elected from the counties of Ritchie, Pleasants, and Wood; and

Whereas, The Honorable John Franklin Deem began his unparalleled career in public service in 1954, when he was first elected to the West Virginia House of Delegates. From 1954 to 2016, he was elected to the House of Delegates for eight terms; and

Whereas, The Honorable John Franklin Deem was elected to the West Virginia Senate in 1964, and went on to serve a total of eight terms in the Senate, spanning the years from 1964 to 2010; and

Whereas, The Honorable John Franklin Deem was a member of the Parkersburg Rotary (where he was a Harris Fellow), Parkersburg Country Club, Sons of the American Revolution, Independent Oil and Gas Association, West Virginia Oil and Natural Gas Association, and the United States Golf Association. He was a former member of the West Virginia University - Parkersburg Foundation; and

Whereas, The Honorable John Franklin Deem was a supporter of the West Virginia Symphony, the Boys and Girls Club of Parkersburg, the Parkersburg Art Center, and the Ritchie County Golf Program; and

Whereas, Sadly, the Honorable John Franklin Deem passed away on October 10, 2018, bringing to an end a distinguished life of public service and leaving behind a spirit that will reside throughout the hills of West Virginia forever; and

Whereas, It is fitting that the Senate pay tribute to the life and legacy of the Honorable John Franklin Deem, for his many contributions to his community, state, and nation; therefore, be it

Resolved by the Senate:

That the Senate hereby memorializes the life of the Honorable John Franklin Deem, veteran, businessman, former member of the West Virginia House of Delegates, former member of the West Virginia Senate, and dedicated public servant; and, be it

Further Resolved, That the Senate extends its most sincere condolences to the family of the Honorable John Franklin Deem on his passing; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the family of the Honorable John Franklin Deem.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of Senate Resolution 68, and on this question, Senator Plymale demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 68) adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Plymale, Azinger, Stollings, Smith, Trump, Prezioso, Facemire, and Blair regarding the adoption of Senate Resolution 68 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:49 a.m., the Senate recessed to present Senate Resolution 68.

The Senate reconvened at 11:53 a.m. and resumed business under the sixth order, which agenda includes the making of main motions.

Senator Prezioso moved that the Senate Committee on Education be discharged from further consideration of

Eng. House Bill 2730, Increasing the compensation of the membership of the State Police and the salaries for public school teachers and school service personnel.

Following discussion,

Senator Trump moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of Senator Prezioso's aforesated motion, and on this question, Senator Prezioso demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—16.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Prezioso's aforestated motion had not prevailed.

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 3, Establishing WV Small Wireless Facilities Deployment Act.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting section and inserting in lieu thereof the following:

CHAPTER 11. TAXATION

ARTICLE 6L. SPECIAL METHOD FOR VALUATION OF CERTAIN WIRELESS TECHNOLOGY PROPERTY.

§11-6L-1. Short title.

This article shall be known and cited as the Wireless Technology Business Property Valuation Act.

§11-6L-2. Definitions.

For the purposes of this article:

(1) “Tower” means a structure which hosts an antenna or other equipment used for the purposes of transmitting cellular or wireless signals for communications purposes, including telephonically, or for computing purposes, including any antenna and all associated equipment, and which is constructed or erected between July 1, 2019 and July 1, 2024; and

(2) “Salvage value” means five percent of original cost.

§11-6L-3. Limited-time valuation of certain specialized wireless technology property.

Notwithstanding any other provision of this code to the contrary, for five years immediately following the date of its erection, the value of a tower is its salvage value, and the correlated value determined under a unit valuation approach shall be reduced by the difference between the original cost and the salvage value of a tower.

§11-6L-4. Initial determination; Protest and appeal.

The valuation and assessment of any tower subject to this article, including the process of protest and appeal from any such valuation shall be conducted the manner set forth and more fully described in Article 6, Chapter 11 of this Code and any applicable legislative rules.

§11-6L-5. Effective date.

This article is effective on and after July 1, 2019.

CHAPTER 31G. BROADBAND ENHANCEMENT AND EXPANSION POLICIES.

ARTICLE 4. MAKE-READY POLE ACCESS.

§31G-4-4. Public Service Commission jurisdiction; rulemaking; enforcement.

(a) The Public Service Commission shall possess and exercise regulatory jurisdiction over the provisions of this article. The

commission shall administer and adjudicate disputes relating to the issues and procedures provided for under this article.

(b) The commission shall adopt the rates, terms and conditions of access to and use of poles, ducts, conduits and rights-of-way as provided in 47 U.S.C. § 224 and 47 C.F.R. § 1.1401 – 1.1415, inclusive of the dispute resolution process incorporated by reference in those regulations and any subsequent modifications or additions to the provisions of the United States Code or Code of Federal Regulations provisions referenced herein.

(c) The commission shall certify to the Federal Communications Commission that this state, as evidenced by the enactment of this article, hereby exercises jurisdiction over the regulation of pole attachments. The certification shall include notice that the State of West Virginia hereby:

(1) Regulates the rates, terms, and conditions related to pole attachments, and

(2) In so regulating such rates, terms, and conditions, the state has the authority to consider and does consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the services.

§31G-4-5. Electric power utilities; feasibility study for providing broadband services; Public Service Commission to assist; proposed legislation to be developed.; Report.

(a) For purposes of this section:

(1) “Commission” shall mean the West Virginia Public Service Commission.

(2) “Council” shall mean the Broadband Enhancement Council, as defined in §31G-1-1 of this Code.

(3) “Electric Utility” shall mean any electric utility operating within this state that is regulated by the commission.

(4) “Project” shall mean a middle-mile broadband infrastructure expansion project proposed by an electric utility.

(b) Each electric utility may investigate the feasibility of constructing and operating a project within the electric utility distribution system and, if it so elects, may submit a feasibility study of a proposed project to the Council on or before December 1, 2019. Additional feasibility studies may be submitted to the Council after December 1, 2019, without penalty.

(c) The Council and the Commission shall assist each such electric utility in its preparation of such a feasibility study.

(d) The feasibility study shall include an evaluation of the following:

(1) The scope of the proposed project for which the feasibility study is conducted, which shall include but not be limited to:

(A) The route of the middle-mile infrastructure proposed for the project, the number of fiber strands that would be utilized in connection with the proposed project and dedicated to serve as the middle mile, the location of the electric utility’s distribution infrastructure that will be utilized in connection with the proposed project, the capacity of the middle mile broadband infrastructure that will be available to lease to last-mile broadband Internet providers upon completion of the proposed project;

(B) The estimated cost of the proposed project, including but not limited to engineering costs, construction costs, permitting costs, materials and labor, right of way costs, and a reasonable rate of return to the electric utility;

(C) The proposed schedule of construction of the proposed project; and

(D) The method of attachment and connection of the middle-mile broadband fiber assets to the electric utility’s distribution infrastructure;

(2) The regulatory and legal barriers to an electric utility constructing a project and operating middle-mile broadband infrastructure to provide access to unserved areas of the state, as defined in §31G-1-2 of this Code, and any underserved areas of the state, and proposed legislation to address such regulatory barriers;

(3) Whether it is in the public interest and the interest of the electric utility to make improvements to the distribution grid in furtherance of providing such middle-mile broadband Internet services in conjunction with its program of electric distribution projects;

(4) Whether it is in the public interest and the interest of the electric utility to operate middle-mile broadband Internet assets to provide access to unserved and underserved areas of the state;

(5) Whether it is in the public interest and the interest of the electric utility to permit a third-party to lease such capacity to provide last-mile broadband Internet services to unserved and underserved areas of the state;

(6) Whether construction of middle-mile broadband Internet infrastructure utilizing electric utility distribution systems is feasible with respect to the maturity of the relevant technology, the compatibility of such services with existing electric services, and the financial requirements to undertake such project;

(7) The anticipated level of rate adjustment necessary to allow the electric utility to recover its costs associated with the proposed project, and a reasonable rate of return, on an expedited basis, that will be recovered by the electric utility through a rate adjustment at the Commission; and

(8) Such other information that is pertinent to the project;

(e) Upon receipt of a feasibility study, the Council shall post the same on the Council website for written public comment for a period of seven days and then shall render a determination, by a majority vote of the Council, as to the feasibility of the proposed project.

(f) In its consideration of the feasibility of a project, the Council shall identify one or more last-mile broadband Internet providers that may lease the middle-mile broadband Internet capacity created by the proposed project pursuant to lease terms and conditions set by the Council.

(g) The Council shall render such feasibility determination within 60 days from the date the feasibility study is submitted to the Council.

(h) Commencing January 1, 2020, and each year thereafter, the Council shall give a report of its consideration of feasibility studies submitted pursuant to this section of the code to the Governor, the President of the Senate, the Speaker of the House of Delegates, and the Joint Committee on Government and Finance.

§31G-4-6. Severability.

Pursuant to §2-2-10 of this code, if any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

CHAPTER 31H. SMALL WIRELESS FACILITIES DEPLOYMENT ACT.

ARTICLE 1. WEST VIRGINIA SMALL WIRELESS FACILITIES DEPLOYMENT ACT.

§31H-1-1. Legislative findings.

(a) The deployment of reliable small wireless facilities and other next generation wireless and broadband network technology is a matter of statewide concern and critical to the continued economic development and diversification in the state of West Virginia.

(b) Small wireless facilities are critical to delivering wireless access to advanced technology, broadband, and 911 services to

homes, businesses, and schools throughout the state of West Virginia.

(c) Because of the integral role that the delivery of broadband and wireless technology plays in the economic vitality of the state of West Virginia and in the lives of its citizens, the Legislature has determined that a law addressing the further deployment of wireless technology is of vital interest to the state.

(d) Small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, may often be deployed most effectively in public rights-of-way.

(e) To meet the key objectives of this chapter, wireless providers must have access to certain public rights-of-way and the ability to attach or collocate on existing infrastructure that will permit these providers to offer next generation wireless and broadband technology.

(f) To ensure that public and private West Virginia consumers may benefit from these services as soon as possible and to ensure that providers of wireless access have a fair and predictable process for the deployment of small wireless facilities in a manner consistent with the character of the area in which the small wireless facilities are deployed, the Legislature is enacting this chapter, which specifies the regulatory authority for the collocation of small wireless facilities.

§31H-1-2. Definitions.

As used in this chapter, the following words and phrases have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) “Antenna” means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services;

(2) “Applicable codes” means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national

code organization or local amendments to those codes, including the National Electric Safety Code;

(3) “Applicant” means any person who submits an application and is a wireless provider;

(4) “Application” means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities or to approve the installation, modification, or replacement of a utility pole or wireless support structure;

(5) “Authority” means the State of West Virginia or a political subdivision that has jurisdiction and control for use of public rights-of-way as provided by this code for placements within public rights-of-way or has zoning or land use control for placements not within public rights-of-way;

(6) “Authority utility pole” means a utility pole owned or operated by an authority in a public right-of-way;

(7) “Collocate” or “collocation” means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole;

(8) “Commissioner” means the Commissioner of the West Virginia Division of Highways;

(9) “Communications facilities” means the set of equipment and network components, including wires, cables, antennas, and associated facilities, used by a communications service provider to provide communications service;

(10) “Communications service” means cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(33), as amended; or wireless service other than mobile service;

(11) “Communications service provider” means any entity that provides communications service;

(12) “Decorative pole” means an authority utility pole that is specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, or specially designed informational, or directional signage, or temporary holiday or special event attachments have been placed, or are permitted to be placed, according to nondiscriminatory municipal rules or codes;

(13) “Division” means the West Virginia Division of Highways;

(14) “FCC” means the Federal Communications Commission of the United States;

(15) “Fee” means a one-time, nonrecurring charge;

(16) “Historic district” means a group of buildings, properties, or sites that are either listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C;

(17) “Law” means a federal or state statute, common law, code, rule, regulation, order, or a local ordinance or resolution;

(18) “Micro wireless facility” means a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, that is no longer than 11 inches;

(19) “Permit” means a written authorization required by an authority to perform an action or initiate, continue, or complete a project;

(20) “Person” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority;

(21) “Rate” means a recurring charge;

(22) “Right-of-way” means the area on, below, or above a public roadway, highway, street, sidewalk, alley, utility easement, or similar property, but not including a federal interstate highway;

(23) “Small wireless facility” means a wireless facility that meets both of the following qualifications:

(A) Each antenna could fit within an imaginary enclosure of no more than 6 cubic feet; and

(B) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: Electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and communications services;

(24) “Utility pole” means a pole or similar structure that is or may be used, in whole or in part, by a communication services provider or for electric distribution, lighting, traffic control, signage (if the pole is 15 feet or taller), or a similar function, or for the collocation of small wireless facilities. However, “utility pole” does not include wireless support structures or electric transmission structures;

(25) “Wireless facility” means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including:

(A) Equipment associated with wireless communications; and

(B) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. “Wireless facility” includes small wireless facilities. “Wireless facility” does not include:

(i) The structure or improvements on, under, or within which the equipment is collocated; or

(ii) wireline backhaul facilities, coaxial or fiber-optic cable that is between wireless support structures or utility poles, or coaxial or fiber-optic cable that is otherwise not immediately adjacent to, or directly associated with, an antenna;

(26) “Wireless infrastructure provider” means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles, but that is not a wireless provider;

(27) “Wireless provider” means a wireless infrastructure provider or a wireless provider;

(28) “Wireless services” means any services, using licensed or unlicensed spectrum, including the use of WiFi, whether at a fixed location or mobile location, provided to the public using wireless facilities;

(29) “Wireless service provider” means a person who provides wireless services;

(30) “Wireless support structure” means a structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. “Wireless support structure” does not include a utility pole; and

(31) “Wireline backhaul facility” is a facility used for the transport of communications service or any other electronic communications by coaxial, fiber-optic cable, or any other wire.

ARTICLE 2. ACCESS TO PUBLIC RIGHTS-OF-WAY.

§31H-2-1. Use of rights-of-way for small wireless facilities and utility poles; other structures.

(a) The provisions of this section shall only apply to activities of a wireless provider within the right-of-way.

(b) Except as provided in this chapter, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities or the installation of utility poles and associated small wireless facilities.

(c) An authority may not enter into an exclusive arrangement with any person for use of the right-of-way for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance, or replacement of utility poles.

(d) An authority may only charge a wireless provider a rate or fee for the use of the right- of-way with respect to the collocation of small wireless facilities or the installation, maintenance, modification, operation, or replacement of a utility pole in the right-of-way if the authority charges other entities for similar use of the right-of-way. Notwithstanding any provision of this article to the contrary, an authority is permitted, on a nondiscriminatory basis, to refrain from charging any rate to a wireless provider for the use of the right-of-way. The rate for occupancy and use of the right-of-way may not initially exceed \$25 per year per small wireless facility. An authority may adjust this rate up to 10 percent every five years.

(e) Subject to the provisions of this section, a wireless provider has the right, as a permitted use not subject to zoning review or approval, to collocate small wireless facilities and install, maintain, modify, and replace its own utility poles or, with the permission of the owner, a third party's utility pole, along, across, upon, and under the right-of-way. Such structures and facilities shall be so installed and maintained as not to obstruct or hinder the usual travel or public safety on such right-of-way or to obstruct the legal use of such right-of-way by utilities or authorities.

(f) Each new or modified utility pole installed by a wireless provider in the right-of-way may not exceed the greater of:

(1) 10 feet in height above the tallest existing utility pole in place as of the effective date of this chapter located within 500 feet of the new pole in the same right-of-way; or

(2) 50 feet above ground level. New small wireless facilities in the right-of-way may not extend:

(A) More than 10 feet above an existing utility pole in place as of the effective date of this chapter; or

(B) for small wireless facilities on a new utility pole, above the height permitted for a new utility pole pursuant to the provisions of this section. Subject to the provisions of this article, a wireless provider has the right to collocate a small wireless facility and install, maintain, modify, operate, and replace its own utility pole or, with the permission of the owner, a third party's utility pole that exceeds these height limits along, across, upon, and under the right-of-way, subject to applicable zoning regulations.

(g) An authority may adopt reasonable written design guidelines with objective, technically feasible criteria that reasonably match the aesthetics and character of an immediate area regarding all of the following:

(1) The location of any ground-mounted small wireless facilities;

(2) The location of a small wireless facility on a utility pole or wireless support structure;

(3) The appearance and concealment of small wireless facilities, including those relating to materials used for arranging, screening, or landscaping; and

(4) The design and appearance of a utility pole or wireless support structure.

Any such guidelines shall be applied in a nondiscriminatory manner. Materials utilized to comply with the appearance and concealment criteria established in the guidelines shall not be considered part of the small wireless facility for purposes of facility size restrictions in this chapter. Each new or modified small wireless facility or utility pole installed in the right-of-way shall comply with an authority's current design guidelines.

(h) A wireless provider is permitted to replace decorative poles when necessary to collocate a small wireless facility, but any replacement pole shall reasonably conform to the design aesthetics of the decorative poles being replaced.

(i) A wireless provider shall comply with written, objective, reasonable, and nondiscriminatory requirements that prohibit the installation of structures in the right-of-way in an area designated solely for underground communications and electric lines where:

(1) The authority has required all such lines to be placed underground by a date certain that is three months prior to the submission of the application;

(2) Those utility poles which the authority allows to remain shall be made available to wireless providers for the collocation of small wireless facilities and may be replaced by a wireless provider to accommodate the collocation of small wireless facilities, in compliance with this act; and

(3) a wireless provider may install a new utility pole in the designated area that otherwise complies with the other subsections of this section when it is not able to provide wireless service by collocating on a remaining structure. For small wireless facilities installed before an authority adopts requirements that communications and electric lines be placed underground, an authority adopting such requirements shall:

(A) Permit a wireless provider to maintain the small wireless facilities in place subject to any applicable pole attachment agreement with the utility pole owner; or

(B) permit the wireless provider to replace the associated utility pole within 50 feet of the prior location, subject to the permission of the utility pole owner.

(j) Subject to the provisions of this section, an authority may require reasonable, technically feasible, nondiscriminatory, and technologically neutral design or concealment measures in a historic district. Any such design or concealment measures may not have the effect of prohibiting any provider's technology; nor may

any such measures be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility.

(k) Any requirements an authority adopts under subsections (g) through (j), inclusive, of this section must be:

(1) Reasonable, in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments;

(2) no more burdensome than those applied to other types of infrastructure deployments; and

(3) objective and published in advance. The authority, in the exercise of its administration and regulation related to the management of the right-of-way, must be competitively neutral with regard to other wireless service providers who are users of the right-of-way, including that terms may not be unreasonable or discriminatory and may not violate any applicable law or effectively prohibit the provision of wireless services.

(l) The authority may require a wireless provider to repair all damage to the right-of-way directly caused by the activities of the wireless provider in the right-of-way and to return the right-of-way to its functional equivalence before the damage, as determined by the authority, pursuant to the competitively neutral, reasonable requirements and specifications of the authority. If the wireless provider fails to make the repairs required by the authority within a reasonable time after written notice, the authority may complete those repairs and charge the applicable party the reasonable, documented cost of such repairs. Regardless of whether the authority or the wireless provider ultimately makes the repairs, the authority may assess an additional fine of \$100 per day that the wireless provider failed to make the required repairs after the wireless provider received written notice until the repairs were completed.

(m) Nothing in this chapter shall be deemed to impose or otherwise affect any rights, controls, tariffs, or contractual

obligations that may be established with regard to the utility poles, similar structures, or equipment of any type that are owned or controlled by an investor-owned electric utility whose rates are regulated by the Public Service Commission of West Virginia or any such utility's affiliates, or by an independent transmission company.

§31H-2-2. Permitting process for small wireless facilities.

(a) The provisions of this section shall apply to the permitting of small wireless facilities by a wireless provider in or outside the right-of-way as specified in subsection (b) of this section and to the permitting of the installation, modification, and replacement of utility poles by a wireless provider inside the right-of-way.

(b) Small wireless facilities that meet the requirements of §31H-2-1(f) through §31H-2-1(j) of this code shall be classified as permitted uses and not subject to zoning review or approval if they are collocated:

(1) In the right-of-way in any zone or;

(2) outside the right-of-way in property not zoned exclusively for single-family residential use.

(c) An authority may require an applicant to obtain one or more permits to collocate a small wireless facility that meets the requirements of §31H-2-1(f) through §31H-2-1(j) of this code or to install, modify, or replace a utility pole and associated small wireless facilities that meet the requirements of §31H-2-1(f) through §31H-2-1(j) of this code, provided that the permits are of general applicability. An authority shall receive applications for, process, and issue permits subject to the following requirements:

(1) An authority may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority on the wireless provider's utility pole;

(2) An applicant may not be required to provide more information to obtain a permit than communications service providers that are not wireless providers, provided that an applicant may be required to include construction and engineering drawings and information demonstrating compliance with the criteria set forth in this subsection;

(3) An authority, other than the Division of Highways, may not require the placement of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole nor the underground placement of small wireless facilities;

(4) An authority, other than the Division of Highways, may not limit the placement of small wireless facilities by minimum separation distances;

(5) An authority may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless provider within one year after the permit issuance date, unless the authority and the applicant agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site;

(6) Within 10 days of receiving an application, an authority must determine and notify the applicant in writing whether the application is complete. If an application is incomplete, an authority must specifically identify the missing information in writing. The processing deadlines in this subsection are tolled from the time the authority sends the notice of incompleteness to the time the applicant provides the missing information. That processing deadline also may be tolled by agreement of the applicant and the authority;

(7) An application shall be processed on a nondiscriminatory basis and deemed approved if the authority fails to approve or deny the application within 60 days of receipt of the application for a collocation of a small wireless facility and 90 days for an application for the installation, modification, or replacement of a utility pole in the right-of-way;

(8) An authority may deny a proposed collocation of a small wireless facility or installation, modification, or replacement of a utility pole that meets the requirements of this section only if the proposed application:

(A) Materially interferes with the safe operation of traffic control equipment;

(B) Materially interferes with sight lines or clear zones for transportation or pedestrians;

(C) Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;

(D) Fails to comply with reasonable and nondiscriminatory spacing requirements of general application adopted by legislative rule or ordinance that concern the location of ground-mounted equipment and new utility poles. Such spacing requirements may not prevent a wireless provider from serving any location;

(E) Fails to comply with applicable codes, legislative rule, and generally applicable standards that are consistent with this chapter and adopted by an authority for construction and public safety in the rights-of-way, including reasonable and nondiscriminatory wiring and cabling requirements, grounding requirements, and abandonment and removal provisions;

(F) Fails to comply with applicable design guidelines adopted under §31H-2-1(g) of this code; or

(G) Fails to attest that a small wireless facility will comply with relevant Federal Communications Commission (FCC) regulations concerning:

(1) Radiofrequency emissions from radio transmitters; and

(2) unacceptable interference with the public safety spectrum and CII spectrum, including compliance with the abatement and resolution procedures for interference with the public safety spectrum and CII spectrum established by the FCC set forth in 47

C.F.R. 22.970 through 47 C.F.R. 22.973 and 47 C.F.R. 90.672 through 47 CFR 90.675;

(9) The authority must document the basis for a denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant on or before the day the authority denies an application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days of the denial without paying an additional application fee. The authority shall approve or deny the revised application within 30 days. Any subsequent review shall be limited to the changes made in the resubmission;

(10) An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority shall be allowed at the applicant's discretion to file a consolidated application and receive a single permit for the collocation of multiple small wireless facilities; the denial of one or more small wireless facilities in a consolidated application may not delay processing of any other small wireless facilities in the same batch;

(11) Installation or collocation for which a permit is granted pursuant to this section shall be completed within one year after the permit issuance date unless the authority and the applicant agree to extend this period or a delay is caused by the lack of commercial power or communications facilities at the site. Approval of an application authorizes the applicant to:

(A) Undertake the installation or collocation; and

(B) Subject to applicable relocation requirements and the applicant's right to terminate at any time, operate and maintain the small wireless facilities and any associated utility pole installed by the wireless provider or authority utility that is covered by the permit for a period of not less than 10 years, which must be renewed for equivalent durations so long as the small wireless facilities and utility pole are in compliance with the criteria set forth in this subsection;

(12) An authority may not institute, either expressly or de facto, a moratorium on filing, receiving, or processing applications or issuing permits or other approvals, if any, for the collocation of small wireless facilities or the installation, modification, or replacement of utility poles to support small wireless facilities.

(d) An authority may require a permit to work within a right-of-way for any activities under this chapter, if applicable, and may prohibit access when a road is closed or its access is limited to the public: *Provided*, that except for this permit, and the other actions explicitly authorized by this chapter, an authority may not require an additional application, approval, or permit, or require any fees or other charges from a communications service provider authorized to occupy the right-of-way, for:

(1) Routine maintenance;

(2) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller; or

(3) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on existing cables that are strung between existing utility poles in compliance with applicable safety codes and the pole owner's construction standards and engineering practices.

(e) An authority may revoke a permit at any time if the conditions of the permit required pursuant to this article are no longer being satisfied.

§31H-2-3. Access to authority utility poles; application and permit fees and rates for small wireless facilities.

(a) An authority shall allow the collocation of small wireless facilities on authority utility poles within the right-of-way subject to the provisions of this chapter and the following:

(1) An authority may not enter into an exclusive arrangement with any person for the right to attach small wireless facilities to authority utility poles;

(2) The rates and fees for collocations on authority utility poles shall be nondiscriminatory regardless of the services provided by the collocating person;

(3) An authority may charge an annual recurring rate to collocate small wireless facilities on an authority utility pole that equals \$65 per year per pole. An authority may adjust this rate 10 percent every five years, rounded to the nearest five dollars. Nothing in this subdivision prohibits a wireless provider and an authority from mutually agreeing to an annual recurring rate of less than \$65 to collocate a small wireless facility on an authority utility pole;

(4) The rates, fees, and terms for make-ready work must be nondiscriminatory, competitively neutral, and commercially reasonable and must comply with this section;

(5) An authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work including any pole replacement shall be completed within 60 days of written acceptance of the good faith estimate by the applicant. An authority may require replacement of the authority utility pole only if it demonstrates that the collocation would make the authority utility pole structurally unsound; and

(6) The person owning, managing, or controlling the authority utility pole may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work including any pole replacement may not exceed the actual costs or the amount charged to other communications service providers for similar work and may not include any consultant fee or expense.

(b) For the purposes of a state-owned right-of-way maintained by the Division of Highways, the commissioner shall propose rules

for legislative approval, in accordance with the provisions of §29A-3-1 et seq. of this code, to implement the provisions of this article.

(c) Application fees are subject to the following requirements:

(1) An authority may not require a wireless provider to pay any rates, fees, or compensation to the authority or other person other than what is expressly authorized by this chapter;

(2) An authority may charge an application fee for collocation of small wireless facilities on an existing utility pole not to exceed \$200 each for the first five small wireless facilities in the same application and \$100 for each additional small wireless facility in the same application. An authority may adjust this fee 10 percent every five years, rounded to the nearest five dollars;

(3) An authority may charge an application fee for the installation, modification, or replacement of a utility pole and the collocation of an associated small wireless facility that are permitted uses in accordance with the specifications in this chapter not to exceed \$250. An authority may adjust this fee 10 percent every five years, rounded to the nearest five dollars; and

(4) An authority may charge an application fee for the installation, modification, or replacement of a utility pole and the collocation of an associated small wireless facility that is not a permitted use in accordance with the specifications in this chapter not to exceed \$1,000. An authority may adjust this fee 10 percent every five years, rounded to the nearest five dollars.

§31H-2-4. Local authority; miscellaneous provisions.

(a) Nothing in this chapter may be construed to relieve any person from any requirement:

(1) To obtain a franchise or a state-issued authorization to offer cable television service; or

(2) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this chapter. The permitting procedures and

authorizations set forth in this chapter apply only to the placement of small wireless facilities and associated utility poles, and do not authorize the installation or operation of a wireline backhaul facility.

(b) Except as provided in this chapter or otherwise specifically authorized by state or federal law, an authority shall not adopt or enforce any regulations or requirements on the placement or operation of communications facilities in a right-of-way by a communications service provider authorized by state or local law to operate in a right-of-way.

(c) Except as authorized by federal law, this chapter, and municipal taxation ordinances authorizing collection of business and occupation taxes since at least November 1, 1998, an authority shall not regulate any communications services or impose or collect any tax, fee, or charge for the provision of communications service over the communications service provider's communications facilities in a right-of-way, to the extent the communications service provider is already paying the authority a fee for access to the right-of-way.

(d) Subject to the provisions of this chapter and applicable federal law, an authority may continue to exercise zoning, land use, planning, and permitting authority within its territorial boundaries with respect to wireless support structures and utility poles; no authority shall have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any campus, stadium, or athletic facility not owned or controlled by the authority, other than to comply with applicable codes; and an authority shall evaluate the structure classification for wireless support structures under the latest version of ANSI/TIA-222. Nothing in this chapter authorizes the state or any political subdivision, including an authority, to require wireless facility deployment or to regulate wireless services.

(e) An authority may adopt an ordinance that makes available to wireless providers rates, fees, and other terms that comply with the provisions of this chapter. Subject to the provisions of this

section, in the absence of an ordinance that fully complies with this chapter and until such a compliant ordinance is adopted, if at all, wireless providers may install and operate small wireless facilities and utility poles under the requirements of this chapter. An authority and a wireless provider may enter into a voluntary and nondiscriminatory agreement implementing the provisions of this chapter, but an authority may not require a wireless provider to enter into such an agreement.

(f) An agreement or ordinance that does not fully comply with this chapter may apply only to small wireless facilities and associated utility poles that became operational or were installed before the effective date of this chapter. Such an agreement or ordinance may not be renewed, or extended, unless it is modified to fully comply with this chapter. An agreement or ordinance that applies to small wireless facilities and associated utility poles that became operational or were constructed before the effective date of this chapter is invalid and unenforceable beginning on the 181st day after the effective date of this chapter unless it fully complies with this chapter. If an agreement or ordinance is invalid in accordance with this subsection, in the absence of an agreement or ordinance that fully complies with this chapter and until such a compliant agreement or ordinance is entered or adopted, small wireless facilities and associated utility poles that become operational or were constructed before the effective date of this chapter may remain installed and be operated under the requirements of this chapter.

(g) An agreement or ordinance that applies to small wireless facilities and utility poles that become operational on or after the effective date of this chapter is invalid and unenforceable beginning on the effective date of this chapter unless it fully complies with this chapter. If an agreement or ordinance is invalid in accordance with this subsection, in the absence of an agreement or ordinance that fully complies with this chapter and until such a compliant agreement or ordinance is entered or adopted, small wireless facilities and utility poles may be installed and operated in the right-of-way or become operational under the requirements of this chapter.

(h) Any wireless provider who owns or operates small wireless facilities or utility poles in the right-of-way shall indemnify, protect, defend, and hold the authority and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the wireless provider who owns or operates small wireless facilities or utility poles in the right-of-way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the wireless provider, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining facilities in rights-of-way.

(i) Except for a wireless provider with an existing franchise to occupy and operate in the rights-of-way, during the period in which the wireless provider's facilities are located on the authority improvements or rights-of-way, the authority may require the wireless provider to carry, at the wireless provider's own cost and expense, the following insurance:

(1) Property insurance for its property's replacement cost against all risks;

(2) workers' compensation insurance, as required by law; or

(3) commercial general liability insurance with respect to its activities on the authority improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of authority improvements or rights-of-way, including coverage for bodily injury and property damage. An authority may require a wireless provider to include the authority as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the authority in a commercial general liability policy as reasonably required by the authority.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirements required by an authority. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the naming of additional insureds under this section. A wireless provider that elects to self-insure shall provide to the authority evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limits required by the authority.

(j) An authority may impose reasonable and nondiscriminatory requirements for bonds, escrow deposits, letters of credit, or any other type of financial surety to ensure removal of abandoned or unused wireless facilities or damage to the right-of-way or authority property caused by the wireless provider or its agent.

(k) On or before December 31, 2026, all Class I and Class II municipalities shall report to the Joint Committee on Government and Finance of the effects of the implementation of this article.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 3—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6L-1, §11-6L-2, §11-6L-3, §11-6L-4, and §11-6L-5, to amend said code by adding thereto three new sections, designated §31G-4-4, §31G-4-5, and §31G-4-6, and to amend said code by adding thereto a new chapter, designated §31H-1-1, §31H-1-2, §31H-2-1, §31H-2-2, §31H-2-3, and §31H-2-4, all relating to wireless telecommunication technology facilities generally; providing a special method for valuation of certain wireless technology property for property taxes; defining terms; providing mandated salvage valuation of certain wireless businesses' property; specifying method for valuation of certain property; requiring initial determination and specifying procedure for protest and appeal of determination; establishing and delineating Public Service Commission jurisdiction over make-ready pole access within the state; relating to the determination of the feasibility of electric utilities constructing and operating middle-mile broadband

internet projects to serve certain unserved and underserved areas; defining certain terms; delineating the factors that must be contained in certain feasibility studies; requiring the Broadband Enhancement Council and the Public Service Commission to assist electric utilities in the determination of the feasibility of certain proposed middle-mile broadband development projects; requiring that the Broadband Enhancement Council render a judgment as to the feasibility of middle-mile broadband internet projects within a certain period of time; requiring certain reports be submitted to certain officials and committees; and providing for severability; the establishment of the West Virginia Small Wireless Facilities Deployment Act; making legislative findings; defining terms; providing for access to public rights-of-way for the collocation of small wireless facilities; providing for certain permit requirements; authorizing and limiting access to collocation sites, structures and equipment; requiring permits to be issued on a nondiscriminatory basis; providing for the collection of fees and setting the amount of fees; and providing for certain zoning, indemnification, insurance, and bonding requirements.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 3, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 3) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 3) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 72, Creating Sexual Assault Victims' Bill of Rights.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

PREAMBLE: This act shall be known as Hazel's Law.

ARTICLE 11A. VICTIM PROTECTION ACT ~~OF 1984.~~

§61-11A-9. Sexual Assault Victims' Bill of Rights.

(a) In addition to those rights afforded victims of crime by other provisions of this code, a sexual assault victim has the following rights:

(1) The right to a personal representative of the victim's choice to accompany him or her to a hospital or other health care facility and to attend proceedings concerning the alleged assault, including police interviews and court proceedings. *Provided*, That nothing in this subsection shall be construed to violate established forensic interview protocols;

(2) The right to receive a forensic medical examination consistent with the provisions of §61-8B-1(12) of this code conducted by a qualified medical provider in accordance with best practices, taking into consideration the age of the victim and circumstances of the offense;

(3) The right to have a sexual assault evidence collection kit tested and preserved by the investigating law-enforcement agency;

(4) The right to be informed by the investigating law-enforcement agency of any results of the forensic medical examination, if such disclosure would not impede or compromise an ongoing investigation;

(5) The right to be informed in writing of the policies governing the forensic medical examination and preservation of evidence obtained from the examination;

(6) The right to receive, upon his or her written request, notification by United States mail, restricted delivery, to his or her last known address, from the custodian of the evidence obtained from the forensic medical examination no fewer than 60 days prior to the date of the intended destruction or disposal of the evidence: *Provided*, That notice to a victim which meets the requirements of this subdivision, whether received by the addressee or not, meets all notice requirements imposed by this section;

(7) The right, upon his or her written request, to have the evidence obtained from the forensic medical examination preserved for an additional period not to exceed 10 years; and

(8) The right to be informed of the rights afforded a victim pursuant to this section.

(b) As used in this section, “sexual assault” means any sexual act proscribed by §61-8-1 et seq., §61-8B-1 et seq., and §61-8D-1 et seq. of this code.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 72, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 72) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 393, Protecting right to farm.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 19. PRESERVATION OF AGRICULTURAL PRODUCTION.

§19-19-2. Definitions.

For the purposes of this article:

(a) "Agriculture" shall mean the production of food, fiber and woodland products, by means of cultivation, tillage of the soil and by the conduct of animal, livestock, dairy, apiary, equine or poultry husbandry, and the practice of forestry, silviculture, horticulture, harvesting of silviculture products, packing, shipping, milling, and marketing of agricultural products conducted by the proprietor of the agricultural operation, or any other legal plant or animal production and all farm practices. ~~the packing, shipping and marketing, but not including any manufacturing, milling, or processing of such products by other than the producer thereof.~~

(b) "Agricultural land" shall mean ~~not less than five acres~~ any amount of land and the improvements thereupon, used or usable in the production of food, fiber or woodland products of an annual value of \$1,000 or more, by the conduct of the business of agriculture, as defined in subsection (a) of this section.

(c) "Agricultural operation" shall mean any facility utilized for agriculture.

§19-19-7. Additional limitations on nuisance actions.

(a) The provisions of this section are in addition to the limitations on actions brought against an agricultural operation in §19-19-4 of this code, and shall also apply to any nuisance action brought against an agricultural operation in any court of this state.

(b) A person may not file a nuisance action to recover damages in which an agricultural operation is alleged to be a public or private nuisance unless:

(1) He or she is the majority legal land owner;

(2) He or she owns property adversely affected by agricultural operations within one half mile of the agricultural operation; and

(3) The agricultural operation has materially violated a federal, state, or local law applicable to agriculture.

(c) No agricultural operation within this state which has been in operation for a period of more than one year shall be considered a nuisance, either public or private, as the result of a changed condition in or about the locality where such agricultural operation is located. In any nuisance action, public or private, against an agricultural operation or its principals or employees proof that the agricultural operation has existed for one year or more is an absolute defense to the nuisance action, if the operation is in compliance with all applicable state and federal laws, regulations, and permits.

(d) No state or local agency may bring a criminal or civil action against an agricultural operation for an activity that is in material compliance with all applicable state and federal laws, regulations, and permits.

(e) No agricultural operation shall be or become a private or public nuisance if the operators are conducting the agricultural operation in a manner consistent with commonly accepted agricultural practice. If the operation is in material compliance with all applicable state and federal laws, regulations, and permits, it shall be presumed to be conducted in a manner consistent with commonly accepted agricultural practice.

(f) No agricultural operation shall be considered a nuisance, private or public, if the agricultural operation makes a reasonable expansion, so long as the operation is in material compliance with all applicable state and federal laws, regulations, and permits.

(1) For the purpose of this section, a reasonable expansion includes, but is not limited to:

(A) Transfer of the agricultural operation;

(B) Purchase of additional land for the agricultural operation;

(C) Introducing technology to an existing agricultural operation including, but not limited to, new activities, practices, equipment, and procedures consistent with technological development within the agricultural industry;

(D) Applying a Natural Resources Conservation Service program or other United States Department of Agriculture program to an existing or future agricultural operation; or,

(E) Any other change that is related and applied to an existing agricultural operation, so long as the change does not affect the agricultural operation's compliance with applicable state and federal laws, regulations, and permits.

(2) The reasonable expansion exemption provided by this subsection cannot apply to an expansion that:

(A) Creates a substantially adverse effect upon the environment; or

(B) Creates a hazard to public health and safety.

(g) A requirement of a municipality does not apply to an agricultural operation situated outside of the municipality's corporate boundaries on the effective date of this chapter. If an agricultural operation is subsequently annexed or otherwise brought within the corporate boundaries of a municipality, the requirements of the municipality do not apply to the agricultural operation.

(h) An agricultural operation is not, nor shall it become, a private or public nuisance after it has been in operation for more than one year, if such operation was not a nuisance at the time the operation began, and the conditions or circumstances complained of as constituting the basis for the nuisance action exist substantially unchanged since the established date of operation. The established date of operation is the date on which an agricultural operation commenced.

(i) The provisions of this section shall not apply in any of the following circumstances:

(1) Whenever a nuisance results from the negligent operation of any such agricultural operation; or

(2) To affect or defeat the right of any person to recover for injuries or damages sustained because of an agricultural operation or portion of an agricultural operation that is conducted in violation of a federal, state, or local statute or governmental requirement that applies to the agricultural operation or portion of agricultural operation.

(j) The protected status of an agricultural operation, once acquired, is assignable, alienable, and inheritable. The protected status of an agricultural operation, once acquired, may not be waived by the temporary cessation of operations or by diminishing the size of the operation.

§19-19-8. Damages.

(a) A person who brings a nuisance action for damages or injunctive relief against an agricultural operation that has existed for one year or more prior to the date that the action is instituted or who violates the provisions of §19-19-7(h) of this code is liable to the agricultural operation for all costs and expenses incurred in defense of the action, including, but not limited to, attorneys' fees, court costs, travel, and other related incidental expenses incurred in the defense.

(b) In no event shall the total amount of damages in any successful nuisance action exceed the diminished value of the subject property.

(c) The exclusive compensatory damages that may be awarded to a claimant where the alleged nuisance originates from an agricultural operation shall be as follows:

(1) If the nuisance is determined to be a permanent nuisance, compensatory damages shall be limited to the reduction in the fair

market value of the claimant's property caused by the nuisance, not to exceed the fair market value of the claimant's property; and

(2) If the nuisance is determined to be a temporary nuisance, compensatory damages shall be limited to the diminution of the fair rental value of the claimant's property caused by the nuisance.

(d) If any claimant or claimant's successor in interest brings a subsequent private nuisance action against any agricultural operation, the combined recovery from all such actions shall not exceed the fair market value of his or her property. This limitation applies regardless of whether the subsequent action or actions were brought against a different defendant than the preceding action or actions.

(e) A claimant shall not be awarded punitive damages for nuisance actions originating from an agricultural operation.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 393—A Bill to amend and reenact §19-19-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §19-19-7 and §19-19-8, all relating to the right to farm; providing for amended definitions of “agriculture” and “agricultural land”; defining the term “agricultural operation”; limiting persons who may file a nuisance action against an agricultural operation; providing for protections to agricultural operations from nuisance actions under certain circumstances; prohibiting state and local agencies from bringing actions against agricultural operations for activities that are in material compliance with applicable state and federal laws, regulations, and permits; exempting agricultural operations from municipal requirements under certain circumstances; providing that protections from nuisance actions do not apply under certain circumstances; permitting that the protected status of an agricultural operation is assignable, alienable, and inheritable; making a person who brings

a nuisance action against a protected agricultural operation liable for the costs and expenses of the agricultural operation in defending the action; limiting total damages to the diminished value of the subject property; providing for the exclusive compensatory damages that may be awarded to a claimant where the alleged nuisance originates from an agricultural operation; providing that the combined recovery of any claimant or claimant's successor in interest against an agricultural operation shall not exceed the fair market value of his or her property; and prohibiting punitive damages being awarded to a claimant for nuisance actions originating from an agricultural operation.

Senator Takubo moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforesated motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 393, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 393) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 441, Relating to higher education campus police officers.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 520, Requiring entities report drug overdoses.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page two, section four, line two, after the word “appropriate” by inserting the word “information”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 520, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 520) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 636, Authorizing legislative rules for Higher Education Policy Commission.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 668, Relating to physician assistants collaborating with physicians in hospitals.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page three, section three, lines nine and ten, by striking out the words “at the direction of his or her collaborating physician,”;

On page four, section three, line twenty-five, by striking out the words “or practice notification”;

On page four, section three, line thirty-seven, by striking out the words “or practice notification”;

On page five, section nine, line thirteen, by striking out the words “or practice notification”;

On page six, by striking out all of section ten-a and inserting in lieu thereof a new section, designated section ten-a, to read as follows:

§30-3E-10a. Practice notification requirements.

(a) A physician assistant shall collaborate with physicians in a hospital only after the physician assistant is notified by the appropriate licensing board that a complete practice notification has been filed with the Board.

(b) The licensing boards shall promulgate emergency rules to establish the content and criteria for submission of practice notifications for physician assistant hospital practice.

(c) A physician assistant shall notify the Board, in writing, within ten days of the termination of a practice notification. Failure to provide timely notice of the termination constitutes unprofessional conduct and disciplinary proceedings may be instituted by the appropriate licensing board.;

On page six, section eleven, line two, by striking out the word “or”;

On page seven, section eleven, line twenty-one, after the word “facility.” by striking out the remainder of the subsection;

On page seven, lines twenty-five through twenty-seven, by striking out all of subsection (d) and inserting in lieu thereof a new subsection, designated (d), to read as follows:

(d) Every licensed physician assistant shall be individually responsible and liable for the care they provide. This article does not relieve physician assistants or collaborating physicians of responsibility and liability which otherwise may exist for acts and omissions occurring during collaboration.;

On page seven, after line twenty-seven, by inserting the following:

§30-3E-12. Scope of practice.

(a) A license issued to a physician assistant by the appropriate state licensing board shall authorize the physician assistant to perform medical acts:

(1) Pursuant to a practice notification or delegated to the physician assistant as part of an authorized practice agreement;

(2) Appropriate to the education, training and experience of the physician assistant;

(3) Customary to the practice of the collaborating physician; and

(4) Consistent with the laws of this state and rules of the boards.

(b) This article does not authorize a physician assistant to perform any specific function or duty delegated by this code to those persons licensed as chiropractors, dentists, dental hygienists, optometrists or pharmacists, or certified as nurse anesthetists.;

And,

On page seven, section thirteen, line four, by striking out the word “primary”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 668, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 668) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

Eng. Com. Sub. for House Bill 2359, Relating to exemptions to the commercial driver's license requirements.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the Senate amendments to the bill were reported by the Clerk:

On page one, section eight-a, by striking out all of subdivision (c);

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub for House Bill 2359—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17E-1-8a, relating to providing for a restricted commercial driver's license for employees of designated farm-related service industries; and authorizing the Commissioner of Motor Vehicles to define seasonal periods.

Senator Takubo moved that the Senate concur in the foregoing House of Delegates amendments to the Senate amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforesated motion, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 2359, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—21.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Stollings, Unger, and Woelfel—13.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2359) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

Eng. Com. Sub. for House Bill 2476, Relating to the valuation of a motor vehicle involved in an insurance claim.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. House Bill 2547, Relating to the election prohibition zone.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

Senator Takubo then moved that the Senate accede to the request of the House of Delegates and recede from its amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforestated motion, the same was put and prevailed.

Engrossed House Bill 2547, as amended by deletion, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—15.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2547) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, to take effect from passage, of

Eng. House Bill 2691, Providing that a license to carry a concealed deadly weapon expires on the holder's birthday.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment, as amended by the House of Delegates, passage as amended, with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendment, as to

Eng. Com. Sub. for House Bill 3007, Authorizing the Commissioner of Agriculture to require background checks.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendment to the bill was reported by the Clerk:

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for House Bill 3007—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1-3b, relating to authorizing the Commissioner of Agriculture to require background checks as a condition of employment; providing legislative findings; describing background check procedure; making background check results confidential; providing exceptions; designating background checks and related documents not to be considered public records under chapter 29B of said code; prohibiting disqualification of applicant for criminal conviction not bearing rational nexus to employment category; barring consideration of crimes of moral turpitude in hiring; allowing reapplication after disqualification from employment; establishing procedure for individual obtaining preapplication determination if criminal record will disqualify individual from employment; and requiring rulemaking.

On motion of Senator Takubo, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendment to the bill.

Engrossed Committee Substitute for House Bill 3007, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3007) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, to take effect from passage, of

Eng. House Bill 3140, Relating to the Division of Natural Resources Infrastructure.

Executive Communications

Senator Carmichael (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:



Jim Justice
Governor of West Virginia

March 1, 2019

VIA HAND DELIVERY

The Honorable Mitch Carmichael
President, West Virginia Senate
Room 229M, Building 1
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 61

Dear President Carmichael:

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 61. This bill purports to add extortion to the list of criminal offenses for which a prosecutor may seek a wiretap to investigate.

The 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 titles to provide notice of a bill's contents). Specifically, there are two section that are not referenced in the title, W.Va. Code §62-1D-6, which would provide that the evidence obtained by the wiretap can be received in any court of competent jurisdiction, and W.Va. Code §62-1D-9, which provides that information about the evidence obtained through wiretap may be presented in federal criminal proceedings.

As a result of this flaw, I disapprove and return Enrolled Committee Substitute for Senate Bill 61.

Sincerely,

A handwritten signature in blue ink that reads "Jim Justice".

Jim Justice
Governor

cc: The Hon. Roger Hanshaw
Speaker of the House of Delegates
The Hon. Mac Warner
Secretary of State

Senator Takubo moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate proceed to reconsider

Enr. Com. Sub. for Senate Bill 61, Adding certain crimes for which prosecutor may apply for wiretap.

Heretofore disapproved and returned by His Excellency, the Governor, with his objections.

The question being on the adoption of Senator Takubo's motion that the Senate reconsider Enrolled Committee Substitute for Senate Bill 61, the same was put and prevailed.

On motion of Senator Takubo, the following amendment to the title of the bill was reported by the Clerk and adopted:

Enr. Com. Sub. for Senate Bill 61—An Act to amend and reenact 62-1D-6, §62-1D-8, and §62-1D-9 of the Code of West Virginia, 1931, as amended, relating to including the crime of extortion to the list of crimes for which a prosecutor may apply for a court order authorizing interception of communications; permitting for the lawful disclosure of lawfully intercepted communications in court proceedings including federal court; and permitting the use of derivative crime evidence to obtain an arrest warrant or indictment.

The question now being on the passage of the bill, disapproved by the Governor and amended by the Senate.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Baldwin, Beach, Facemire, Lindsay, and Romano—5.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. Com. Sub. for S. B. 61) passed with its title, as amended, as a result of the objections of the Governor.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 5th day of March, 2019, 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. 2690), Relating to guaranty associations.

(H. B. 2746), Relating to administration of estates.

And,

(H. B. 2827), Removing the residency requirements for hiring deputy assessors.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Eng. House Bill 2209, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician.

And,

Eng. House Bill 2926, Requiring the Secretary of the Department of Veterans' Affairs to study the housing needs of veterans.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Ryan W. Weld,
Chair.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

Eng. Com. Sub. for House Bill 2330, Allowing honorably discharged veterans who possess certain military ratings to qualify to take an examination for licensing as a plumber, electrician, and sprinkler fitter.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Ryan W. Weld,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2330) contained in the preceding report from the Committee on Military was taken up for immediate consideration, read a first time, ordered to second

reading, and, under the original double committee reference, was then referred to the Committee on Government Organization.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2412, Relating to criminal acts concerning government procurement of commodities and services.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Eng. Com. Sub. for House Bill 2540, Prohibiting the waste of game animals, game birds or game fish.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2540) contained in the preceding report from the Committee on Natural Resources was

taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on the Judiciary.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Eng. Com. Sub. for House Bill 2715, Relating to Class Q special hunting permit for disabled persons.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Health and Human Resources.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Natural Resources.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Eng. House Bill 2716, Relating to vessel lighting and equipment requirements.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Mark R. Maynard,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2809, Relating to prohibited acts and penalties in the Hatfield-McCoy Recreation Area.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 48, Requesting study of eliminating use of minimum wage for people with intellectual, developmental or other disabilities.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Rules.

Following a point of inquiry to the President, with resultant response thereto,

On motion of Senator Plymale, the Senate reconsidered its action by which immediately hereinbefore Senate Concurrent Resolution 48 was referred to the Committee on Rules.

The action thereon having been reconsidered,

The question now being on the adoption of the resolution, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the eighth order of business.

Com. Sub. for Senate Bill 150, Budget Bill.

On third reading, coming up in regular order, with the right having been granted on Saturday, March 2, 2019, for amendments to be received on third reading, was reported by the Clerk.

On motions of Senators Baldwin and Jeffries, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page one hundred eighty-eight, after item 379, by inserting the following:

380 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2020 Org 0613

Veterans' Nursing Home - Surplus..... XXXXX 5,000,000

381 - Division of Homeland Security and

Emergency Management

(WV Code Chapter 15)

Fund 0443 FY 2020 Org 0606

Early Warning Flood System – Surplus .. XXXXX 400,000;

And by renumbering the remaining items;

And,

On page one hundred eighty-eight, after item 379, line six, by striking out “20,500,000” and inserting in lieu thereof “25,900,000”.

Following discussion,

The question being on the adoption of the amendments offered by Senators Baldwin and Jeffries to the bill, the same was put and prevailed.

On motions of Senators Woelfel and Plymale, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk and considered simultaneously:

On page one hundred eighty-eight, after item 379, by inserting the following:

380 – Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2020 Org 0506

Sexual Assault Intervention

and Prevention – Surplus.....##### 125,000.00”;

And by renumbering the remaining items;

And,

On page one hundred eighty-eight, after item 379, line six, by striking out “20,500,000” and inserting in lieu thereof “20,625,000”

Following discussion and a point of inquiry to the President,

The question being on the adoption of the amendments offered by Senators Woelfel and Plymale to the bill, the same was put and prevailed.

On motions of Senators Stollings and Prezioso, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk and considered simultaneously:

On page forty-seven, item 56, after line twenty-eight, by inserting the following:

Center for End of Life	54500	350,000
CARDIAC Project	37500	250,000;
And,		

On page forty-seven, item 56, line twenty-nine, by striking out “79,074,136”, and inserting in lieu thereof “79,674,136”.

Following discussion,

At the request of Senator Takubo, unanimous consent being granted, further consideration of the bill and the pending amendments offered by Senators Stollings and Prezioso were deferred until the conclusion of bills on today’s third reading calendar.

Eng. House Bill 2311, Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2311) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2362, Ardala Miller Memorial Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2362 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2362) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2362—A Bill to amend and reenact §3-3-1 and §3-3-5c of the Code of West Virginia, 1931, as amended, all relating to emergency absentee ballots; providing that persons who become confined to a particular location on or after the seventh day preceding an election, because of illness, injury, physical disability, immobility due to extreme advanced age, or other medical reason, may vote an emergency absentee ballot; providing that a county commission may adopt a policy extending emergency absentee voting procedures to qualified voters who are eligible to vote an emergency absentee ballot; and providing that a county clerk may require written confirmation by certain licensed

medical professionals that a voter meets the criteria to vote an emergency absentee ballot based on confinement.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2405, Imposing a healthcare related provider tax on certain health care organizations.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2405) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2439, Relating to fire service equipment and training funds for volunteer and part-volunteer fire companies.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings,

Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2439) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 2509, Clarifying that theft of a controlled substance is a felony.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2509) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. House Bill 2509—A Bill to amend and reenact §60A-4-403 of the Code of West Virginia, 1931, as amended, relating to

creating the felony offense of a theft of a controlled substance; and establishing penalties.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2525, Tobacco Cessation Therapy Access Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2525) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2538, Providing banking services for medical cannabis.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he serves as a director of a community bank.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger, Boley, Roberts, and Tarr—4.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2538) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger, Boley, Roberts, and Tarr—4.

Absent: Baldwin—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2538) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 2600, Relating to publication of sample ballots.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2600) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2600—A Bill to amend and reenact §3-4A-11a and §3-4A-15 of the Code West Virginia, 1931, as amended; to amend and reenact §3-5-10, §3-5-13, and §3-5-13a of said code; and to amend and reenact §3-6-3 of said code, all relating generally to the form of ballots; providing that sample ballots required to be printed as legal advertisements ahead of elections in counties where electronic voting has been adopted may consist of a facsimile of the absentee ballot; providing that when sample ballots for the precincts within a county contain different districts for certain offices or municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order; providing that if sample ballots must be divided onto more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot; providing that the publisher of the newspaper containing the sample ballot shall submit a proof and arrangement of the ballot to the ballot commissioners for approval prior to publication; providing that on primary election ballots, the nonpartisan ballot for judicial

elections shall appear immediately after the state ticket and immediately before the county ticket; providing that on primary election ballots, the non-judicial nonpartisan ballot shall appear immediately after the county ticket and immediately before the district ticket; and providing that on primary election ballots, the national convention ticket shall appear immediately after the district ticket, with the election for at-large delegate to the national convention appearing immediately after the election for congressional district delegate to the national convention.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2734, Relating to reduced rates for low-income residential customers of privately owned sewer and combined water and sewer utilities.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2734) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 2872, Authorizing law-enforcement officers to assist the State Fire Marshal.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2872) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. House Bill 2872—A Bill to amend and reenact §29-3-12 of the Code of West Virginia, 1931, as amended, relating to authorizing any member of the West Virginia State Police, Natural Resources Police Officer, or any county or municipal law-enforcement officer to assist the State Fire Marshal or any of his or her employees in any duties for which the State Fire Marshal has jurisdiction; granting the State Fire Marshal, any full-time deputy and assistant fire marshal the power of arrest for obstructing them in their official duties; authorizing the State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal to carry a firearm in the course of official duties; and establishing requirements for annual requalification.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2958, Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2958) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 3021, Relating to the disposition of permit fees, registration fees and civil penalties imposed against thoroughbred horse racing licensees.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3021) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 3045, Exempting certain complimentary hotel rooms from hotel occupancy tax.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Beach, Ihlenfeld, Plymale, and Prezioso—4.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3045) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 3095, Establishing a minimum monthly retirement annuity for certain retirants.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3095) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

At the request of Senator Beach, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

At the respective requests of Senators Blair and Prezioso, and by unanimous consent, Senators Blair and Prezioso addressed the Senate regarding Committee Substitute for Senate Bill 150 (*Budget Bill*).

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 1:35 p.m., the Senate recessed until 6 p.m. today.

The Senate reconvened at 6:33 p.m.

The end of today's third reading calendar having been reached, the Senate returned to the consideration of

Com. Sub. for Senate Bill 150, Budget Bill.

On third reading, coming up in deferred order, with the amendments offered by Senators Stollings and Prezioso to the bill pending, and with the right having been granted on Saturday, March 2, 2019, for amendments to be received on third reading, was again reported by the Clerk.

The question now being on the adoption of the amendments offered by Senators Stollings and Prezioso to the bill (*shown in the Senate Journal of today, pages 1882 and 1883*).

At the request of Senator Stollings, and by unanimous consent, the amendments offered by Senators Stollings and Prezioso to the bill were withdrawn.

On motions of Senators Stollings and Prezioso, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk, considered simultaneously, and adopted:

On page one hundred eighty-eight, item three hundred seventy-nine, after line five, by inserting the following:

“383 - *Division of Health* –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2020 Org 0506

Center for End of Life – Surplus.....	XXXX	\$	350,000
CARDIAC Project – Surplus	XXXX	\$	<u>250,000</u>
Total.....		\$	600,000”

On page one hundred eighty-eight, item three hundred seventy-nine, line six, by striking out the number 20,500,000 and inserting in lieu thereof the number 26,625,000;

And,

By re-numbering the remaining items accordingly.

On motion of Senator Prezioso, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk, considered simultaneously, and adopted:

On page seventy-three, item 98, after line seven, by inserting the following:

The Center of Excellence in Women’s Health.....	XXXXX		250,000;
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And,

On page seventy-three, item 98, line eight, by striking out “110,242,558”, and inserting in lieu thereof “110,924,136”.

On motion of Senator Stollings, the following amendments to the bill (Com. Sub. for S. B. 150) were next reported by the Clerk, considered simultaneously, and adopted:

On page one hundred eighty-eight, after item 379, by inserting the following:

384 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2020 Org 0622

Unclassified – Surplus XXXX \$ 30,000”;

On page one hundred eighty-eight, after item 379, line six, by striking out “20,500,000” and inserting in lieu thereof “26,655,000”;

And,

By re-numbering the remaining items.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

The Senate proceeded to the ninth order of business.

Eng. House Bill 2009, Creating a new category of Innovation in Education grant program.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendments to the bill were withdrawn.

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section eight, line thirty-two, by striking out the word “assess” and inserting in lieu thereof the word “assesses”;

On page two, section eight, line thirty-two, by striking out the word “allow” and inserting in lieu thereof the word “allows”;

On page two, section eight, line thirty-three, by striking out the words “create an” and inserting in lieu thereof the words “creates a”;

On page two, section eight, line thirty-seven, before the words “Incubator process” by inserting “(1)”;

On page three, section eight, line forty-four, after the word “education” by changing the period to a semicolon and adding the word “and”;

On page three, section eight, line forty-five, before the words “Mastery-based education”, by inserting “(2)”;

On page three, section eight, line fifty-seven, by striking out the word “and” and inserting in lieu thereof the word “or”;

On page three, section eight, after line fifty-seven, by inserting a new paragraph, designated paragraph (G), to read as follows:

(G) May include an educational method or technique not meeting all other aspects of this definition if the state board determines that the method or technique is proven to advance student achievement more than other education systems meeting all aspects of this definition.;

On page four, section eight, lines seventy-five through seventy-eight, by striking out all of subdivision (3) and inserting in lieu thereof the following:

(3) Legislative appropriations made for Innovation in Education/Mastery-Based schools shall be deposited in the Innovation in Education Fund created in §18-5D-7 of this code and may be distributed consistent with §18-5E-7 of this code.

And,

On page four, section eight, line eighty, by striking out the words “Schools/Mastery Based” and inserting in lieu thereof the words “Education/Mastery-Based”.

The bill (Eng. H. B. 2009), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2020, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Blair, the following amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the provisions of Engrossed Committee Substitute for Senate Bill 150.

Following extended discussion,

The question being on the adoption of Senator Blair’s amendment to the bill, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Swope, Unger, and Woelfel—14.

Absent: Baldwin and Boley—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Blair's amendment to the bill adopted.

The bill (Eng. Com. Sub. for H. B. 2020), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2083, Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

§17B-2-1c. Temporary identification card for released inmates.

(a) The West Virginia Division of Corrections and Rehabilitation is authorized to issue a temporary identification card to an eligible inmate, no more than seven days prior to the inmate's release from the Division's custody. An identification card issued pursuant to this section shall be valid for 90 days after the date of issuance.

(b) A valid identification card issued pursuant to this section shall have the same force and effect as a standard identification card issued by the Division of Motor Vehicles pursuant to §17B-2-1(f) of this code.

(c)(1) Notwithstanding any other provision of this code, the Division of Motor Vehicles shall accept a valid identification card issued pursuant to this section as sufficient proof of identity, age, and residency of a person applying for an identification card or driver's license pursuant to §17B-2-1 of this code.

(2) If the Division of Motor Vehicles is unable to verify the person's social security number by another means, the Division of Motor Vehicles shall contact the Division of Corrections and Rehabilitation to verify the social security number provided by such person. The Division of Motor Vehicles shall accept verification by the Division of Corrections and Rehabilitation as sufficient documentation of the person's social security number for the purpose of issuing such person an identification card or driver's license pursuant to §17B-2-1 of this code.

(3) The Division of Corrections and Rehabilitation, in collaboration with the Division of Motor Vehicles, shall develop a policy to permit the sharing of released inmates' social security numbers for the limited purposes of this section, and shall obtain any necessary written authorization from an inmate prior to the inmate's release from the Division of Corrections and Rehabilitation's custody.

(d) An inmate is not eligible to receive an identification card pursuant to this section if the inmate is in possession of a valid West Virginia identification card or driver's license, which expires more than seven days after the inmate's date of release from the Division of Corrections and Rehabilitation's custody, or if the inmate is not a citizen of the United States.

(e) Nothing in this section shall be construed to permit or require issuance of an identification card or driver's license for federal use, in violation of the standards promulgated pursuant to the REAL ID Act of 2005, 49 U.S.C. § 30301 et seq.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2083) was reported by the Clerk and adopted:

On page two, section one-c, after subsection (e), by adding a new subsection, designated subsection (f), to read as follows:

(f) During the six months preceding an inmate's release date from the Division of Corrections and Rehabilitation's custody, the division shall make efforts to assist the inmate to obtain a certified copy of the inmate's birth certificate, a Social Security card, and a state-issued driver's license or identification card.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2083), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2420, Establishing the Mountaineer Trail Network Recreation Authority.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. House Bill 2515, Exempting the sale and installation of mobility enhancing equipment from the sales and use tax.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2530, Creating a voluntary certification for recovery residences.

Having been read a second time on Friday, March 1, 2019, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

On motion of Senator Maroney, the following amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 56. CERTIFICATION OF RECOVERY RESIDENCES

§16-56-1. Definitions

As used in this article, the term:

(1) "Certificate of compliance" means a certificate that is issued to a recovery residence by the Department's appointed certifying agency.

(2) "Certified recovery residence" means a recovery residence that holds a valid certificate of compliance.

(3) "Department" means the Department of Health and Human Resources.

(4) "Recovery residence" means a single family, drug-free and alcohol-free residential dwelling unit, or other form of group housing, that is offered or advertised by any person or entity as a residence that provides a drug-free and alcohol-free living environment for the purposes of promoting sustained, long-term recovery from substance use disorder.

§16-56-2. Voluntary Certification of Recovery Residences.

(a) The Department shall contract with an entity to serve as the certifying agency for a voluntary certification program for drug-free and alcohol-free recovery residences based upon standards determined by the National Alliance for Recovery Residences (NARR) or a similar entity. The certifying agency shall establish and implement an accreditation program for drug-free and alcohol-free recovery residences that shall maintain nationally-recognized standards that:

(1) Uphold industry best practices and support a safe, healthy and effective recovery environment;

(2) Evaluate the residence's ability to assist persons in achieving long-term recovery goals;

(3) Protect residents of drug and alcohol free housing against unreasonable and unfair practices in setting and collecting fee payments.

(b) The Department shall require the recovery residence to submit the following:

(1) Documentation verifying certification as specified and administered by the certifying agency;

(2) If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, documentation of verification by the municipality or county where the recovery residence is located stating that the recovery residence is in compliance.

(c) If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, the municipality or county must perform requested or required inspections within 30 days of receiving a request for verification. If a residence is located within a municipality or county that offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, and the municipality or county fails to perform requested or required inspections within 30 days of receiving a request for verification, the residence may apply for and be granted certification directly through the certifying agency without the aforementioned verification.

(d) Upon receiving a complete application, the certifying agency shall evaluate the residence to determine if the residence is in compliance with national best-practice standards and safety requirements. Additionally, any application of the items specified

in this section, must comply with the Fair Housing Act, 42 U.S.C. § 3601 et seq. and the Americans with Disabilities Act of 2008, 42 U.S.C. § 12101 et seq.

(1) If it is determined that the residence is in compliance, the certification agency shall issue a certificate of compliance to the recovery residence operator for the specific recovery residence location set forth in the application.

(2) Each residence location, even if operated by the same person or entity, must maintain a certificate of compliance for the purposes of this article.

(e) The certifying agency may suspend or revoke a certificate of compliance if the recovery residence is not in compliance with any provision of this section or has failed to remedy any deficiency identified in writing and served by certified mail. Suspension or revocation may take place after a notice of deficiency is served and has existed for at least 30 days.

(f) The certifying agency shall implement and maintain a process by which a residence whose certification has been suspended or revoked may apply for and be granted reinstatement. If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, and if the residence's certification suspended or revoked for non-compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing the municipality or county may charge a fee of up to \$100.00 for any requested re-inspection of a recovery residence by the residence seeking reinstatement.

(g) The Department shall periodically evaluate the quality, integrity, and efficacy of the accreditation program developed. The certifying agency, in consultation with the Department, shall promulgate rules subject to legislative approval in accordance with §29A-3-1 et seq. of this code to implement this section that shall include a process for receiving complaints against drug-free and

alcohol-free recovery residences and criteria by which such residences' certifications can be revoked.

(h) A person may not advertise to the public, any recovery residence as a "certified recovery residence" unless the recovery residence has first secured a certificate of compliance under this section. A person who violates this subsection commits a misdemeanor, punishable by a fine of not less than \$1,000.00 nor more than \$5,000.00 for each infraction.

(i) Nothing herein shall be read to require any recovery residence to obtain certifications set forth herein in order to conduct operations.

§16-56-3 Referrals to Recovery Residences; Prohibitions; Receipt of State Funds.

(a) The certifying agency shall maintain, publish and disseminate a list of drug and alcohol free housing certified pursuant to this section. This list shall be disseminated to the Department for use by each state agency or vendor with a statewide contract that provides substance use disorder treatment services. The list shall also be posted on the website maintained by the certifying agency.

(b) The Division of Corrections and Rehabilitation, the Parole Board, county probation offices, day report centers, municipal courts, and a medical or clinical treatment facility that receives any funds for its operations from the state treasury, may not make a referral of any prisoner, parolee, probationer, or prospective, current, or discharged patient or client to a recovery residence unless the recovery residence holds a valid certificate of compliance as provided in §16-56-2 of this code.

(c) No recovery residence is eligible to receive funds from any source within the state treasury unless it holds a valid certificate of compliance as provided in §16-56-2.

(d) A state agency and a medical or clinical treatment facility that receive funds for its operation from the state treasury, that

make referrals to recovery residences shall maintain records of referrals to or from recovery residences.

(e) Nothing in this section requires a state agency or a clinical or medical provider to make a referral of a person to a recovery residence.

(f) A person who violates this section commits a misdemeanor, punishable by a fine of not less than \$500.00 nor more than \$1,000.00.

Following discussion,

The question being on the adoption of Senator Maroney's amendment to the bill, the same was put and prevailed.

The bill (Eng. H. B. 2530), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2550, Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Economic Development, were reported by the Clerk, considered simultaneously, and adopted:

On page four, section five, line eighteen, by striking out the words "five-year period" and inserting in lieu thereof the word "year";

And,

Amend the bill on page four, section five, line twenty-nine, by striking out the words "five-year period" and inserting in lieu thereof the word "year".

The bill (Eng. Com. Sub. for H. B. 2550), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2617, Relating to the form for making offer of optional uninsured and underinsured coverage by insurers.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 6. THE INSURANCE POLICY.

§33-6-31d. Form for making offer of optional uninsured and underinsured coverage.

(a) Optional limits of uninsured motor vehicle coverage and underinsured motor vehicle coverage required by §33-6-31 of this code shall be made available to the named insured at the time of initial application for liability coverage and upon any request of the named insured on a form prepared and made available by the Insurance Commissioner. The contents of the form shall be as prescribed by the commissioner and shall specifically inform the named insured of the coverage offered and the rate calculation ~~therefor~~ for the coverage, including, but not limited to, all levels and amounts of ~~such the~~ coverage available and the number of vehicles which will be subject to the coverage. The commissioner shall provide for the use of electronic means of delivery and electronic signing when issuing the prescribed form. ~~The form shall be made available for use on or before the effective date of this section.~~ The form shall allow any named insured to waive any or all of the coverage offered.

(b) Any insurer who issues a motor vehicle insurance policy in this state shall provide the form to each person who applies for the issuance of ~~such a~~ policy by delivering the form to the applicant or by mailing the form to the applicant. ~~together with the applicant's initial premium notice~~ Insurers may deliver the form by electronic means. Delivery by "electronic means" includes delivery of the

form to an electronic mail address at which an applicant or policyholder has consented to receive notices or documents, by posting on an electronic network or site accessible via the Internet, electronic device, or mobile application, at or from which the applicant or policyholder has consented to receive delivery, or by any other delivery method that has been consented to by the applicant or policyholder. Any document delivered electronically satisfies any font, size, color, spacing, or other format requirements that are established for printed documents, provided that the format in the document delivered electronically has reasonably similar proportions or emphasis for the characters relative to the rest of the electronic document. The applicant shall complete, date, and sign the form and return the form to the insurer within 30 days after receipt thereof of the form. Any signature executed in conformity with the Uniform Electronic Transactions Act in §39A-1-1 et seq. of this code is enforceable as provided by that act. ~~No~~ An insurer or agent ~~thereof of the insurer~~ is not liable for payment of any damages applicable under any optional uninsured or underinsured coverage authorized by §33-6-31 of this code for any incident which occurs from the date the form was mailed or delivered to the applicant until the insurer receives the form and accepts payment of the appropriate premium for the coverage requested ~~therein in the form~~ from the applicant: *Provided,* That if prior to the insurer's receipt of the executed form the insurer issues a policy to the applicant which provides for ~~such~~ the optional uninsured or underinsured coverage, the insurer is liable for payment of claims against ~~such~~ the optional coverage up to the limits provided ~~therefor in such in the~~ in the policy. The contents of a form described in this section which has been signed by an applicant creates a presumption that ~~such~~ the applicant and all named insureds received an effective offer of the optional coverages described in this section and that ~~such~~ the applicant exercised a knowing and intelligent election or rejection ~~as the case may be~~ of such ~~the~~ offer as specified in the form. ~~Such~~ The election or rejection is binding on all persons insured under the policy.

~~(c) Any insurer who has issued a motor vehicle insurance policy in this state which is in effect on the effective date of this section shall mail or otherwise deliver the form to any person who~~

is designated in the policy as a named insured. A named insured shall complete, date and sign the form and return the form to the insurer within 30 days after receipt thereof. No insurer or agent thereof is liable for payment of any damages in any amount greater than any limits of such coverage, if any, provided by the policy in effect on the date the form was mailed or delivered to such named insured for any incident which occurs from the date the form was mailed or delivered to such named insured until the insurer receives the form and accepts payment of the appropriate premium for the coverage requested therein from the applicant. The contents of a form described in this section which has been signed by any named insured creates a presumption that all named insureds under the policy received an effective offer of the optional coverages described in this section and that all such named insured exercised a knowing and intelligent election or rejection as the case may be of such offer as specified in the form. Such election or rejection is binding on all persons insured under the policy.

~~(d)~~(c) Failure of the applicant or a named insured to return the form described in this section to the insurer as required by this section within the time periods specified in this section creates a presumption that ~~such~~ the person received an effective offer of the optional coverages described in this section and that ~~such~~ the person exercised a knowing and intelligent rejection of ~~such~~ the offer. ~~Such~~ The rejection is binding on all persons insured under the policy.

~~(e)~~(d) The insurer shall make ~~such~~ the forms available to any named insured who requests different coverage limits on or after the effective date of this section. ~~No~~ An insurer is not required to make ~~such~~ the form available or notify any person of the availability of ~~such~~ the optional coverages authorized by this section except as required by this section.

~~(f)~~(e) Notwithstanding any of the provisions of this article ~~six~~ of this chapter to the contrary, including §33-6-31f of this code, for insurance policies in effect on December 31, 2015, insurers are not required to offer or obtain new uninsured or underinsured motorist coverage offer forms as described in this section on any insurance policy to comply with the amount of the minimum required

financial responsibility limits set forth in §17D-4-2(b) of this code. All ~~such~~ offer forms that were executed prior to January 1, 2016, shall remain in full force and effect.

(f) If an insurer offers to place an insured with an affiliate of the insurer, the insurer shall make available a new uninsured and underinsured motorist coverage offer form, in the manner provided by and pursuant to subsections (a) and (b) of this section. A named insured shall complete, date, and sign the form as provided by subsection (b) of this section and return the form to the insurer within 30 days after receipt of the form. If an insured does not return the form within 30 days, then the last form previously signed by the insured for the insurer or any affiliate governs the amount of uninsured and underinsured motorist coverage provided by the newly issuing insurer and remains binding on all persons insured under the policy.

The bill (Eng. Com. Sub. for H. B. 2617), as amended, was then ordered to third reading.

Eng. House Bill 2647, Self Storage Limited License Act.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 12. INSURANCE PRODUCERS AND SOLICITORS.

§33-12-38. Self-Service Storage Limited License Act.

(a) Definitions. For purposes of this section, the following terms have the following meanings:

(1) “Leased space” means the individual storage space at the self-service storage facility which is leased or rented to an occupant pursuant to a rental agreement;

(2) “Location” means any physical location in the State of West Virginia or any website, call center site, or similar location directed to residents of the State of West Virginia;

(3) “Occupant” means a person entitled to the use of a leased space at a self-service storage facility under a rental agreement, or the person’s sublessee, successor, or assign;

(4) “Owner” means the owner, operator, lessor, or sublessor of a self-service storage facility or the owner’s agent or any other person authorized to manage the facility or to receive rent from any occupant under a rental agreement;

(5) “Personal property” means movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, motor vehicles, and household items and furnishings;

(6) “Rental agreement” means any agreement or lease that establishes or modifies the terms, conditions or rules concerning the lawful and reasonable use and occupancy of leased space at a self-service storage facility;

(7) “Self-service storage facility” means any real property used for renting or leasing individual storage spaces, other than storage spaces which are leased or rented as an incident to the lease or rental of residential property or dwelling units, to which the occupants have access for storing or removing their personal property;

(8) “Self-service storage insurance” means personal property insurance offered in connection with and incidental to the lease or rental of leased space at a self-service storage facility that provides coverage to occupants at the self-service storage facility where the insurance is transacted for the loss of or damage to personal property that occurs at that facility or when the property is in transit to or from that facility during the period of the rental agreement; and

(9) “Supervising entity” means a business entity that is a licensed insurance producer or an insurer.

(b) Licensure of owners.

(1) An owner shall hold a limited lines license under this section if the owner sells, solicits, or offers coverage for self-service storage insurance. Notwithstanding any other provision of this section to the contrary, an owner is not required to be licensed solely to display and make available to occupants and prospective occupants brochures and other promotional materials created by or on behalf of an authorized insurer or surplus lines insurer.

(2) A limited lines license issued under this section is limited to authorizing an owner and the owner's employees and authorized representatives to sell, solicit, and offer coverage for self-service storage insurance to occupants.

(3) A limited lines license issued under this section authorizes an owner and the owner's employees and authorized representatives to sell, solicit, and offer self-service storage insurance coverage at each location at which the owner conducts business.

(4) An owner shall maintain, and share with its supervising entity, a list of all locations in this state at which self-service storage insurance is offered on its behalf. The supervising entity shall submit the list to the Insurance Commissioner within 30 days upon request.

(5) An owner and its employees and authorized representatives are not subject to the agent pre-licensing education, examination, or continuing education requirements of this article.

(c) Requirements for Sale of Self-Service Storage Insurance.

(1) At every location where self-service storage insurance is offered, the owner shall make brochures or other written or electronic materials available to occupants which:

(A) Disclose that self-service storage insurance may provide a duplication of coverage already provided by an occupant's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

(B) State that the enrollment by the occupant for the self-service storage insurance coverage offered by the owner is not required in order to lease or rent leased space from the owner;

(C) Provide the actual terms of the self-service storage insurance coverage, or summarize the material terms of the insurance coverage, including:

(i) The identity of the insurer;

(ii) The identity of the supervising entity;

(iii) The amount of any applicable deductible and how it is to be paid;

(iv) Benefits of the coverage; and

(v) Key terms and conditions of coverage;

(D) Summarize the process for filing a claim;

(E) State that the occupant may cancel enrollment for the self-service storage insurance coverage at any time and the person paying the premium shall receive a refund of any applicable unearned premium.

(2) Self-service storage insurance may be provided under an individual policy or under a commercial, corporate, group, or master policy.

(3) Eligibility and underwriting standards for occupants electing to enroll in coverage shall be established for each self-service storage insurance program.

(d) Authority of owners.

(1) The employees and authorized representatives of owners may sell, solicit, and offer self-service storage insurance to occupants and are not subject to licensure as an insurance producer under this article provided that:

(A) The owner obtains a limited lines license to authorize the owner's employees and authorized representatives to sell, solicit, and offer self-service storage insurance;

(B) The insurer issuing the self-service storage insurance appoints a supervising entity to supervise the administration of the program including development of a training program for employees and authorized representatives of the owner who sell, solicit, or offer self-service storage insurance. The training required by this subdivision shall comply with the following:

(i) The training shall be delivered to all employees and authorized representatives of the owner who sell, solicit, or offer self-service storage insurance;

(ii) The training may be provided in electronic form. However, if provided in an electronic form the supervising entity shall implement a supplemental education program regarding the self-service storage insurance that is provided and overseen by licensed employees of the supervising entity; and

(iii) Each employee and authorized representative selling, soliciting, or offering self-service storage insurance shall receive basic instruction about the self-service storage insurance offered to occupants and the disclosures required under paragraph (C) of this subdivision.

(C) An employee or authorized representative of an owner does not advertise, represent, or otherwise hold himself or herself out as a licensed insurance producer, unless so licensed;

(D) An employee or authorized representative of an owner is compensated based primarily on the number of occupants enrolled for self-service storage insurance coverage. Employees and authorized representatives may receive compensation for enrolling occupants for self-service storage insurance coverage as long as the compensation for those activities is incidental to their overall compensation;

(2) The charges for self-service storage insurance coverage may be billed and collected by the owner. Any charge to the

occupant for coverage that is not included in the cost associated with the lease or rental of leased space shall be separately itemized on the occupant's bill. If the coverage is included in the lease or rental of leased space, the owner shall clearly and conspicuously disclose to the occupant that the self-service storage insurance coverage is included with the lease or rental of leased space. An owner billing and collecting the charges is not required to maintain the funds in a segregated account, provided that the owner is authorized by the insurer to hold the funds in an alternative manner and remits the amounts to the supervising entity or insurer within 60 days of receipt. All premiums received by an owner from an occupant for self-service storage insurance shall be considered funds held by the owner in a fiduciary capacity for the benefit of the insurer. Owners may receive compensation for billing and collection services.

(e) Suspension of Privileges.

(1) If an owner or its employee or authorized representative violates any provision of this section, the commissioner may do any of the following:

(A) After notice and hearing, impose fines not to exceed \$500 per violation or \$5,000 in the aggregate for such conduct.

(B) After notice and hearing, impose other penalties that the commissioner considers necessary and reasonable to carry out the purpose of this article, including:

(i) Suspending the privilege of transacting self-service storage insurance pursuant to this section at specific business locations where violations have occurred; and

(ii) Suspending or revoking the ability of individual employees or authorized representatives to act under this section.

(2) If a supervising entity is determined by the commissioner to have not performed its required duties under this section or has otherwise violated any provision of this section, it is subject to the administrative actions set forth in §33-12-24 of this code.

Senators Azinger and Tarr respectively requested a ruling from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate as they are in the self-storage business.

The Chair replied that any impact on Senators Azinger and Tarr would be as members of a class of persons and that they would be required to vote.

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

The bill (Eng. H. B. 2647), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Eng. Com. Sub. for House Bill 2001, Relating to exempting social security benefits from personal income tax.

Eng. Com. Sub. for House Bill 2452, Creating the West Virginia Cybersecurity Office.

Eng. House Bill 2480, Relating to the regulation of an internationally active insurance group.

Eng. Com. Sub. for House Bill 2579, Relating to the collection of tax and the priority of distribution of an estate or property in receivership.

Eng. House Bill 2667, Supplemental appropriation to the Department of Military Affairs and Public Safety, Division of Corrections.

Eng. Com. Sub. for House Bill 2703, Relating to refunds of excise taxes collected from dealers of petroleum products.

Eng. House Bill 2954, Defining certain terms used in insurance.

Eng. House Bill 2992, Relating to governmental websites.

Eng. House Bill 3135, Expiring funds to the balance of the Department of Commerce, Development Office.

And,

Eng. House Bill 3144, North Central Appalachian Coal Severance Tax Rebate Act.

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 60, Licensing practice of athletic training.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page six, section three, lines twenty-five and twenty-six, by striking out the following:

“BOC” means National Athletic Trainers’ Association Board of Certification.

“CAATE” means the Commission on Accreditation of Athletic Training Education.;

On page seven, section four, line thirteen, by striking out all of subdivision (3);

And by renumbering the remaining subdivisions;

On page eight, section four, line twenty-two, by striking out all of subdivision (7) and inserting in lieu thereof a new subdivision, designated subdivision (7), to read as follows:

“(7) Complete a criminal background check as required by §30-1D-1;”;

And,

On page fifteen, section eleven, lines twenty-three through twenty-nine, by striking out all of subdivisions (7) and (8) and inserting in lieu the following:

(7) An athletic trainer licensed in another jurisdiction who is forced to leave his or her residence or place of employment due to a declared local, state, or national disaster or emergency and due to the displacement seeks to practice as an athletic trainer. This exemption applies for no longer than 60 calendar days in a calendar year following the declaration of the emergency. The athletic trainer shall notify the board of his or her intent to practice;

(8) Nothing in this article may be construed to prohibit or otherwise limit the use of the term “athletic trainer” in secondary school settings by persons who were practicing athletic training under a West Virginia Board of Education Athletic Certification, provided the practice is in accordance with Board of Education policy in effect prior to July 1, 2011; and

(9) Nothing contained in this article prohibits a person from practicing within his or her scope of practice as authorized by law.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 60) was reported by the Clerk and adopted:

On page fifteen, subdivision (8), after the words “July 1, 2011” by changing the semicolon to a colon and inserting the following proviso: “*Provided further*, That this provision only applies to persons practicing athletic training certified by the West Virginia

Board of Education prior to July 1, 2011, and any additional persons practicing athletic training excluding these specified individuals, shall meet the provisions of this article;”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 60, as amended, was then put upon its passage.

Senator Tarr requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senator Tarr would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Baldwin and Boley—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 60) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the fourth order of business.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 26, Thompson-Lambert Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 26 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 28-19-31.63 (28A066), locally known as Flat Top Overpass Bridge No. 1, carrying U.S. 19 over Interstate 77 in Mercer County, the “Thompson and Lambert Memorial Bridge”.

Whereas, Tragedy befell Mercer County on August 16, 2018, when the vehicles of three employees of the West Virginia Parkways Authority’s Courtesy Patrol were struck while on duty by a tractor-trailer at mile marker 23 on the West Virginia Turnpike; and

Whereas, Emergency responders pronounced Nathan Thompson, 32, of Princeton, dead at the scene. Mr. Thompson’s nephew, Richard Lambert, 21, of Kegley, died at a Roanoke, Virginia, hospital on the following day. The third victim, Ethan Kestner, 19, also of Princeton, is still recovering from his injuries; and

Whereas, All three young men were known to be good employees of the turnpike authority, as well as decent, law-abiding citizens. Mr. Thompson and Mr. Lambert were both known as beloved family members. Since the time of the tragic accident, the entire Mercer County community has been saddened by the loss of the two young men and united in its thoughts and prayers for the recovery of Mr. Kestner; and

Whereas, All three young men are a special fraternity of employees who are partners in public service. Many public servants toil in often dangerous situations. While they take extraordinary precautions to ensure the safety of themselves and the public they serve, there is always an element of potential danger

inherent in any occupation that must be performed in close proximity to large, heavy, fast-moving vehicles; and

Whereas, Partners in public service hope to return home to their families at the end of each duty assignment. When that does not happen, the sadness that ensues is shared by more than just their families and friends; and

Whereas, It is fitting that an enduring memorial be established to commemorate Nathan Thompson and Richard Lambert; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 28-19-31.63 (28A066), locally known as Flat Top Overpass Bridge No. 1, carrying U.S. 19 over Interstate 77 in Mercer County, the “Thompson and Lambert Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Thompson and Lambert Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

And,

Senate Concurrent Resolution 45, US Army Corporal T-5 Albert John “Engine” Arco Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 45 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 17A103, locally known as the Joyce Street Bridge, carrying Joyce Street over Highway U.S. 50 in Harrison County, the “U.S. Army Corporal T-5 Albert John “Engine” Arco Memorial Bridge”.

Whereas, This year being the 75th anniversary of the D-Day landing in Europe and the 75th anniversary of the beginning of the Battle of the Bulge, it is appropriate and required to honor United States Army Corporal T-5 Albert John “Engine” Arco, who served his country proudly during WW II; and

Whereas, Albert John “Engine” Arco was a 19-year old enlistee in the U.S. Army when, on June 6, 1944, he jumped, in full gear, from an amphibious landing craft into the sea during the Normandy landing, where the waters were covered with the bloodied bodies of his comrades. He miraculously survived the D-Day landing, during which so many of his comrades were killed, and joined the fight as a heavy machine gunner in a tank destroyer battalion, which led the battle to liberate Sainte-Mère-Église, Carentan, Saint Lô, and other French towns as they rolled toward Paris. He has described the intensity of the battle of Saint Lô, where the sky was dark during the day as a result of American aircraft, and the hail of shrapnel from German anti-aircraft guns, the latter of which killed his captain, who was standing next to him; and

Whereas, Albert John “Engine” Arco’s battalion was instrumental in the liberation of Paris, then humbly adjourned to a nearby park with all other Americans so French General Charles de Gaulle could proudly march into Paris with his troops and declare victory over German troops for the French people. His battalion joined with the Third Army and its commander, General George S. Patton, whom Arco described as, “. . . blood and guts, for sure”, because of the general’s aggressive battle tactics, which caused Arco to wear the same uniform 10 straight months. Albert John “Engine” Arco fought in the Battle of the Bulge, manning a 50-caliber machine gun when the Third Army and General Patton punched through German lines to relieve the American defenders of Bastogne, Belgium, commanded by General Anthony Clement “Nuts” McAuliffe, also a West Virginia native. He told the Veterans History Project that he had many more memories of his service during WWII, most of which were too traumatic to share; and

Whereas, Albert John “Engine” Arco was a lifelong resident of Clarksburg, Harrison County, West Virginia, a graduate of

Washington Irving High School, and the retired owner of a Clarksburg landmark, the Red Caboose restaurant, for over 50 years. He always celebrated the D-Day landing each year at the Red Caboose and remained a loyal and active member of VFW Post 573 and American Legion Post 13 until his death on September 14, 2018; and

Whereas, It is fitting that an enduring memorial be established to commemorate Corporal T-5 Albert John “Engine” Arco and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17A103, locally known as the Joyce Street Bridge, carrying Joyce Street over Highway U.S. 50 in Harrison County, the “U.S. Army Corporal T-5 Albert John “Engine” Arco Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Army Corporal T-5 Albert John “Engine” Arco Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

With the recommendation that the two committee substitutes be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Senate Concurrent Resolution 41, Requesting study creating paid family and medical leave insurance program.

And reports the same back with the recommendation that it be adopted; but under the original double committee reference first be referred to the Committee on Rules.

Respectfully submitted,

Michael J. Maroney,
Chair.

The resolution, under the original double committee reference, was then referred to the Committee on Rules.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Senate Concurrent Resolution 49 (originating in the Committee on Education)—Requesting the Joint Committee on Government and Finance study higher education governance, finance, and any other higher education issues it considers appropriate.

Whereas, House Bill 2815, passed during the 2017 legislative session, required the Higher Education Policy Commission to 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

Whereas, Higher education central office staff created a formula for distributing legislative appropriations to the four-year state institutions of higher education, and after a public comment period, created a second modified formula based on comments they received during the public comment period; and

Whereas, In between creation of the first and second formulas for distributing appropriations to the four-year state institutions of higher education, the higher education central office staff also created a formula for distributing legislative appropriations to the community and technical colleges; and

Whereas, None of the aforementioned formulas have been officially adopted or approved by any commission, council, committee, body, or group of any kind; and

Whereas, In May 2017, Governor Jim Justice requested the Higher Education Policy Commission conduct a study to examine the question of how to sustain higher education opportunity in each region of West Virginia; and

Whereas, The Higher Education Policy Commission sought assistance from the National Center for Higher Education Management Services (NCHEMS) to undertake the study; and

Whereas, NCHEMS published its recommendations in a report dated August 6, 2018; and

Whereas, On June 26, 2018, Governor Jim Justice, by executive order, created the Blue Ribbon Commission on Four-Year Higher Education; and

Whereas, The commission was charged with reviewing, studying, and assessing the current state of four-year higher education in the State, including but not limited to: (1) The adequacy of current funding levels for four-year institutions of higher education; (2) the current governance structure relating to four-year institutions of higher education; (3) the role and value of the Higher Education Policy Commission; (4) the identification of bureaucratic inefficiencies that cause a negative impact; (5) measures to be taken to facilitate the long-term viability of higher education delivery in communities across the state; and (6) anything else the commission deems necessary to provide a thorough evaluation in preparation of its report; and

Whereas, The commission's review was limited to four-year higher education and did not include the community and technical colleges; and

Whereas, Community and technical college education is a vital part of ensuring the future economic prosperity of West Virginia and its citizens; and

Whereas, House Bill 3096 and Senate Bill 673, both of which were inspired by the work of the Blue Ribbon Commission, were introduced during the 2019 regular session of the Legislature; and

Whereas, The scale of the changes to the higher education system being contemplated requires a more in-depth review and consideration by the Legislature prior to making substantial statutory changes to the state system of higher education; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study higher education governance, finance, and any other higher education issues it considers appropriate; and, be it

Further Resolved, That the study shall at least include a review of the funding formulas created by the higher education central office staff, the NCHEMS report dated August 6, 2018, the work of the Blue Ribbon Commission on Four-Year Higher Education, any legislation inspired by the work of the Blue Ribbon Commission, input from community and technical college representatives, input from baccalaureate institution representatives, and input and support from higher education central office staff; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 49) contained in the foregoing report from the Committee on Education was then referred to the Committee on Rules.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2004, Providing for a program of instruction in workforce preparedness.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Boso, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2363, Relating to the Upper Kanawha Valley Resiliency and Revitalization Program.

With an amendment from the Committee on Education pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on Government Organization on March 2, 2019;

And reports the same back with the recommendation that it do pass as last amended by the Committee on Government Organization.

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 2378, Relating generally to grounds for revocation of a teaching certificate.

And has amended same.

Eng. Com. Sub. for House Bill 2541, Requiring certain safety measures be taken at public schools.

And has amended same.

And,

Eng. Com. Sub. for House Bill 2662, Relating to certificates or employment of school personnel.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Sypolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

Eng. Com. Sub. for House Bill 2396, West Virginia Fresh Food Act.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Government Organization.

Respectfully submitted,

Dave Sypolt,
Chair.

At the request of Senator Boso, as chair of the Committee on Government Organization, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Agriculture and Rural Development.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 2422, Relating to the time for the observation of "Celebrate Freedom Week".

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 2524, Permitting a pharmacist to convert prescriptions authorizing refills under certain circumstances.

And has amended same.

Eng. Com. Sub. for House Bill 2768, Reducing the use of certain prescription drugs.

And has amended same.

And,

Eng. Com. Sub. for House Bill 2849, Establishing different classes of pharmacy technicians.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Boso, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2601, Relating to the review and approval of state property leases.

And,

Eng. Com. Sub. for House Bill 3016, Relating to the State Aeronautics Commission.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

Eng. Com. Sub. for House Bill 2661, Relating to natural gas utilities.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Randy E. Smith,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 2674, Creating a student loan repayment program for a mental health provider.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2674) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, ordered to second reading, and, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Health and Human Resources pending.

Senator Boso, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. House Bill 2739, Relating to contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Gregory L. Boso,
Chair.

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. House Bill 2816, Removing the terms “hearing impaired,” “hearing impairment,” and “deaf mute” from the West Virginia Code and substituting terms.

And,

Eng. House Bill 3132, Relating to exempting providers that serve no more than 30 patients with office-based medication-assisted treatment.

And reports the same back with the recommendation that they each do pass.

Respectfully submitted,

Michael J. Maroney,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2831, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Eng. House Bill 2846, Designating a “Back the Blue” plate in support of law-enforcement personnel.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Eng. House Bill 2850, Relating to qualifications for commercial driver’s license.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2934, West Virginia Lottery Interactive Wagering Act.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Blair, as chair of the Committee on Finance, unanimous consent was granted to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on the Judiciary.

Senator Boso, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2982, Amending and updating the laws relating to auctioneers.

And has amended same.

And,

Eng. House Bill 3141, Requiring capitol building commission authorization for certain renovations.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 2853, Establishing the West Virginia Program for Open Education Resources.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2019;

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 3057, Relating to the Adult Drug Court Participation Fund.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Com. Sub. for House Concurrent Resolution 11, U. S. Army Command Sergeant Major Timothy Allen Bolyard Memorial Bridge.

And,

House Concurrent Resolution 44, U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Com. Sub. for House Concurrent Resolution 26, George” Roush Memorial Bridge.

And has amended same.

And,

Com. Sub. for House Concurrent Resolution 32, Requesting the Secretary of the Department of Transportation to authorize raising highway speed limits, where appropriate, to 75 miles per hour on Interstate highways in West Virginia and to 70 miles per hour on West Virginia’s Appalachian Corridor highways.

And has amended same.

And reports the same back with the recommendation that they each be adopted, as amended.

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

House Concurrent Resolution 48, Urging the Commissioner of the Bureau for Public Health to designate Alzheimer's disease and other dementias as a public health issue.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Michael J. Maroney,
Chair.

The Senate proceeded to the sixth order of business, which agenda includes the making of main motions.

Senator Takubo moved that the Senate reconsider the vote by which in earlier proceedings today it passed

Eng. Senate Bill 668, Relating to physician assistants collaborating with physicians in hospitals.

The bill still being in the possession of the Senate,

The question being on the adoption of Senator Takubo's aforesaid motion, the same was put and prevailed.

The vote thereon having been reconsidered,

On motion of Senator Takubo, the Senate reconsidered its action by which it adopted Senator Takubo's motion that the Senate concur in the House of Delegates amendments to the bill (*shown in the Senate Journal of today, pages 1866 through 1868, inclusive*).

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Takubo's motion that the Senate concur in the House of Delegates amendments to the bill (Eng. S. B. 668).

Thereafter, at the request of Senator Takubo, and by unanimous consent, his foregoing motion was withdrawn.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 668—A Bill to amend and reenact §30-3E-1, §30-3E-3, §30-3E-9, §30-3E-11, §30-3E-12, and §30-3E-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-3E-10a, all relating to physician assistants collaborating with physicians in hospitals; requiring written notice to the appropriate licensing board; requiring rulemaking; amending scope of practice; providing for disciplinary proceedings for failure to provide timely notice of termination of practice notification; and specifying practice requirements.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 668, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale,

Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Baldwin and Boley—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 668) passed with its Senate amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 8 p.m., the Senate adjourned until tomorrow, Wednesday, March 6, 2019, at 11 a.m.

WEDNESDAY, MARCH 6, 2019

The Senate met at 11:25 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Pastor Jeremy Thompson, Whitman Freewill Baptist Church, Whitman, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Sue Cline, a senator from the ninth district.

Pending the reading of the Journal of Tuesday, March 5, 2019,

At the request of Senator Romano, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

At the request of Senator Takubo, unanimous consent being granted, the Senate proceeded to the sixth order of business.

Senators Palumbo, Takubo, Plymale, Hardesty, Unger, Boso, Stollings, Beach, Jeffries, and Lindsay offered the following resolution:

Senate Resolution 69—Congratulating the George Washington High School Patriots boys' basketball team for winning the 2018 Class AAA State Championship.

Whereas, The George Washington High School Patriots boys' basketball team had a dominant year on the court, compiling an overall record of 23-3, and winning their third state championship in school history; and

Whereas, The George Washington High School Patriots boys' basketball team is led by head coach, Rick Greene, and assistant coaches, Rodney Pruden, Louie Cassis, Todd Hutchinson, Devyn Harris, and Trevon Reese, and consists of players: Gus Eddy, Kyle Moore, Matthew Cook, Cole White, Chance Baker, Bunky Brown, Mason Pinkett, Anthony Clendenin, Justin Phillips, Alex Cook, Evan Hughes, Austin Castleberry, William Gabbert, E. J. Davis, Alex Yoakum, and Jon Goetz; and

Whereas, The George Washington High School Patriots boys' basketball team displayed their strong will and determination for an entire season and is a shining example of what can be accomplished with dedication, commitment, and teamwork; and

Whereas, The George Washington High School Patriots boys' basketball team will be remembered as one of the best teams ever assembled in West Virginia high school basketball history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the George Washington High School Patriots boys' basketball team for winning the 2018 Class AAA State Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the George Washington High School Patriots boys' basketball team.

Which, under the rules, lies over one day.

Senators Palumbo, Takubo, Plymale, Hardesty, Boso, Unger, Stollings, Beach, Jeffries, and Lindsay offered the following resolution:

Senate Resolution 70—Congratulating the George Washington High School Patriots boys' swim team for winning the 2018 State Championship.

Whereas, The George Washington High School Patriots boys' swim team had another outstanding year in the pool, which culminated in the team winning the 2018 State Championship; and

Whereas, The George Washington High School Patriots boys' swim team continued their domination in the pool, winning their second consecutive state championship and eighth in the last 10 years; and

Whereas, The George Washington High School Patriots boys' swim team consists of team members: Majester Abdul-Jalil, Logan Blankenship, Hakeem Boukhemis, David Carter, Robbie Hageboeck, Ken Lewis, Caleb Moore, Arnauad Potard, Patrick Tiffey, Jason Wilder, Gabe Price, Eli Sutton, Zakariya Abdul-Jalil, Taidan Johnson, Caleb Wiley, Ian Adler, Landon Bostic, Grant Fenwick, Adam Keith, John Lorea, Giovanni Peracchia, Lafe Potters, Connor Smith, and Wesley St. Jean; and

Whereas, The George Washington High School Patriots boys' swim team displayed their strong will and determination for an entire season and is a shining example of what can be accomplished with dedication, commitment, and teamwork; and

Whereas, The 2018 George Washington High School Patriots boys' swim team will be remembered as one of the best teams ever assembled in West Virginia high school swim history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the George Washington High School Patriots boys' swim team for winning the 2018 State Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the George Washington High School Patriots boys' swim team.

At the request of Senator Palumbo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Takubo, the Senate recessed at 11:36 a.m. to present Senate Resolution 70.

The Senate reconvened at 11:38 a.m. and resumed business under the sixth order. Senators Palumbo, Takubo, Plymale, Hardesty, Boso, Unger, Stollings, Beach, Jeffries, and Lindsay offered the following resolution:

Senate Resolution 71—Congratulating the George Washington High School Patriots boys' soccer team for winning the 2018 Class AAA State Championship.

Whereas, The George Washington High School Patriots boys' soccer team had a remarkable year on the pitch, finishing with a record of 19-3-2, and winning the 2018 Class AAA State Championship; and

Whereas, The George Washington High School Patriots boys' soccer team is led by coaches, Erik Engle, Dave Nelson, Evan Pauley, and Brad McGee, and consists of players: Kevin Tiffey, Justin Stebbins, Matthew Choueiri, Xavier Bohn, Adam Pack, Matthew Vaughn, Chance Anderson, Bryce Coleman, E. J. Davis, Wilson Fife, Seth Snyder, Nawar Attal, Noah Carney, Max Tretheway, Zak Abdul-Jalil, Eli Sutton, Alex Stavoulakis, Duncan McGee, Mouhammad Sissoko, Hazem Attal, Robby Nunley, and Bakar Boustany; and

Whereas, The George Washington High School Patriots boys' soccer team displayed their strong will and determination for an entire season and is a shining example of what can be accomplished with dedication, commitment, and teamwork; and

Whereas, The 2018 George Washington High School Patriots boys' soccer team will be remembered as one of the best teams ever assembled in West Virginia high school soccer history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the George Washington High School Patriots boys' soccer team for winning the 2018 Class AAA State Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the George Washington High School Patriots boys' soccer team.

At the request of Senator Palumbo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Takubo, at 11:40 a.m., the Senate recessed to present Senate Resolution 71.

The Senate reconvened at 11:43 a.m. and resumed business under the sixth order. Senators Palumbo, Takubo, Plymale, Hardesty, Boso, Unger, Stollings, Beach, Jeffries, and Lindsay offered the following resolution:

Senate Resolution 72—Congratulating the George Washington High School Patriots golf team for winning the 2018 Class AAA State Championship.

Whereas, The George Washington High School Patriots golf team had an outstanding year on the links, compiling a record of 167-1, on its way to winning the 2018 Class AAA State Championship; and

Whereas, The George Washington High School Patriots golf team's impressive resume included wins at the: Clarksburg Country Club 2018 Championship; Capitol City Classic Championship; Parkersburg Country Club Championship; Tri-State Cup Overall Championship (4 events); Guyan Country Club Championship; Mountain State Athletic Conference Championship; Kanawha County Championship; Class AAA Region 3 Championship; and the Class AAA West Virginia State Championship; and

Whereas, The George Washington High School Patriots golf team is led by head coach, B. J. Calabrese, and assistant coach, Joe Giles, and consists of players: John Alderman, Jack Kelly, John Logan Taylor, Colt Gillispie, Jay Joseph, Joseph Kalaskey, Emma Nicol, Ezra Thornton, Sam Alderman, Connor Beane, Mason Burdette, Autumn Gillispie, Anderson Goldman, Townes Hunt, Will Isaac, and Jake Kalaskey; and

Whereas, The George Washington High School Patriots golf team displayed their strong will and determination for an entire season and is a shining example of what can be accomplished with dedication, commitment, and teamwork; and

Whereas, The 2018 George Washington High School Patriots golf team will be remembered as one of the best teams ever assembled in West Virginia high school golf history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the George Washington High School Patriots golf team for winning the 2018 Class AAA State Championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the George Washington High School Patriots golf team.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Takubo, at 11:48 a.m., the Senate recessed to present Senate Resolution 72.

The Senate reconvened at 11:53 a.m. and, without objection, returned to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 100, Increasing court fees to fund law-enforcement standards training and expenses.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Com. Sub. for Senate Bill 100—A Bill to amend and reenact §30-29-4 of the Code of West Virginia, 1931, as amended, relating to increasing certain fees used to fund certain law-enforcement training and certification and professional development programs and expenses related thereto; increasing a fee added to the usual court costs of all criminal proceedings; and increasing fee added to the amount of any cash or property bond posted for violation of any criminal law.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 100, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 100) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 101, Equalizing penalties for intimidating and retaliating against certain public officers and other persons.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 154, Using school facilities for funeral and memorial services for certain community members.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Com. Sub. for Senate Bill 154—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-13d, relating to the use of school facilities; recognizing schools are integral parts of communities and the death of certain community members can have a significant impact on communities; requiring county board to allow school facilities use for funeral and memorial services of certain community members; permitting county boards to establish process

for requesting the use of school facilities for funeral and memorial services; providing that county boards of education are not responsible for additional costs associated with such funeral and memorial services that are held at school facilities; and prohibiting such funeral and memorial services held at school facilities from disrupting or interfering with classroom instruction, scheduled school event or activity, or governmental use.

On motion of Senator Jeffries, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 154) was reported by the Clerk and adopted:

Eng. Com. Sub. for Senate Bill 154—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-13d, relating to the “Specialist Nicholas Caleb Jividen Act” authorizing the use of school facilities for funerals and memorial services; recognizing schools are integral parts of communities and the death of certain community members can have a significant impact on communities; requiring county board to allow school facilities use for funeral and memorial services of certain community members; permitting county boards to establish process for requesting the use of school facilities for funeral and memorial services; providing that county boards of education are not responsible for additional costs associated with such funeral and memorial services that are held at school facilities; and prohibiting such funeral and memorial services held at school facilities from disrupting or interfering with classroom instruction, scheduled school event or activity, or governmental use.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Committee Substitute for Senate Bill 154, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 154) passed with its Senate amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 163, Authorizing DEP promulgate legislative rules.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 175, Authorizing DHHR promulgate legislative rules. On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk: On page two, section one, after line fifteen, by inserting the following:

On page 22, by adding a new subsection 4.11 to read as follows:

“4.11 For the purposes of substance use disorder services, if a provider is enrolled to accept West Virginia Medicaid and is authorized to provide behavioral health services in its state, the Office of Health Facility Licensure and Certification may through

reciprocity authorize it as a West Virginia Behavioral Health Center under this rule.”;

And,

On page three, section one, line forty-six, after the word “authorized” by changing the period to a comma and inserting the following: with the following amendments:

On page 39, by inserting a subsection, 22.9 to read as follows, “Each OBMAT program shall provide or make referrals for each patient to obtain contraceptive drugs, devices or procedures.”

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 175, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 175) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 175) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 190, DOH rule relating to employment procedures.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 223, Authorizing Department of Commerce promulgate legislative rules.

On motion of Senator Takubo, the bill was taken up for immediate consideration. The following House of Delegates amendment to the bill was reported by the Clerk:

On page three, section three, line five, after the word “authorized” by striking out the period and inserting in lieu thereof the following: with the following amendment:

On page 19, after subsection 14.6.1., by striking out all of section 15, and renumbering the remaining sections accordingly.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 223, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 223) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 223) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 237, Improving ability of law enforcement to locate and return missing persons.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendment and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Com. Sub. for Senate Bill 295, Relating to crimes against public justice.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Hollen, Kelly, and D. Miller.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Trump, Cline, and Lindsay.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 316, Preserving previously approved state Municipal Policemen's or Firemen's pensions.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Com. Sub. for Senate Bill 316—A Bill to amend and reenact §8-22-27a of the Code of West Virginia, 1931, as amended,

relating to the corrections of overpayments made to retirants or beneficiaries of retirants; authorizing municipalities to continue certain overpayments; and authorizing a municipality to appoint additional members to a firemen's or a policemen's pension and relief fund board.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 316, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 316) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 316) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 330, Requiring contact information be listed on agency's online directory and website.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Com. Sub. for Senate Bill 330—A Bill to amend and reenact §5F-1-5 of the Code of West Virginia, 1931, as amended, relating to certain contact information being listed on the online state phone directory; clarifying the listing requirements to include employee job title and agency- provided mobile phone number; providing an exemption for listing mobile phone information; and requiring the information to be posted on the agency website.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 330, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 330) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 344, Relating to operation of state-owned farms.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 360, Relating to third-party litigation financing. On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 6N. CONSUMER LITIGATION FUNDING.

§46A-6N-1. Definitions.

For purposes of this article:

(1) "Consumer" means any natural person who resides, is present, or is domiciled in this state;

(2) “Litigation financier” means a person, entity, or partnership engaged in the business of litigation financing; and

(3) “Litigation financing” or “litigation financing transaction”:

(A) Means a nonrecourse transaction in which financing is provided to a consumer in return for a consumer’s assigning to the litigation financier a contingent right to receive an amount of the potential proceeds of the consumer’s judgment, award, settlement, or verdict obtained with respect to the consumer’s legal claim; and

(B) Does not include:

(i) Legal services provided on a contingency fee basis, or advanced legal costs, where such services or costs are provided to or on behalf of a consumer by an attorney representing the consumer in the dispute and in accordance with the West Virginia Rules of Professional Conduct;

(ii) A consumer loan, as defined by §46A-1-102 of this code;

(iii) A commercial tort claim, as defined by §46-9-102 of this code;

(iv) A claim under the Workers’ Compensation Law, compiled in chapter 23 of this code; or

(v) Normal or course of business lending or financing arrangements between an attorney or law firm and a lending institution.

§46A-6N-2. Litigation financier; registration; bond; public record; rules.

(a)(1) No litigation financier shall engage in a litigation financing transaction in this state unless it is registered as a litigation financier in this state.

(2) A litigation financier that is a business entity or partnership is registered in this state if: (A) It is in compliance with the bond requirements of §46A-6N-2(b) of this code;

(A) It is in compliance with the bond requirements of §46A-6N-2(b) of this code;

(B) It has a status of active and is in good standing as reflected in the records of the Secretary of State; and

(C) Its charter, articles of organization, certificate of limited partnership, or other organizational document, or, if a foreign entity, its West Virginia application for a certificate of authority, contains a statement that it shall be designated as a litigation financier pursuant to this article.

(3) A litigation financier that is not a business entity or partnership is registered in this state if:

(A) It is in compliance with the bond requirements of §46A-6N-2(b) of this code; and

(B) It files an application for registration as a litigation financier on a form prescribed by the Secretary of State that contains the following:

(i) Applicant's full legal name;

(ii) Business name of applicant, if any;

(iii) Physical street address and mailing address of the applicant;

(iv) A telephone number through which the applicant can be reached;

(v) The name, physical street address, mailing address, and telephone number for a West Virginia registered agent appointed to accept service of process on behalf of the applicant;

(vi) A statement that the applicant shall be designated as a litigation financier pursuant to this article; and

(vii) Any other information the Secretary of State deems necessary.

(b)(1) Each litigation financier shall file with the Secretary of State and have approved by the Office of the West Virginia Attorney General a surety bond or irrevocable letter of credit issued and confirmed by a financial institution authorized by law to transact business in the State of West Virginia in an amount not less than \$50,000.

(2) Such bond shall be payable to this state for the use of the Attorney General and any person who may have a cause of action against the obligor of the bond for any violation of this article. The bond shall continue in effect so long as a litigation financier is designated as a litigation financier in the records of the Secretary of State.

(c) A litigation financier shall amend its registration with the Secretary of State within 30 days whenever the information contained in such record changes or becomes inaccurate or incomplete in any respect.

(d) The Secretary of State, as appropriate, may promulgate rules in implementing this article, including, but not limited to, the adoption of fees to cover any administrative costs relating to administering this article.

§46A-6N-3. Litigation financier requirements.

A litigation financier shall fulfill each of the following requirements when engaged in litigation financing:

(1) The terms of the litigation financing transaction shall be set forth in a written contract that is completely filled in with no incomplete sections when the contract is offered or presented to the consumer;

(2) The litigation financing contract shall contain a right of rescission, allowing the consumer to cancel the litigation financing contract without penalty or further obligation if, within five business days following the consumer's receipt of the funds, or execution of the litigation financing contract, whichever is later, the consumer gives notice of the rescission and returns any money already provided to the consumer by the litigation financier;

(3) The litigation financing contract shall contain a written acknowledgment by the consumer of whether the consumer is represented by an attorney in the dispute;

(4) If the consumer acknowledges that the consumer is represented by an attorney in the dispute, the litigation financing contract shall include a written acknowledgment executed by the consumer's attorney in the dispute in which the attorney acknowledges all of the following:

(A) The attorney has had the opportunity to review the litigation financing contract on behalf of the consumer;

(B) The attorney is representing the consumer with regard to the dispute that is the subject of the litigation financing contract;

(C) The attorney has neither received nor paid a referral fee or any other consideration from or to the litigation financier, nor will the attorney in the future; and

(D) In the event that proceeds are paid into a settlement fund or trust, the litigation financier shall notify the administrator of the fund or trust of any outstanding liens arising from the litigation financing contract.

§46A-6N-4. Litigation financier prohibitions.

(a) A litigation financier shall not:

(1) Pay or offer to pay commissions, referral fees, or other forms of consideration to any attorney, law firm, medical provider, chiropractor, physical therapist, or any of their employees for referring a consumer to a litigation financier;

(2) Accept any commissions, referral fees, rebates, or other forms of consideration from an attorney, law firm, medical provider, chiropractor, physical therapist, or any of their employees;

(3) Advertise false or misleading information regarding its products or services;

(4) Refer a consumer or potential consumer to a specific attorney, law firm, medical provider, chiropractor, physical therapist, or any of their employees: *Provided*, That if a consumer does not have legal representation, the provider may refer the consumer to a local or state bar referral service operated by a bar association;

(5) Fail to promptly supply copies of any and all complete litigation financing contracts to the consumer and the attorney representing the consumer in the dispute;

(6) Attempt to obtain in the litigation for which the litigation financing transaction exists, a waiver of any remedy, including, but not limited to, compensatory, statutory, or punitive damages, that the consumer might otherwise have;

(7) Attempt to effect in the litigation for which the litigation financing transaction exists mandatory arbitration or otherwise effect waiver of a consumer's right;

(8) Offer or provide legal advice to the consumer regarding the litigation financing or the underlying dispute;

(9) Assign, which includes securitizing, a litigation financing contract, in whole or in part, to a third party; however:

(A) §46A-6N-4(9) of this code does not prevent a litigation financier that retains responsibility for collecting payment, administering, or otherwise enforcing the litigation financing contract from making an assignment that is:

(i) To a wholly owned subsidiary of the litigation financier;

(ii) To an affiliate of the litigation financier that is under common control with the litigation financier; or

(iii) A grant of a security interest that is pursuant to §46-9-1 *et seq.* of this code or is otherwise permitted by law; and

(B) If an assignment is authorized and made pursuant to §46A-6N-4(9) of this code, for purposes of this section, "litigation

financier” includes a successor-in-interest to a litigation financing contract;

(10) Report a consumer to a credit reporting agency if insufficient funds remain from the net proceeds to repay the company;

(11) An attorney or law firm retained by a consumer shall not have a financial interest in a company offering litigation funding to the consumer and shall not receive a referral fee or other consideration from the company, its employees, or its affiliates;

(12) A personal injury attorney or law firm, practicing in the State of West Virginia, retained by a consumer shall not have a financial interest in a company offering litigation financing to consumers and shall not receive a referral fee or other consideration from the company, its employees, or its affiliates; or

(13) Receive any right to, nor make any decisions with respect to, the conduct of the consumer’s legal claim or any settlement or resolution. The right to make such decisions shall remain solely with the consumer and his or her attorney.

§46A-6N-5. Litigation financing contracts; disclosures.

(a) Litigation financing contracts shall contain the disclosures specified in this section, which shall constitute material terms of the litigation financing contract.

(b) Unless otherwise specified, the disclosures shall be typed in at least 14-point, bold font and be placed clearly and conspicuously within the litigation financing contract, as follows:

(1) Each contract shall include consumer disclosures on the first two pages, to the extent possible. The consumer disclosures shall include:

(A) Notification that some or all of the funded amount may be taxable;

(B) A description of the consumer’s right of rescission;

(C) The total funded amount provided to the consumer under the contract;

(D) An itemization of charges; and

(E) The total amount due from the consumer, in six-month intervals for 36 months, including all charges and fees;

(F) A statement that there are no charges or fees to be paid by the consumer other than what is disclosed on the disclosure form;

(G) In the event the consumer seeks more than one litigation financing contract, a disclosure providing the cumulative amount due from the consumer for all transactions, including charges under all contracts, if repayment is made any time after the contracts are executed;

(H) A statement that if there is no recovery of any money from the consumer's legal claim, the consumer shall owe nothing to the company; and

(I) A statement that if the net proceeds of the claim are insufficient to repay the consumer's indebtedness to the company, defined as the complete funded amount and charges, the company shall accept as full payment of its funded amount and charges a reduced sum;

(J) The following:

Consumer's Right to Cancellation: You may cancel this contract without penalty or further obligation within five (5) business days from the date you signed this contract or received financing from [insert name of the litigation financier] by: returning the funds to [insert name, office address, and office hours of the litigation financier] or by U. S. mail [insert name and mailing address of litigation financier]. For purposes of the return deadline by U. S. mail, the postmark date on the returned funds or, if mailed by registered or certified mail, the date of the return receipt requested shall be considered the date of return.

(2) Within the body of the litigation financing contract, the following:

The litigation financier agrees that it has no right to and will not make any decisions about the conduct of your lawsuit or dispute and that the right to make those decisions remains solely with you and your attorney;

(3) Within the body of the litigation financing contract, in all capital letters contained within a box the following:

THE FUNDED AMOUNT AND AGREED-TO CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE (INSERT NAME OF THE CONSUMER LITIGATION FUNDER) ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM, UNLESS YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS AGREEMENT OR YOU HAVE COMMITTED FRAUD AGAINST THE CONSUMER LITIGATION FUNDER.

(4) Located immediately above the place on the litigation financing contract where the consumer's signature is required, the litigation financing contract shall include the following:

DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT COMPLETELY. IF THIS CONTRACT CONTAINS ANY INCOMPLETE SECTIONS, YOU ARE ENTITLED TO A COMPLETELY FILLED-IN COPY OF THE CONTRACT PRIOR TO SIGNING IT. BEFORE YOU SIGN THIS CONTRACT, YOU SHOULD OBTAIN THE ADVICE OF AN ATTORNEY. DEPENDING ON THE CIRCUMSTANCES YOU MAY WANT TO CONSULT A TAX ADVISOR, A FINANCIAL PROFESSIONAL, OR AN ACCOUNTANT.

§46A-6N-6. Third-party agreements.

Except as otherwise stipulated or ordered by the court, a party shall, without awaiting a discovery request, provide to the other

parties any agreement under which any litigation financier, other than an attorney permitted to charge a contingent fee representing a party, has a right to receive compensation that is contingent on and sourced from any proceeds of the civil action, by settlement, judgment, or otherwise.

§46A-6N-7. Violation; enforcement.

(a) Any violation of this article shall make the litigation financing contract unenforceable by the litigation financier, the consumer, or any successor-in-interest to the litigation financing contract. The court may, in the event that judgment is awarded to the plaintiff, assess costs of the action, including reasonable attorneys' fees, against the defendant.

(b) Nothing in this article shall be construed to limit the exercise of powers or the performance of the duties of the Attorney General, including those provided by the West Virginia Consumer Credit and Protection Act, which the Attorney General is otherwise authorized or required to exercise or perform by law.

§46A-6N-8. Contingency rights; assignments; priority of lien, subrogation interest, or right of reimbursement.

(a) The contingent right to receive an amount of the potential proceeds of a legal claim may be assigned by a consumer, and that assignment is valid for the purposes of obtaining litigation financing from a litigation financier.

(b) The lien of a litigation financier on a consumer's legal claim has priority over liens that attach and take effect subsequent to the attachment of the litigation financier's lien to the consumer's legal claim, except for the following:

(1) Attorney liens, insurance carrier liens, medical provider liens, or liens based upon subrogation interests or rights of reimbursement related to the consumer's legal claim; and

(2) Child support, Medicare, tax, or any other statutory or governmental lien.

§46A-6N-9. Fees; terms; incorporation of obligations in agreement.

(a) A litigation financier may not charge the consumer an annual fee of more than 18 percent of the original amount of money provided to the consumer for the litigation financing transaction.

(b) Litigation financiers shall not charge a consumer the annual fee authorized by §46A-6N-9(a) of this code more than one time each year with regard to any single legal claim regardless of the number of litigation financing transactions that the litigation financier enters into with the consumer with respect to such legal claim.

(c) Fees assessed by a litigation funding provider may compound semiannually but may not compound based on any lesser time period.

(d) In calculating the annual percentage fee or rate of return, a litigation funding provider must include all charges payable directly or indirectly by the consumer, and must compute the rate based only on amounts actually received and retained by a consumer.

(e) A litigation funding provider may not assess fees for any period exceeding 42 months from the date of the contract with the civil litigant.

(f) Litigation financiers shall not enter into an agreement with a consumer that has the effect of incorporating the consumer's obligations to the litigation financier that are contained in the original litigation financing transaction into a subsequent litigation financing transaction.

(g) Litigation financiers shall not knowingly provide funding to a consumer who has previously assigned and/or sold a portion of the consumer's right to proceeds from his or her legal claim without first making payment to and/or purchasing a prior unsatisfied litigation financing company's entire funded amount and contracted charges unless a lesser amount is otherwise expressly agreed to in writing by the litigation financing

companies; except multiple companies may agree to contemporaneously provide funding to a consumer provided that the consumer and the consumer's attorney consent to the agreement in writing.

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 360—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6N-1, §46A-6N-2, §46A-6N-3, §46A-6N-4, §46A-6N-5, §46A-6N-6, §46A-6N-7, §46A-6N-8, and §46A-6N-9, all relating to consumer litigation financing; providing that a litigation financier shall register as a litigation financier in this state; providing registration requirements for business entities, partnerships, and individuals; providing that litigation financiers shall secure a bond or an irrevocable letter of credit; providing to whom the bond is payable; requiring litigation financiers to amend their registration if their information changes or becomes inaccurate or incomplete; providing that the Secretary of State may promulgate rules; providing that the terms of a litigation financing transaction shall be set forth in a completed, written contract; providing that the litigation financing contract shall contain a right of rescission; providing that a litigation financing contract shall contain certain written acknowledgements and disclosures; providing that a litigation financier shall not pay, or offer to pay, commissions, referral fees, or other consideration to any attorney, law firm, medical provider, chiropractor, or physical therapist or any of their employees for referring a consumer to the litigation financier; providing that a litigation financier shall not accept commissions, referral fees, rebates, or other consideration; providing that a litigation financier shall not advertise false or misleading information; providing that a litigation financier shall not refer a consumer or potential consumer to a specific attorney, law firm, medical provider, chiropractor, or physical therapist; permitting a litigation financier to refer a consumer without legal representation to a local or state bar referral service; providing that a litigation financier shall supply copies of the contract to the

consumer and the consumer's attorney; providing that a litigation financier shall not attempt to waive any of a consumer's remedies; providing that a litigation financier shall not attempt to effect mandatory arbitration or otherwise effect waiver of a consumer's right to a jury trial; providing that a litigation financier shall not offer or provide legal advice; providing that a litigation financier shall not assign a litigation financing contract to a third party; providing certain exceptions to assignment prohibition; providing that a litigation financier shall not report a consumer to a credit reporting agency; providing that a litigation financier shall not receive any right to direct or make decisions with respect to the conduct of a consumer's legal claim; providing that an attorney or law firm retained by a consumer shall not have a financial interest in, and shall not receive referral fees or other consideration from, a company offering litigation financing to consumers; providing that a litigation financing contract shall contain certain disclosures and terms; providing form disclosures; requiring disclosure of a litigation financing agreement to other litigation parties without awaiting a discovery request unless otherwise stipulated or ordered by the court; providing that a violation shall render the contract unenforceable; providing that a court may assess costs and attorneys' fees against the defendant; clarifying authority of the Attorney General; providing that a contingent right to receive an amount under a legal claim may be assigned by a consumer; providing a priority of liens; providing exceptions for certain liens and claims; providing a maximum annual fee; providing a maximum frequency of annual fee charges; providing that fees may compound semiannually but may not compound based on any lesser time period; providing means for calculating annual percentage fee or rate of return; providing a maximum term for assessing fees; restricting incorporation of prior obligations; prohibiting litigation financiers from knowingly providing financing to a consumer with existing obligations to another litigation financier except under certain circumstances; and permitting multiple litigation financiers to contemporaneously provide financing to a consumer when the consumer and the consumer's attorney consent to the agreement in writing.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Committee Substitute for Senate Bill 360, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—33.

The nays were: Woelfel—1. Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 360) passed with its Senate amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 373, Relating to financial responsibility of inmates.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 481, Relating to Judicial Vacancy Advisory Commission. On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page two, section three-a, lines thirty and thirty-one, by striking out all of subdivision (1) and inserting in lieu thereof a new subdivision, designated subdivision (1), to read as follows:

(1) No more than three appointed members of the commission may be residents of the same congressional district: Provided, that, if the number of congressional districts in the state is reduced to two, then no more than four appointed members of the commission may be residents of the same congressional district.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 481—A Bill to amend and reenact §3-10-3a of the Code of West Virginia, 1931, as amended, relating to the Judicial Vacancy Advisory Commission; altering the in-state residency requirements for members of the commission; providing that no more than four of its appointed members may be residents of the same congressional district; providing further that if the number of congressional districts is reduced to two that no more than three of its appointed members may be residents of the same congressional district; providing that no more than two of its appointed members may be residents of the same state senatorial district; clarifying that current commission members will not be disqualified from serving for the remainder of their terms based on amendments to in-state residency requirements; and deleting obsolete language.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 481) and requested the House of Delegates to recede therefrom.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested

the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 491, Extending effective date for voter registration in conjunction with driver licensing.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2. 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 §17B-2-1 et seq. 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) United States citizenship status;

~~(10)~~ (11) Whether the applicant affirmatively declined to become registered to vote during the transaction with the Division of Motor Vehicles;

~~(11)~~ (12) Date of application; and

~~(12)~~ (13) 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. The Division of Motor Vehicles shall notify ~~that~~ the 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) By no later than January 1, 2020, the Division of Motor Vehicles shall create a regular process that allows the Secretary of State to fulfill his or her duties as provided by §3-2-3 of this code to confirm that persons who are non-citizens of the United States have not and cannot register to vote via the Online Voter Registration portal.

~~(e)~~ (d) 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)~~ (e) 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)~~ (f) 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 §3-2-10(g) of this code. 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)~~ (g) 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)~~ (h) 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)~~ (i) 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) (j) 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) (k) 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) (l) 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) (m) This section ~~shall not be construed as requiring~~ does not require the Division of Motor Vehicles to determine eligibility for voter registration and voting.

~~(m) (n) The changes made to this section during the 2016 Regular Legislative Session shall become effective on July 1, 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, 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 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.~~

Except for the changes made to subsection (b) of this section during the 2017 regular legislative session, the changes made to this section during the 2016 regular legislative session become effective on July 1, 2021, and any costs associated therewith shall be

paid by the Division of Motor Vehicles. The Commissioner of the Division of Motor Vehicles, the Secretary of the Department of Transportation, and the Secretary of State shall each appear before the Joint Committee on Government and Finance and the Joint Standing Committee on the Judiciary, during the first interim meetings of such committees occurring after September 1, 2019, to present written reports containing a full and complete list of any infrastructure each agency requires to achieve the purposes of this section. Along with the report required by this subsection, the Division of Motor Vehicles shall submit a written schedule to both committees outlining how the Division will implement the requirements of this section by July 1, 2021.

~~(n)~~ (o) The Secretary of State shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code ~~in order~~ to implement the requirements of this section.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 491—A Bill to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating generally to automatic voting registration through the Division of Motor Vehicles; adding United States citizenship status to information that applicants must provide; requiring the Division of Motor Vehicles to develop a regular process by January 1, 2020 that allows the Secretary of State to fulfill his or her duties as provided by §3-2-3 of this code to confirm that persons who are non-citizens of the United States have not and cannot register to vote via the Online Voter Registration portal; delaying the effective date for automatic voter registration in conjunction with certain Division of Motor Vehicle transactions until July 1, 2021; and requiring the Division of Motor Vehicles, the Department of Transportation, and the Secretary of State to file certain reports with and appear before the Joint Committee on Government and Finance and the Joint Standing Committee on the Judiciary during the first interim meetings occurring after September 1, 2019.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 491, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 491) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 491) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 519, Requiring county emergency dispatchers complete course for telephonic cardiopulmonary resuscitation.

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 531, Relating generally to workers' compensation claims.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Senate Bill 531—A Bill to amend and reenact §23-5-7 of the Code of West Virginia, 1931, as amended, relating to compromise and settlement of certain workers' compensation claims; and providing that occupational hearing loss and hearing impairment claims are not nonorthopedic occupational disease claims for the purpose of the requirement that a claimant be represented by counsel in a settlement for medical benefits.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Senate Bill 531, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 531) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate. Following a point of inquiry by Senator Plymale, with resultant response by Senator Rucker,

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 664, Authorizing certain members of federal judiciary perform marriages.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 667, Creating WV Motorsport Committee.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, passage as amended with its Senate amended title, of

Eng. Com. Sub. for House Bill 2183, Clarifying where a charge of DUI may be brought against an individual.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

Eng. Com. Sub. for House Bill 2531, Permitting trained nurses to provide mental health services in a medication-assisted treatment program.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

Eng. House Bill 3083, Adding temporary work during the legislative session as exclusion to the term employment for purposes of unemployment compensation.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Concurrent Resolution 50 (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study the effectiveness and utility of requiring commercial purchasers of roundwood to collect and retain certain information from the sellers of roundwood.

Whereas, There is a lack of information about the individuals who sale roundwood and the nature of roundwood sold to commercial purchasers; and

Whereas, The lack of information enables timber theft and constrains subsequent law- enforcement investigations; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance to study the effectiveness and utility of requiring commercial purchasers of roundwood to collect and retain certain information from the sellers of roundwood; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, 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 the report, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,

Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 50) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2010, Relating to foster care.

With an amendment from the Committee on Health and Human Resources pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2019;

And reports the same back with the recommendation that it do pass as amended by the Committee on Health and Human Resources to which the bill was first referred; and as last amended by the Committee on Finance.

Respectfully submitted,

Craig Blair,

Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2503, Relating to court actions. And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2694, Relating to the state's ability to regulate hemp. And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2761, Modernizing the self-service storage lien law. And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 2828, Relating to Qualified Opportunity Zones. And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2837, Relating to the licensing of advance deposit wagering. And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on the Judiciary pending.

Senator Boso, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 3024, West Virginia Business Ready Sites Program. And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. House Bill 3143, Relating to requirements for consumer loans in West Virginia. And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the seventh order of business.

Com. Sub. for Senate Concurrent Resolution 26, Thompson-Lambert Memorial Bridge. On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Com. Sub. for Senate Concurrent Resolution 45, US Army Corporal T-5 Albert John "Engine" Arco Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Com. Sub. for House Concurrent Resolution 11, U. S. Army Command Sergeant Major Timothy Allen Bolyard Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Com. Sub. for House Concurrent Resolution 26, George” Roush Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk.

The following amendment to the resolution, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

By striking out everything after the title and inserting in lieu thereof the following:

Whereas, Arthur “George” Roush was born in Millwood, West Virginia, on June 13, 1932, and was the eighth of 11 children born to Calvin Elmer Roush, Jr., and Goldie Flesher Roush; and

Whereas, George Roush was a good student in school and took part in church and school activities and, along with his brothers Donald and Pete, was active in 4-H; and

Whereas, George Roush was adept at woodworking projects, making an end table for his mother as well as several bird houses and little dancing men; and

Whereas, George Roush went to work on a river boat early in life where he made good money and later bought a new big green Oldsmobile that he was so very proud of; and

Whereas, George Roush met the girl of his dreams, Becky Jo Barnett, and was looking forward to spending the rest of his life with her; and

Whereas, George Roush enlisted in the United States Army in May 1952; and

Whereas, George Roush was very fond of children and spent a great deal of time with his nieces and nephews, but his life was cut short when he died in Korea on August 14, 1954, and he never got a chance to be a father to his own son, Rodney, who was eight months old when Sergeant Roush died; and

Whereas, While Sergeant Roush's family was devastated by him dying so far away from home, his wife Becky Jo Roush, raised their son to be a wonderful man who visits her every day at Broadmore Senior Living in Hurricane; and

Whereas, It is fitting and proper to honor the life of Sergeant Arthur George Roush for his dedicated service to his community, state, and country by naming this bridge in his memory; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 18-2-2.72 (18A004), locally known as Millwood Bridge, carrying West Virginia Route 2 over Mill Creek in Jackson County, the "U. S. Army SGT Arthur "George" Roush Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SGT Arthur "George" Roush Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways.

The question being on the adoption of the resolution (Com. Sub. for H. C. R. 26), as amended, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Com. Sub. for House Concurrent Resolution 32, Requesting the Secretary of the Department of Transportation to authorize raising highway speed limits, where appropriate, to 75 miles per hour on Interstate highways in West Virginia and to 70 miles per hour on West Virginia's Appalachian Corridor highways.

On unfinished business, coming up in regular order, was reported by the Clerk.

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

On page one, in the Resolved clause, by striking out the words "and to 70 miles per hour on West Virginia's Appalachian Corridor highways";

And,

By striking out the title and substituting therefor a new title, to read as follows:

Com. Sub. for House Concurrent Resolution 32—Requesting the Commissioner of Highways to authorize raising highway speed limits, where appropriate, to 75 miles per hour on Interstate highways in West Virginia.

The question being on the adoption of the resolution (Com. Sub. for H. C. R. 32), as amended, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

House Concurrent Resolution 44, U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

House Concurrent Resolution 48, Urging the Commissioner of the Bureau for Public Health to designate Alzheimer's disease and other dementias as a public health issue.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 150, Budget Bill.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. House Bill 2009, Creating a new category of Innovation in Education grant program.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton,

Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2009) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2020, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

On third reading, coming up in regular order, was read a third time and put upon its passage. Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2020 pass?”

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

Absent: None.

So, a majority of all the members elected to Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2020) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

Absent: None.

So, less than two thirds of all the members elected to the Senate having voted in the affirmative, the President declared Senator Takubo's aforesated motion had not prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2083, Providing an identification card for released inmates who do not have a West Virginia identification card or driver's license.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2083) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2083—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17B-2-1c, relating to authorizing the Division of Corrections and Rehabilitation to issue a temporary identification card to an inmate prior to release from custody; providing when temporary identification cards must be issued and for how long such cards are valid; providing that temporary identification cards have the same force and effect as standard identification cards issued by the Division of Motor Vehicles; requiring the Division of Motor Vehicles to accept temporary identification cards as proof of identity, age, and residency; requiring the Division of Motor Vehicles to contact the Division of Corrections and Rehabilitation to verify the social security number of a person presenting a temporary identification card in certain circumstances and to accept verification as documentation of social security number; requiring the Division of Corrections and Rehabilitation to develop a policy and obtain necessary authorizations for sharing social security numbers of released inmates with the Division of Motor Vehicles for limited purposes; providing limitations on inmate eligibility for temporary identification cards; clarifying that the new section neither permits nor requires issuance of temporary identification cards for federal use, in violation of any standards promulgated pursuant to the federal Real ID Act of 2005; and requiring the Division of Corrections and Rehabilitation to make efforts, during the six months preceding an inmate's release, to assist an inmate in obtaining certain personal identification documents.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2515, Exempting the sale and installation of mobility enhancing equipment from the sales and use tax.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2515) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 2530, Creating a voluntary certification for recovery residences.

On third reading, coming up in regular order, was read a third time and put upon its passage. Pending discussion,

The question being “Shall Engrossed House Bill 2530 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2530) passed.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the title of the bill was withdrawn.

On motion of Senator Maroney, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. House Bill 2530—A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §16-56-1, §16-56-2, and §16-56-3, all relating to regulation of recovery residences; providing voluntary certification procedures; providing voluntary inspection standards; providing requirements for the referral of persons; providing criminal penalties and fines; permitting rulemaking; requiring compliance with the Fair Housing Act and Americans with Disabilities Act; and providing for the payment of state funds to recovery residences in certain circumstances.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2550, Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2550) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2617, Relating to the form for making offer of optional uninsured and underinsured coverage by insurers.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2617 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—27.

The nays were: Beach, Facemire, Ihlenfeld, Jeffries, Lindsay, Romano, and Woelfel—7.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2617) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2617—A Bill to amend and reenact §33-6-31d of the Code of West Virginia, 1931, as amended, relating to the form for making offer of optional uninsured and underinsured coverage by insurers; requiring Insurance Commissioner to provide for the use of electronic means of delivery

and electronic signing of form; defining electronic means; requiring an insurer, when offering to place an insured with an affiliate of the insurer, to make available a new uninsured and underinsured motorist coverage offer form; and providing that last form previously signed governs if insured does not return the form.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2647, Self Storage Limited License Act.

On third reading, coming up in regular order, was read a third time and put upon its passage. Pending discussion,

The question being “Shall Engrossed House Bill 2647 pass?”

Senators Azinger and Tarr respectively requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Azinger and Tarr would be as members of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2647) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. House Bill 2647—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-12-38, relating to establishing a limited lines insurance license for self-service storage providers; defining terms; providing for licensure of owners; setting forth requirements for the sale of self-service storage insurance; providing for sale by employees and authorized representatives of the owner; setting forth the authority of owners; and providing for suspension of privileges.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

On motion of Senator Takubo, at 12:59 p.m., the Senate recessed for 30 minutes. The Senate reconvened at 1:41 p.m. and proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2001, Relating to exempting social security benefits from personal income tax.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page four, section twelve, line seventy-seven, after the word “year.” by inserting the following: For taxable years beginning after December 31, 2018, retirement income from the uniformed services, including the Army, Navy, Marines, Air Force, Coast Guard, Public Health Service, National Oceanic Atmospheric Administration, reserves, and National Guard, paid by the United States or by this state after December 31, 2018, including any survivorship annuities, to the extent included in federal adjusted gross income for the taxable year.;

And,

On page four, section twelve, lines eighty-two through eighty-seven, by striking out all of subdivision (8) and inserting in lieu

thereof a new subdivision, designated subdivision (8), to read as follows:

(8) *Decreasing modification for social security income.*

(A) For taxable years beginning on and after January 1, 2020, 35 percent of the amount of social security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to, social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a decreasing modification from federal adjusted gross income when determining West Virginia taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.

(B) For taxable years beginning on or after January 1, 2021, 65 percent of the social security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to, social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a decreasing modification from federal adjusted gross income when determining West Virginia taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.

(C) For taxable years beginning on or after January 1, 2022, 100 percent of the social security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to, social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a decreasing modification from federal adjusted

gross income when determining West Virginia taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.

(D) The deduction allowed by §11-21-12(c)(8)(A), §11-21-12(c)(8)(B), and §11-21-12(c)(8)(C) of this code are allowable only when the federal adjusted gross income of a married couple filing a joint return does not exceed \$100,000, or \$50,000 in the case of a single individual or a married individual filing a separate return.

The bill (Eng. Com. Sub. for H. B. 2001), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2363, Relating to the Upper Kanawha Valley Resiliency and Revitalization Program.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.

§5B-2-15. Upper Kanawha Valley Resiliency and Revitalization Program.

(a) Definitions. —

(1) *General.* — Terms defined in this section have the meanings ascribed to them by this section, unless a different meaning is clearly required by either the context in which the term is used, or by specific definition in this section.

(2) Terms Defined. —

(A) “Contributing partners” means those entities or their representatives described in subsection (f) of this section.

(B) “Prioritize” means, with regard to resources, planning, and technical assistance, that the members of the revitalization council are required to waive their discretionary program guidelines to allow funding requests that may fall outside of the programs’ guidelines but address the Upper Kanawha Valley communities’ goals for revitalization: *Provided*, That properly filed funding applications by Upper Kanawha Valley communities shall be given preferential treatment.

~~(B)~~(C) “Program” means the Upper Kanawha Valley Resiliency and Revitalization Program established in this section.

~~(C)~~(D) “Revitalization council” means those entities or their representatives described in subsection (d) of this section.

~~(D)~~(E) “Technical assistance” means resources provided by the state, revitalization council, contributing partners, or any other individuals or entities providing programming, funding, or other support to benefit the Upper Kanawha Valley under the program.

~~(E)~~(F) “Upper Kanawha Valley” means an area ~~defined by the Development Office that encompasses the areas from Gauley Bridge to Pratt, including the municipalities of Montgomery, Smithers, Pratt and Gauley Bridge~~ historically known as the Upper Kanawha Valley including municipalities and surrounding areas from the Charleston city limits to Gauley Bridge or other communities in the vicinity of the former location of the West Virginia University Institute of Technology.

~~(F)~~(G) “Upper Kanawha Valley Resiliency and Revitalization Program” means the entire process undertaken to further the goals of this section, including collaboration development and implementation between the members, contributors and technical assistance resource providers.

(b) *Legislative purpose, findings and intent.* —

(1) The decision to relocate the historic campus of the West Virginia University Institute of Technology from Montgomery, West Virginia to Beckley, West Virginia ~~will have~~ has had a dramatic economic impact on the Upper Kanawha Valley.

(2) The purpose of this section is to establish the Upper Kanawha Valley Resiliency and Revitalization Program. To further this purpose, this program creates a collaboration among state government, higher education and private and nonprofit sectors to streamline technical assistance capacity, existing services and other resources to facilitate community revitalization in the Upper Kanawha Valley.

(3) It is the intent of the Legislature to identify existing state resources that can be prioritized to support the Upper Kanawha Valley, generate thoughtful and responsible ideas to mitigate the negative effects of the departure of the West Virginia Institute of Technology from the Upper Kanawha Valley, and help chart a new course and prosperous future for the Upper Kanawha Valley.

(c) Upper Kanawha Valley Resiliency and Revitalization Program established; duration of program. —

(1) The Development Office shall establish the Upper Kanawha Valley Resiliency and Revitalization Program in accordance with the provisions of this section. ~~subject to the availability of funding necessary to support the program~~ The program shall inventory existing assets and resources, prioritize planning and technical assistance, and determine such other assistance as might be available to revitalize communities in the Upper Kanawha Valley.

(2) The program shall be ~~established for an initial period of five years from the effective date of this legislation~~ active until it concludes its work on June 30, 2024, and delivers a final report to the Joint Committee on Government and Finance no later than October 1, 2024.

(d) Revitalization council created. — There is hereby created a revitalization council to fulfill the purposes of this section. The revitalization council shall be coordinated by the Development Office in the Department of Commerce and be subject to oversight by the secretary of the department. The following entities shall serve as members of the revitalization council:

(1) The Executive Director of the Development Office or their designee, who shall serve as chairperson of the council;

(2) The Secretary of the Department of Health and Human Resources or their designee;

(3) The Commissioner of the Department of Agriculture or their designee;

(4) The Executive Director of the West Virginia Housing Development Fund or their designee;

(5) A representative from the Kanawha County commission;

(6) A representative from the Fayette County commission;

(7) The mayor, or their designee, from the municipalities of Montgomery, Smithers, Pratt, and Gauley Bridge;

(8) A representative from Bridge Valley Community and Technical College; and

(9) A representative from West Virginia University.

(e) *Duties of the revitalization council.* —

(1) The council shall prioritize the programs of its members by requiring that, if proper applications are made, resources and funding are directed to Upper Kanawha Valley communities to support economic development efforts in the Upper Kanawha Valley. The council shall be flexible with regard to the programmatic uses of resources and funding: *Provided, That such uses do not violate federal or state laws, rules, or regulations governing the use of resources and funding.*

~~(1)~~(2) The council shall identify existing state resources that can be prioritized to support economic development efforts in the Upper Kanawha Valley.

~~(2)~~(3) The council shall direct existing resources in a unified effort and in conjunction with contributing partners, as applicable, to support the Upper Kanawha Valley.

~~(3)~~(4) The council shall develop a rapid response strategy to attract or develop new enterprises and job creating opportunities in the Upper Kanawha Valley.

~~(4)~~(5) The council shall conduct or commission a comprehensive assessment of assets available at the campus of the West Virginia Institute of Technology and determine how those assets will be preserved and repurposed.

~~(5)~~(6) The council shall assist communities in the Upper Kanawha Valley by developing an economic plan to diversify and advance the community.

~~(6)~~(7) Members of the council shall support both the planning and implementation for the program and shall give priority wherever possible to programmatic activity and discretionary, noncompetitive funding during the period the program remains in effect.

~~(7)~~(8) Members of the council shall work together to leverage funding or other agency resources to benefit efforts to revitalize the Upper Kanawha Valley.

(f) *Contributing partners.* — To the extent possible, the revitalization council shall incorporate the resources and expertise of additional providers of technical assistance to support the program, which shall include, but not be limited to:

- (1) The West Virginia Small Business Development Center;
- (2) The Center for Rural Health Development;
- (3) The West Virginia University Brickstreet Center for Entrepreneurship;
- (4) The West Virginia University Land Use and Sustainability Law Clinic;
- (5) The West Virginia University Center for Big Ideas;
- (6) The New River Gorge Regional Development Authority;

- (7) The ~~Rahall~~ Appalachian Transportation Institute;
- (8) The Marshall University Center for Business and Economic Research;
- (9) TechConnect;
- (10) The West Virginia Community Development Hub;
- (11) The West Virginia University Northern Brownfields Assistance Center;
- (12) West Virginia State University Extension Service; and
- (13) West Virginia University Extension Service, Community, Economic and Workforce Development.

(g) *Reporting and agency accountability.* — The revitalization council, in coordination with its contributing partners, as applicable, shall report annually to the Governor, and the Legislature detailing the progress of the technical assistance support provided by the program, the strategic plan for the Upper Kanawha Valley and the results of these efforts. The annual report to the Legislature shall be made to the Joint Committee on Government and Finance regarding the previous fiscal year no later than October 1 of each year. Copies of the annual report to the Legislature shall be provided to the county commissions and county school boards of Kanawha and Fayette counties and the mayors of the Upper Kanawha Valley.

(h) *Economic Incentives for businesses investing in the Upper Kanawha Valley.* — The Development Office and the revitalization council, as applicable, will work to educate businesses investing, or interested in investing, in the Upper Kanawha Valley, about the availability of, and access to, economic development assistance, including, but not limited to, the economic opportunity tax credit provided in §11-13Q-19 of this code; the manufacturing investment tax credit provided under §11-13S-1 *et seq.* of this code; and any other applicable tax credit or development assistance.

(i) *Use of state property and equipment; faculty.* — The Development Office or other owner of state property and equipment in the Upper Kanawha Valley is authorized to provide for the low cost and economical use and sharing of state property and equipment, including computers, research labs, and other scientific and necessary equipment to assist any business within the Upper Kanawha Valley at a nominal or reduced-cost reimbursements to the state for such use.

(j) *Joint Establishment of Schools Assessment.* As part of the program established in this section, the council shall assess the option of utilizing the authority granted in §18-5-11 of this code to allow Kanawha County and Fayette County to jointly create or maintain schools that serve the Upper Kanawha Valley: *Provided*, That the council's authority may not supersede the authority granted to Kanawha County or Fayette County pursuant to §18-5-11. The State Superintendent of Schools and any local community and technical college shall participate in the assessment. Any option that arises out of this assessment may not impact the plans adopted in Fayette County regarding other schools within the county. The goal of the assessment is to determine whether students in the Upper Kanawha Valley can receive their constitutionally protected education in the Upper Kanawha Valley. The assessment shall take into consideration options for high school students to take a combination of high school courses and college courses to meet the requirements to graduate from high school and earn college credits that can be applied toward meeting the requirements of a degree or credential. Ultimately, the results of the assessment shall be included in the annual report due to the Legislature no later than October 1 of each year.

The bill (Eng. Com. Sub. for H. B. 2363), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2420, Establishing the Mountaineer Trail Network Recreation Authority.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for House Bill 2452, Creating the West Virginia Cybersecurity Office.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2480, Relating to the regulation of an internationally active insurance group.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2579, Relating to the collection of tax and the priority of distribution of an estate or property in receivership.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2667, Supplemental appropriation to the Department of Military Affairs and Public Safety, Division of Corrections.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2703, Relating to refunds of excise taxes collected from dealers of petroleum products.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

On page one, section thirty, lines sixteen and seventeen, after the word "evaporation" by adding a comma and the following: not

exceeding one percent of the adjusted total accountable gallons, computed as determined by the commissioner.

The bill (Eng. Com. Sub. for H. B. 2703), as amended, was then ordered to third reading.

Eng. House Bill 2853, Establishing the West Virginia Program for Open Education Resources.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2954, Defining certain terms used in insurance.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Banking and Insurance, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 45. ETHICS AND FAIRNESS IN INSURER BUSINESS PRACTICES.

§33-45-1. Definitions.

As used in this article:

(1) "Claim" means each individual request for reimbursement or proof of loss made by or on behalf of an insured or a provider to an insurer, or its intermediary, administrator or representative, with which the provider has a provider contract for payment for health care services under any health plan.

(2) "Clean claim" means a claim:

(A) That has no material defect or impropriety, including all reasonably required information and substantiating documentation, to determine eligibility or to adjudicate the claim; or

(B) With respect to which an insurer has failed timely to notify the person submitting the claim of any such defect or impropriety in accordance with section two of this article.

(3) “Commissioner” means the Insurance Commissioner of West Virginia.

(4) “Health care services” means items or services furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical or mental disability.

(5) “Health plan” means any individual or group health care plan, subscription contract, evidence of coverage, certificate, health services plan; medical or hospital services plan as defined in article twenty four of this chapter; accident and sickness insurance policy or certificate; managed care health insurance plan, or health maintenance organization subject to state regulation pursuant to §33-25a-1 *et seq.*, of this code; which is offered, arranged, issued or administered in the state by an insurer authorized under this chapter, a third-party administrator or an intermediary. Health plan does not mean:

(A) Coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §1395 *et seq.* (Medicare), Title XIX of the Social Security Act, 42 U.S.C. §1396 *et seq.* or Title XX of the Social Security Act, 42 U.S.C. §1397 *et seq.* (Medicaid), 5 U.S.C. §8901 *et seq.*, or 10 U.S.C. §1071 *et seq.* (CHAMPUS); or §5-16-1 *et seq.*, of this code (PEIA);

(B) Accident only, credit or disability insurance, long-term care insurance, CHAMPUS supplement, Medicare supplement, workers’ compensation coverages or limited benefits policy as defined in article sixteen-e of this chapter; or

(C) Any a third-party administrator or an intermediary acting on behalf of providers as denoted in ~~subparagraphs (A) and (B)~~ §33-45-1(5)(A) or §33-45-1(5)(B) of this code.

(6) “Insured” means a person who is provided health insurance coverage or other health care services coverage from an insurer under a health plan.

(7) “Insurer” means any person required to be licensed under this chapter which offers or administers as a third party administrator health insurance; operates a health plan subject to this chapter; or provides or arranges for the provision of health care services through networks or provider panels which are subject to regulation as the business of insurance under this chapter. “Insurer” also includes intermediaries. “Insurer” does not include:

(A) Credit accident and sickness insurance;

(B) Accident and sickness policies which provide benefits for loss of income due to disability;

(C) Any policy of liability of workers’ compensation insurance;

(D) Hospital indemnity or other fixed indemnity insurance;

(E) Life insurance, including endowment or annuity contracts, or contracts supplemental thereto, which contain only provisions relating to accident and sickness insurance that:

(i) Provide additional benefits in cases of death by accidental means; or

(ii) Operate to safeguard the contracts against lapse, in the event that the insured shall become totally and permanently disabled as defined by the contract or supplemental contract; and

(F) Property and casualty insurance.

(8) “Provider contract” means any contract between a provider and

(A) An insurer;

(B) A health plan; or

(C) An intermediary, relating to the provision of health care services.

(9) “Retroactive denial” means the practice of denying previously paid claims by withholding or setting off against

payments, or in any other manner reducing or affecting the future claim payments to the provider, or to seek direct cash reimbursement from a provider for a payment previously made to the provider.

(10) “Provider” means a person or other entity which holds a valid license or permit, including a valid temporary license or permit pursuant to chapter 30 of this code, to provide specific health care services in this state.

(11) “Intermediary” means a physician, hospital, physician-hospital organization, independent provider organization, or independent provider network which receives compensation for arranging one or more health care services to be rendered by providers to insureds of a health plan or insurer. An intermediary does not include an individual provider or group practice that utilizes only its employees, partners or shareholders and their professional licenses to render services.

§33-45-2. Minimum fair business standards contract provisions required; processing and payment of health care services; provider claims; commissioner’s jurisdiction.

(a) Every provider contract entered into, amended, extended, or renewed by an insurer on or after August 1, 2001, shall contain specific provisions which shall require the insurer to adhere to and comply with the following minimum fair business standards in the processing and payment of claims for health care services:

(1) An insurer shall either pay or deny a clean claim within 40 days of receipt of the claim if submitted manually and within 30 days of receipt of the claim if submitted electronically, except in the following circumstances:

- (A) Another payor or party is responsible for the claim;
- (B) The insurer is coordinating benefits with another payor;
- (C) The provider has already been paid for the claim;
- (D) The claim was submitted fraudulently; or

(E) There was a material misrepresentation in the claim.

(2) Each insurer shall maintain a written or electronic record of the date of receipt of a claim. The person submitting the claim shall be entitled to inspect the record on request and to rely on that record or on any other relevant evidence as proof of the fact of receipt of the claim. If an insurer fails to maintain an electronic or written record of the date a claim is received, the claim shall be considered received three business days after the claim was submitted based upon the written or electronic record of the date of submittal by the person submitting the claim.

(3) An insurer shall, within 30 days after receipt of a claim, request electronically or in writing from the person submitting the claim any information or documentation that the insurer reasonably believes will be required to process and pay the claim or to determine if the claim is a clean claim. The insurer shall use all reasonable efforts to ask for all desired information in one request, and shall if necessary, within 15 days of the receipt of the information from the first request, only request or require additional information one additional time if such additional information could not have been reasonably identified at the time of the original request or to specifically identify a material failure to provide the information requested in the initial request. Upon receipt of the information requested under this subsection which the insurer reasonably believes will be required to adjudicate the claim or to determine if the claim is a clean claim, an insurer shall either pay or deny the claim within 30 days. No insurer may refuse to pay a claim for health care services rendered pursuant to a provider contract which are covered benefits if the insurer fails to timely notify the person submitting the claim within 30 days of receipt of the claim of the additional information requested unless such failure was caused in material part by the person submitting the claims: *Provided*, That nothing herein shall preclude such an insurer from imposing a retroactive denial of payment of such a claim if permitted by the provider contract unless such retroactive denial of payment of the claim would violate §33-45-2(a)(7) of this code. This subsection does not require an insurer to pay a claim that is not a clean claim except as provided herein.

(4) Interest, at a rate of 10 percent per annum, accruing after the 40-day period provided in §33-45-2(a)(1) of this code owing or accruing on any claim under any provider contract or under any applicable law, shall be paid and accompanied by an explanation of the assessment on each claim of interest paid, without necessity of demand, at the time the claim is paid or within 30 days thereafter.

(5) Every insurer shall establish and implement reasonable policies to permit any provider with which there is a provider contract:

(A) To promptly confirm in advance during normal business hours by a process agreed to between the parties whether the health care services to be provided are a covered benefit; and

(B) To determine the insurer's requirements applicable to the provider (or to the type of health care services which the provider has contracted to deliver under the provider contract) for:

(i) Precertification or authorization of coverage decisions;

(ii) Retroactive reconsideration of a certification or authorization of coverage decision or retroactive denial of a previously paid claim;

(iii) Provider-specific payment and reimbursement methodology; and

(iv) Other provider-specific, applicable claims processing and payment matters necessary to meet the terms and conditions of the provider contract, including determining whether a claim is a clean claim.

(C) Every insurer shall make available to the provider within 20 business days of receipt of a request, reasonable access either electronically or otherwise, to all the policies that are applicable to the particular provider or to particular health care services identified by the provider. In the event the provision of the entire policy would violate any applicable copyright law, the insurer may instead comply with this subsection by timely delivering to the

provider a clear explanation of the policy as it applies to the provider and to any health care services identified by the provider.

(6) Every insurer shall pay a clean claim if the insurer has previously authorized the health care service or has advised the provider or enrollee in advance of the provision of health care services that the health care services are medically necessary and a covered benefit, unless:

(A) The documentation for the claim provided by the person submitting the claim clearly fails to support the claim as originally authorized; or

(B) The insurer's refusal is because:

(i) Another payor or party is responsible for the payment;

(ii) The provider has already been paid for the health care services identified on the claim;

(iii) The claim was submitted fraudulently or the authorization was based in whole or material part on erroneous information provided to the insurer by the provider, enrollee, or other person not related to the insurer;

(iv) The person receiving the health care services was not eligible to receive them on the date of service and the insurer did not know, and with the exercise of reasonable care could not have known, of the person's eligibility status;

(v) There is a dispute regarding the amount of charges submitted; or

(vi) The service provided was not a covered benefit and the insurer did not know, and with the exercise of reasonable care could not have known, at the time of the certification that the service was not covered.

(7) A previously paid claim may be retroactively denied only in accordance with this subdivision.

(A) No insurance company may retroactively deny a previously paid claim unless:

(i) The claim was submitted fraudulently;

(ii) The claim contained material misrepresentations;

(iii) The claim payment was incorrect because the provider was already paid for the health care services identified on the claim or the health care services were not delivered by the provider;

(iv) The provider was not entitled to reimbursement;

(v) The service provided was not covered by the health benefit plan; or

(vi) The insured was not eligible for reimbursement.

(B) A provider to whom a previously paid claim has been denied by a health plan in accordance with this section shall, upon receipt of notice of retroactive denial by the plan, notify the health plan within 40 days of the provider's intent to pay or demand written explanation of the reasons for the denial.

(i) Upon receipt of explanation for retroactive denial, the provider shall reimburse the plan within 30 days for allowing an offset against future payments or provide written notice of dispute.

(ii) Disputes shall be resolved between the parties within 30 days of receipt of notice of dispute. The parties may agree to a process to resolve the disputes in a provider contract.

(iii) Upon resolution of dispute, the provider shall pay any amount due or provide written authorization for an offset against future payments.

(C) A health plan may retroactively deny a claim only for the reasons set forth in §33-45- 2(a)(7)(A)(iii) through §33-45-2(a)(7)(A)(vi) of this code for a period of one year from the date the claim was originally paid. There shall be no time limitations for retroactively denying a claim for the reasons set forth in

~~subparagraphs (i) and (ii) above §33-45-2(a)(7)(A)(i) and §33-45-2(a)(7)(A)(ii) of this code.~~

(8) No provider contract may fail to include or attach at the time it is presented to the provider for execution:

(A) The fee schedule, reimbursement policy or statement as to the manner in which claims will be calculated and paid which is applicable to the provider or to the range of health care services reasonably expected to be delivered by that type of provider on a routine basis; and

(B) All material addenda, schedules, and exhibits thereto applicable to the provider or to the range of health care services reasonably expected to be delivered by that type of provider under the provider contract.

(9) No amendment to any provider contract or to any addenda, schedule, or exhibit, or new addenda, schedule, exhibit, applicable to the provider to the extent that any of them involve payment or delivery of care by the provider, or to the range of health care services reasonably expected to be delivered by that type of provider, is effective as to the provider, unless the provider has been provided with the applicable portion of the proposed amendment, or of the proposed new addenda, schedule, or exhibit, and has failed to notify the insurer within 20 business days of receipt of the documentation of the provider's intention to terminate the provider contract at the earliest date thereafter permitted under the provider contract.

(10) In the event that the insurer's provision of a policy required to be provided under §33-45- 2(a)(8) and §33-45-2(a)(9) of this code would violate any applicable copyright law, the insurer may instead comply with this section by providing a clear, written explanation of the policy as it applies to the provider.

(11) The insurer shall complete a credential check of any new provider and accept or reject the provider within four months following the submission of the provider's completed application: *Provided*, That time frame may be extended for an additional three

months because of delays in primary source verification. The insurer shall make available to providers a list of all information required to be included in the application. A provider ~~who is permitted by the insurer to provide services and~~ who provides services during the credentialing period shall be paid for the services ~~if the provider's application is approved.~~ Provided, That nothing in this subdivision prevents an insurer from obtaining refund of overpayments to a provider when the provider fails to become credentialed after having gone through the credentialing process.

(b) Without limiting the foregoing, in the processing of any payment of claims for health care services rendered by providers under provider contracts and in performing under its provider contracts, every insurer subject to regulation by this article shall adhere to and comply with the minimum fair business standards required under §33-45-2(a) of this code. The commissioner has jurisdiction to determine if an insurer has violated the standards set forth in §33-45-2(a) of this code by failing to include the requisite provisions in its provider contracts. The commissioner has jurisdiction to determine if the insurer has failed to implement the minimum fair business standards set out in §33-45-2(a)(1) and §33-45-2(a)(2) of this code in the performance of its provider contracts.

(c) No insurer is in violation of this section if its failure to comply with this section is caused in material part by the person submitting the claim or if the insurer's compliance is rendered impossible due to matters beyond the insurer's reasonable control, such as an act of God, insurrection, strike, fire, or power outages, which are not caused in material part by the insurer.

The bill (Eng. H. B. 2954), as amended, was then ordered to third reading.

Eng. House Bill 2992, Relating to governmental websites.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE
BRANCH OF STATE GOVERNMENT.**

ARTICLE 1. GENERAL PROVISIONS.

§5F-1-7. Website content and required information.

Beginning December 31, 2019, each agency shall maintain a website that provides the following information, if applicable:

(1) The office contact information, including office location and mailing address, telephone number, facsimile number, office hours, and a secure electronic means of contacting the office such as a contact portal or other interface;

(2) The contact information of each staff member, including office location and mailing, address, office telephone number, facsimile number, and a secure electronic means of contacting staff members such as a contact portal or other interface;

(3) Organizational chart;

(4) Administrative agency officials;

(5) A list of governing statutes and legislative and procedural rules;

(6) Meeting minutes;

(7) Annual reports;

(8) All agency forms, including application forms, complaint forms, and instructions; and

(9) Frequently asked questions and descriptive answers.

**CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.
ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

§7-1-3rr. Accessible county records; required information.

(a) Beginning July 1, ~~2017~~ 2019, each county commission may maintain a website that provides the following information without charge:

(1) The title and name of each elected county office holder;

(2) The contact information of each elected county office holder, including office telephone number, facsimile number, office location and mailing address;

(3) ~~The government electronic mail address of~~ A secure electronic means of contacting each elected county office holder;

(4) A copy of each county ordinance in effect;

(5) A copy of the approved meeting minutes; and

(6) A schedule of regular meeting days for each calendar year.

(b) Beginning on or before December 31, ~~2017~~ 2019, and each year thereafter, each county commission shall provide to the Secretary of State ~~shall obtain~~ the following information:

(1) A list of each elected county official by title, with the name of the elected official;

(2) The office contact information for each county office holder; and

(3) The website address of the county commission website, where available.

(c) The county commission shall update the information required pursuant to this section within 30 days of the date the change occurs and shall provide the updated information to the Office of Technology who shall update the information on the wv.gov website.

CHAPTER 8. MUNICIPAL CORPORATIONS.**ARTICLE 39. MUNICIPAL WEBSITES.****§8-39-1. Accessible municipal records; required information.**

(a) Beginning on or before December 31, 2019, each municipality may maintain a website that provides the following information accessible to the public without charge:

(1) The title and name of each elected office holder;

(2) The contact information of each elected office holder, including office telephone number, facsimile number, office location, office hours and mailing address;

(3) A secure electronic means of contacting each elected office holder;

(4) A copy of each municipal ordinance in effect; (5) A copy of the approved meeting minutes; and

(6) A schedule of regular meeting days for each calendar year.

(b) Each municipality shall update the information required pursuant to this section within 30 days of the date the change occurs and provide the updated information to the Office of Technology who shall update the information on the wv.gov website.

The following amendment to the Government Organization committee amendment to the bill (Eng. H. B. 2992), from the Committee on Finance, was reported by the Clerk and adopted.

On page one, section seven, by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision, designated subdivision (2), to read as follows:

“(2) The contact information of each staff member, including office location and mailing, address, office telephone number, facsimile number, and an organizational electronic mail address;”.

The question now being on the adoption of the Government Organization committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. H. B. 2992), as amended, was then ordered to third reading.

Eng. House Bill 3135, Expiring funds to the balance of the Department of Commerce, Development Office.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

On page one, line four, by striking out “3006” and inserting in lieu thereof “3014”.

The bill (Eng. H. B. 3135), as amended, was then ordered to third reading.

Eng. House Bill 3144, North Central Appalachian Coal Severance Tax Rebate Act. On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 13EE. COAL SEVERANCE TAX REBATE.

§11-13EE-1. Findings and purpose.

The Legislature finds that the encouragement of economic growth and development in this state is in the public interest and promotes the general welfare of the people of this state. In order to encourage capital investment in the coal industry in this state and thereby increase economic development, there is hereby provided a coal severance tax rebate.

§11-13EE-2. Definitions.

(a) General. When used in this article, or in the administration of this article, terms defined in subsection (b) shall have the meanings ascribed to them by this section, unless a different meaning is clearly required by either the context in which the term is used, or by specific definition, in this article.

(b) Terms defined.

(1) “Affiliated group” means one or more chains of corporations, limited liability entities, or partnerships, or any combination thereof, connected through the ownership of stock or ownership interests with a common parent which is a corporation, limited liability entity, or partnership, but only if the common parent owns directly, or indirectly, a controlling interest in each of the members of the group.

(2) “Business” means and is limited to the activity of producing coal for sale, profit or commercial use including coal preparation and processing.

(3) “Capital investment in new machinery, equipment, or improvements to real property” means:

(A) Tangible personal property in the form of machinery and equipment that is purchased on or after the effective date of this article and placed in service for direct use in the production of coal, when the original or first use of the machinery or equipment commences in this state on or after the effective date of this article;

(B) Tangible personal property in the form of machinery and equipment that is leased by the taxpayer and placed in service for direct use in the production of coal by the taxpayer on or after the effective date of this article, if the original or first use of the machinery or equipment commences in this state, with the taxpayer, on or after the effective date of this article and the machinery or equipment is depreciable, or amortizable, for federal income tax purposes and has a useful life of five or more years for federal income tax purposes;

(C) Improvements to real property having a useful life or 5 or more years, that are depreciable or amortizable for federal income tax purposes, purchased on or after the effective date of this article, if the original or first use of such improvements commences in this state on or after the effective date of this article and the improvements are placed in service for direct use in the production of coal.

(4) “Coal mine” or “mine” includes:

(A) A “surface mine,” or “surface mining operation” which means:

(i) Activities conducted on the surface of lands for the removal of coal, or, subject to the requirements of §11-13EE-14 of this code, surface operations and surface impacts incident to an underground coal mine, including the drainage and discharge from the mine. The activities include: Excavation for the purpose of obtaining coal, including, but not limited to, common methods as contour, strip, auger, mountaintop removal, box cut, open pit and area mining; the uses of explosives and blasting; reclamation; in situ distillation or retorting, leaching or other chemical or physical processing; the cleaning, concentrating or other processing or preparation and loading of coal for commercial purposes at or near the mine site; and

(ii) The areas upon which the above activities occur or where the activities disturb the natural land surface. The areas also include any adjacent land, the use of which is incidental to the activities; all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage; and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to the activities: *Provided*, That the activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 and two-

thirds percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal prospecting. Surface mining does not include any of the following:

(I) Coal extraction authorized pursuant to a government-financed reclamation contract;

(II) Coal extraction authorized as an incidental part of development of land for commercial, residential, industrial or civic use; or

(III) The reclamation of an abandoned or forfeited mine by a no cost reclamation contract; and

(B) An “underground mine” which includes the shafts, slopes, drifts or inclines connected with, or intended in the future to be connected with, excavations penetrating coal seams or strata, which excavations are ventilated by one general air current or divisions thereof, and connected by one general system of mine haulage over which coal may be delivered to one or more points outside the mine, and the surface structures or equipment connected or associated therewith which contribute directly or indirectly to the mining, preparation or handling of coal.

(5) “Coal mining operation” includes the mine and the coal preparation and processing plant.

(6) “Coal preparation and processing plant” means any facility (excluding underground mining operations) which prepares coal by one or more of the following processes: breaking, crushing, screening, wet or dry cleaning, and thermal drying.

(7) “Coal production” means the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use and includes the processing of coal at a coal preparation and processing plant.

(8) “Commissioner” or “Tax Commissioner” are used interchangeably herein and mean the Tax Commissioner of the State of West Virginia, or his or her delegate.

(9) “Controlled group” means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 50 percent of the voting power of all classes of stock of each of the corporations is owned, directly or indirectly, by one or more of the corporations; and the common parent owns directly stock possessing at least 50 percent of the voting power of all classes of stock of at least one of the other corporations.

(10) “Controlling interest” means:

(A) For a corporation, either more than 50 percent ownership, directly or indirectly, of the total combined voting power of all classes of stock of the corporation, or more than 50 percent ownership, directly or indirectly, of the beneficial ownership interest in the voting stock of all classes of stock of the corporation;

(B) For a partnership, association, trust or other entity other than a limited liability company, more than 50 percent ownership, directly or indirectly, of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity;

(C) For a limited liability company, either more than 50 percent ownership, directly or indirectly, of the total membership interest of the limited liability company, or more than 50 percent ownership, directly or indirectly, of the beneficial ownership interest in the membership interest of the limited liability company.

(11) “Corporation” means any corporation, joint-stock company or association, and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

(12) “Delegate” used in the phrase “or his delegate”, when used in reference to the Tax Commissioner, means any officer or employee of the State Tax Department duly authorized by the Tax Commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article.

(13) “Directly used or consumed in the production of coal” means used or consumed in those activities or operations which constitute an integral and essential part of the production of coal, as contrasted with and distinguished from those activities or operations which are simply incidental, convenient or remote to the production of coal.

(A) Uses of tangible personal property or improvements to real property which constitute direct use or consumption in the production of coal include only:

(i) New machinery, equipment, or improvements to real property that are depreciable, or amortizable, and have a useful life of five or more years for federal income tax purposes, and that are directly used in the production of coal in this state;

(ii) Transportation of coal within the coal mine from the coal face or coal deposit to the exterior of the mine or to a point where the extracted coal is transported away from the mine;

(iii) Directly and physically recording the flow of coal during the production of coal including those coal treatment processes specified in §11-13A-4 of this code;

(iv) Safety equipment and apparatus directly used in the production of coal, or to secure the safety of mine personnel in direct use in the production of coal;

(v) Controlling or otherwise regulating atmospheric conditions required for the production of coal;

(vi) Transformers, pumps, rock dusting equipment and other property used to supply electricity or water, or to supply or apply rock dust directly used in the production of coal;

(vii) Storing, removal or transportation of economic waste, including coal gob, resulting from the production of coal;

(viii) Engaging in pollution control or environmental quality or protection activity directly relating to the production of coal; or

(ix) Otherwise using as an integral and essential part of the production of coal.

(B) Uses of tangible personal property or improvements to real property which do not constitute direct use or consumption in the production of coal include, but are not limited to:

(i) Heating and illumination of office buildings;

(ii) Janitorial or general cleaning activities;

(iii) Personal comfort of personnel: *Provided*, That safety equipment and apparatus directly used in the production of coal or to secure the safety of mine personnel is direct use in the production of coal when the tangible personal property is depreciable, or amortizable, for federal income tax purposes and has a useful life of five or more years for federal income tax purposes when it is placed in service or use;

(iv) Production planning, scheduling of work or inventory control;

(v) Marketing, general management, supervision, finance, training, accounting and administration;

(vi) Measuring or determining weight, and ash content, water content and other physical and chemical characteristics of the coal after production;

(vii) An activity or function incidental or convenient to the production of coal, rather than an integral and essential part of these activities.

(14) “Eligible taxpayer” means:

(A) Any person who pays the tax imposed by §11-13A-3 of this code on the privilege of producing coal for sale, profit or commercial use for at least two years before the capital investment in new machinery, equipment, or improvements to real property is placed in service or use in this state; or

(B) A taxpayer that has experienced a change in business composition through merger, acquisition, split-up, spin-off or other ownership changes or changes in the form of the business organization from limited liability company to C corporation, or partnership, or from one form of business organization to a different form of business organization, may constitute an eligible taxpayer if the entity currently operating in this state was operating in a different form of business organization in this state at least two years before the capital investment in new machinery, equipment, or improvements to real property is placed in service or use in this state. In the case of business composition change through merger, acquisition, split-up, spin-off or other ownership changes the current business may constitute an eligible taxpayer if at least 50 percent of the business assets of such component were actively and directly used in coal production activity in this state for such two-year period. If less than 50 percent of the assets of the current entity were not actively and directly used in coal production activity in this state for such two-year period, then the current entity resulting from a business composition change through merger, acquisition, split-up, spin-off or other ownership shall not constitute an eligible taxpayer.

(15) “Includes” and “including” when used in a definition contained in this article, shall not be deemed to exclude other things otherwise within the generally understood meaning of the term defined.

(16) “Original use” means the first use to which the property is put by anyone.

(17) “Partnership” includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, operation or venture is carried on, which is taxed under Subchapter K of the Internal Revenue Code, as defined in §11-24-3 of this code, and which is not a trust or estate, a corporation or a sole proprietorship. The term “partner” includes a member in such a syndicate, group, pool, joint venture or other unincorporated organization taxed under Subchapter K of the Internal Revenue Code.

(18) “Person” includes any natural person, corporation, partnership, limited liability company or other business entity.

(19) “Production of coal” means the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use and includes the processing of coal at the coal preparation and processing plant.

(20) “Property” means new machinery, equipment, or improvements to real estate that are depreciable or amortizable for federal income tax purposes and that have a useful life of five or more years for federal income tax purposes.

(21) “Property purchased or leased for business expansion” means:

(A) *Included property.* Except as provided in subparagraph (B) of this section, the term “property purchased or leased for business expansion” means tangible personal property, or improvements to real property but only if the property was purchased, or leased and placed in service or use by the taxpayer in West Virginia. This term includes only:

(i) Tangible personal property placed in service or use by the taxpayer on or after the effective date of this article, with respect to which depreciation, or amortization in lieu of depreciation, is allowable in determining the personal or corporation net income tax liability of the business, or its equity owners, under §11-21-1 *et seq.* or §11-24-1 *et seq.* of this code, and which has a useful economic life at the time the property is placed in service or use in this state, of five or more years.

(ii) Tangible personal property acquired by written lease having a primary term of 5 years or more, that is depreciable or amortizable by the lessor, or lessee, for federal income tax purposes and that has a useful life of five or more years for federal income purposes when it is placed in service or use, and when the lease commences and was executed by the parties thereto on or after the effective date of this article, if used as a component part of a new

or expanded coal mining operation in this state shall be included within this definition.

(iii) Improvements to real property having a useful life of one or more years, that are depreciable or amortizable for federal income tax purposes, purchased on or after the effective date of this article, if the original or first use of such improvements commences in this state on or after the effective date of this article and the improvements are placed in service as a component part of a new or expanded coal mining operation in this state.

(B) Excluded property. -The term “property purchased or leased for business expansion” shall not include:

(i) Machinery and equipment owned or leased by the taxpayer and improvements to real property owned by a taxpayer for which credit was taken or is claimed under any other article of this chapter for capital;

(ii) Repair costs, including materials used in the repair, unless for federal income tax purposes, must be capitalized and not expensed;

(iii) Motor vehicles licensed by the West Virginia Division of Motor Vehicles; (iv) Airplanes;

(v) Off-premise transportation equipment;

(vi) Machinery, equipment, or improvements to real property that are primarily used outside this state;

(vii) Machinery, equipment, or improvements to real property that are acquired incident to the purchase of the stock or assets of the seller; and

(viii) Used machinery, equipment, or improvements to real property.

(C) Purchase date. New machinery, equipment, or improvements to real property shall be deemed to have been purchased prior to a specified date only if:

(i) The machinery, equipment, or improvements to real property were owned by the taxpayer prior to the effective date of this article or were acquired by the taxpayer pursuant to a binding purchase contract which was in effect prior to the effective date of this article; or

(ii) In the case of leased machinery and equipment, there was a binding written lease or contract to lease identifiable machinery or equipment in effect prior to the effective date of this article.

(22) “Purchase” means any acquisition of new machinery, equipment, or improvements to real property, but only if:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of deductions under Section 267 or 707 (b) of the United States Internal Revenue Code, as defined in §11-24-3 of this code;

(B) The property is not acquired by one component member of a controlled group from another component member of the same controlled group; and

(C) The basis of the property for federal income tax purposes, in the hands of the person acquiring it, is not determined:

(i) In whole or in part by reference to the federal adjusted basis of the property in the hands of the person from whom it was acquired; or

(ii) Under Section 1014 (e) of the United States Internal Revenue Code.

(23) “Qualified coal mining activity” means any business or other activity subject to the tax imposed by §11-13A-3 of this code on the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use including the treatment process described as mining in §11-13A-4(a)(1) of this code.

(24) “Qualified investment” means capital investment in new machinery, equipment, or improvements to real property directly used in the production of coal in this state that is depreciable, or amortizable, for federal income tax purposes and has a useful life for federal income tax purposes of five or more years when it is placed in service or use in this state.

(25) “Rebate” means the amount of rebate allowable under §11-13EE-3 of this code. (26) “Related person” means:

(A) A corporation, partnership, association or trust controlled by the taxpayer;

(B) An individual, corporation, partnership, association, or trust that is in control of the taxpayer;

(C) A corporation, partnership, association, or trust controlled by an individual, corporation, partnership, association, or trust that is in control of the taxpayer; or

(D) A member of the same controlled group as the taxpayer.

For purposes of this subdivision, the term “control”, with respect to a corporation, means ownership, directly or indirectly, of stock possessing 50 percent or more of the total combined voting power of all classes of the stock of the corporation entitled to vote. “Control,” with respect to a trust, means ownership, directly or indirectly, of 50 percent or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association, or of a beneficial interest in a trust is determined in accordance with the rules for constructive ownership of stock provided in section 267 (c) of the United States Internal Revenue Code, other than paragraph (3) of that section.

(27) “State portion of severance taxes paid” means the portion of severance taxes due under §11-13A-3 of this code when computed at the 4.65 percent rate of tax.

(28) “Tangible personal property” means, and is limited to, new machinery and equipment that is depreciable, or amortizable, for

federal income tax purposes and that has a useful life of five or more years for federal income tax purposes when it is placed in service or use in this state.

(29) “Taxpayer” means any person exercising the privilege of severing, extracting, reducing to possession, and producing coal for sale, profit, or commercial use coal, which privilege is taxable under §11-13A-3 of this code.

(30) “This code” means the Code of West Virginia, 1931, as amended. (31) “This state” means the State of West Virginia.

(32) “United States Internal Revenue Code” or “Internal Revenue Code” means the Internal Revenue Code as defined in §11-24-3 of this code.

§11-13EE-3. Rebate allowable.

(a) *Rebate allowable.* Eligible taxpayers shall be allowed a rebate for a portion of state severance taxes imposed by §11-13A-3 of this code on the privilege of severing, extracting, reducing to possession and producing coal for sale, profit, or commercial use that is attributable to the increase in the production of coal that is attributable to and the consequence of the taxpayer’s capital investment in new machinery, equipment, or improvements to real property used at the coal mine, or coal preparation and processing facility. The amount of this rebate shall be determined and applied as hereinafter provided in this article.

(b) *Amount of rebate.* The amount of rebate allowable is determined by multiplying the amount of the taxpayer’s capital investment in new machinery, equipment, or improvements to real property directly used in the production of coal at a coal mining operation in this state by 35 percent. The product of this computation establishes the maximum amount of rebate allowable under this article for the capital investment in new machinery, equipment, or real improvements to property.

(c) *Application of rebate amount.* The amount of rebate allowable is determined by applying the rebate amount determined in subsection (b) of this section against 80 percent of the state

portion of the severance tax paid on the privilege of severing, extracting, reducing to possession, and producing coal for sale, profit, or commercial use that is directly attributable to the increased production of coal at the mine due to taxpayer's capital investment in new machinery, equipment, or improvements to real property at the mine or coal processing and preparation plant.

(d) The amount of severance tax attributable to the increase in coal production at a mine due to the capital investment in new machinery, equipment, or improvements to real property shall be determined by comparing:

(1) The state portion of the severance tax due under §11-13A-3 of this code on coal produced from the mine during calendar year 2018, or if the taxpayer has produced coal for five years at the mine at which its capital investment in new machinery, equipment, or improvements to real property are placed in service or use the average of the state portion of the severance tax due under §11-13A-3 of this code on coal produced from the mine during the five year period ending on December 31, 2018, whichever is less, before allowance of any tax credits, except as provided in subsection (e) of §11-13-EE-3 of this code,

(2) With the state severance tax due on coal produced at the mine during the then current calendar year in which the rebate amount is claimed, before allowance for any tax credits. When the amount in subsection (2) of this section is greater than the amount in subsection (1) of this section, the difference is the amount of state severance tax due to the increase in coal production at the mine that is attributable to the capital investment in new machinery, equipment, or improvements to real property: *Provided*, That when the producer of the coal operates more than one mine in this state, or is a member of a controlled or affiliated group that operates one or more coal mines in this state, no credit shall be allowed unless the total coal production from all mines operated by the taxpayer or by members of the affiliated or controlled group in this state has increased: *Provided, however*, That in no case shall the severance tax attributable to any mine other than the specific mine at which capital investment in new machinery, equipment, or improvements

to real property is directly used in a coal mining operation has been placed in service or use be offset by this rebate.

(e) When the eligible taxpayer is a new business that has produced coal in this state for two years before making the capital investment in new machinery, equipment, or improvements to real property then, for purposes of subdivision (1) in subsection (d) of this section, the base shall be the average amount of state severance tax due under §11-13A-3 of this code on coal produced in this state during this two-year period.

(f) No rebate shall be allowed under this article when credit is claimed under any other article of this chapter for capital investment in the new machinery, equipment, or improvements to real property. No credit shall be allowed under any other article of this chapter when rebate is allowed under this article for the capital investment in new machinery, equipment, or improvements to real property.

§11-13EE-4. Information required to determine amount of rebate allowable.

(a) A taxpayer claiming rebate under this article who operates more than one coal mine in this state shall provide a schedule with the annual severance tax return filed under §11-13A-1 *et seq.* of this code that shows, for each coal mine, the number of tons of coal produced and the gross value of the coal produced at each mine during the taxable year.

(b) When a taxpayer claiming rebate under this article is a member of an affiliated or controlled group, as the case may be, that operates more than one coal mine in this state the group shall provide a schedule with its annual severance tax return filed under §11-13A-1 *et seq.* of this code for the taxable year that shows for each coal mine operated in this state by the affiliated or controlled group, as the case may be, the number of tons of coal produced at each mine and the gross value of the coal produced at each mine during the taxable year.

§11-13EE-5. Claim for rebate.

(a) After the severance taxes due for the taxable year are paid, a taxpayer may file a claim under this article for rebate of up to 80 percent of the state portion of the additional severance taxes paid under §11-13A-3 of this code that are directly attributable to the taxpayer's capital investment in new machinery, equipment, or improvements on real property placed in service or use during that taxable year as set forth in §11-13EE-3 of this code.

(b) When the amount of rebate claimed exceeds 80 percent of the additional state severance tax paid as provided in subsection (a) of this section, the unused portion of the rebate amount may be carried forward and rebated by the Tax Commissioner after severance taxes due in subsequent years are paid: *Provided*, That the carryforward period may not exceed 10 years from the date the capital investment in new machinery, equipment, or improvements to real property is placed in service or use in this state.

§11-13EE-6. Suspension of payment of rebate.

(a) No rebate may be paid under this article when the taxpayer, or any member of the taxpayer's combined or affiliated group, as the case may be, is delinquent in the payment of severance taxes imposed pursuant to §11-13A-3 of this code, until such time as the delinquency is cured.

(b) For purposes of this section, a taxpayer is not delinquent if the taxpayer is contesting an assessment in the Office of Tax Appeals or in any court of this state, or is complying with the terms of any payment plan agreement with the Tax Commissioner.

(c) In the case of a taxpayer that files a combined tax return as a member of a unitary group, no rebate under this article that is earned by one member of the combined group, but not fully used by or allowed to that member, may be claimed, in whole or in part, by another member of the group.

§11-13EE-7. Burden of proof; application required; failure to make timely application.

(a) *Burden of proof.* The burden of proof is on the taxpayer to establish by clear and convincing evidence that the taxpayer is entitled to the benefits allowed by this article.

(b) Application for rebate required.

(1) Notwithstanding any provision of this article to the contrary, no rebate shall be paid under this article for any capital investment in new machinery, equipment, or improvements to real property placed in service or use until the person asserting a claim for the allowance of rebate under this article makes written application to the Tax Commissioner for allowance of rebate as provided in this section.

(2) An application for rebate shall be filed, in the form prescribed by the Tax Commissioner, no later than the last day for filing the severance tax return, determined by including any authorized extension of time for filing the return, for the taxable year in which the machinery, equipment, or improvements to which the rebate relates is placed in service or use and all information required by the form is provided.

(3) A separate application for rebate is required for each taxable year during which the taxpayer places new machinery, equipment, or improvements in service or use in a mine or coal preparation and processing facility in this state.

(c) Failure to make timely application. — The failure to timely apply for the rebate results in the forfeiture of 25 percent of the rebate amount otherwise allowable under this article. This penalty applies annually until the application is filed.

§11-13EE-8. Identification of capital investment property.

Every taxpayer who claims a rebate pursuant to the provisions of this article shall maintain sufficient records to establish the following facts for each item of qualified investment property:

(1) Its identity;

(2) Its actual or reasonably determined cost;

(3) Its useful life for federal income tax purposes;

(4) The month and taxable year in which it was placed in service; (5) The amount of rebate claimed; and

(6) The date it was disposed of or otherwise ceased to be qualified capital investment property.

§11-13EE-9. Failure to keep records of capital investment property.

A taxpayer who does not keep the records required for identification of investment credit property is subject to the following rules:

(1) A taxpayer is treated as having disposed of, during the taxable year, any machinery, equipment or improvements to real property that the taxpayer cannot establish was still on hand, in this state, at the end of that year.

(2) If a taxpayer cannot establish when capital investment in new machinery, equipment, or improvements to real property was reported for purposes of claiming this credit during the taxable year, or the machinery, equipment, or improvements to real estate were placed in service or use, the taxpayer is treated as having placed it in service or use in the most recent prior taxable year in which similar machinery, equipment, or improvements to real property were placed in service or use, unless the taxpayer can establish that the machinery, equipment, or improvements to real property were placed in service or use in the most recent taxable year is still on hand. In that event, the taxpayer will be treated as having placed the returned machinery, equipment, or improvements to real property in service or use in the next most recent taxable year.

§11-13EE-10. Transfer of qualified investment property to successors.

(a) *Mere change in form of business.* Machinery, equipment, or improvements to real property may not be treated as disposed of under §11-13EE-11 of this code, by reason of a mere change in the form of conducting the business as long as the machinery, equipment, or improvements to real property is retained in the successor business in this state, and the transferor business retains a controlling interest in the successor business. In this event, the successor business is allowed to claim the rebate amount of credit still available with respect to the machinery and equipment

transferred, and the transferor business may not be required to redetermine the amount of rebate allowed in earlier years.

(b) *Transfer or sale to successor.* Machinery, equipment, or improvements to real property is not treated as disposed of under §11-13EE-11 of this code by reason of any transfer or sale to a successor business which continues to operate machinery, equipment, or improvements to real property at the mine in this state at which the machinery, equipment, or improvements to real property were first placed in service or use. Upon transfer or sale, the successor shall acquire the amount of rebate, if any, that remains available under this article, and the transferor business is not required to redetermine the amount of rebate allowed in earlier years.

§11-13EE-11. Recapture of rebate; recapture tax imposed.

(a) *When recapture tax applies.*

(1) Any person who places machinery, equipment, or improvements to real property in service or use for purposes of this credit and who fails to use the machinery, equipment, or improvements to real property for at least five years in the production of coal in this state shall pay the recapture tax imposed by subsection (b) of this section.

(2) This section does not apply when §11-13EE-10 of this code applies: *Provided, That, the successor, or the successors, and the person, or persons, who previously claimed credit under this article with respect to the machinery, equipment, or improvements to real property, are jointly and severally liable for payment of any recapture tax subsequently imposed under this section with respect to the machinery, equipment, or improvements to real property used to qualify for rebate under this article.*

(b) *Recapture tax imposed.* The recapture tax imposed by this subsection is the amount determined as follows. If the taxpayer prematurely removes machinery, equipment, or improvements to real property placed in service when considered as a class from economic service in the taxpayer's coal production activity in this state, the taxpayer shall recapture the amount of rebate claimed under this article for the taxable year, and all preceding taxable

years, attributable to the machinery, equipment, or improvements to real property which has been prematurely removed from service. The amount of tax due under this subsection is an amount equal to the amount of rebate that is recaptured pursuant to this subsection.

(c) *Payment of recapture tax.* The amount of tax recaptured under this section is due and payable on the day the person's annual return is due for the taxable year, in which this section applies, under §11-13A-1 *et seq.* of this code. When the employer is a partnership, limited liability company or an S corporation for federal income tax purposes, the recapture tax shall be paid by those persons who are partners in the partnership, members in the company, or shareholders in the S corporation, in the taxable year in which recapture tax is imposed under this section.

§11-13EE-12. Interpretation and construction.

(a) No inference, implication, or presumption of legislative construction or intent may be drawn or made by reason of the location or grouping of any particular section, provision, or portion of this article; and no legal effect may be given to any descriptive matter or heading relating to any section, subsection, or paragraph of this article.

(b) The provisions of this article shall be reasonably construed in order to effectuate the legislative intent recited in §11-13EE-1 of this code.

§11-13EE-13. Rebate report.

(a) The Tax Commissioner shall provide to the Joint Committee on Government and Finance by July 1, 2022, and on the first day of July of each year thereafter, a report detailing the amount of rebate claimed pursuant to this article. The report is to include the amount of rebate claimed against the severance tax imposed pursuant to §11-13A-2 of this code.

(b) Taxpayers claiming the rebate shall provide the information the Tax Commissioner may require to prepare the report: *Provided*, That the information provided is subject to the confidentiality and disclosure provisions of §11-10-5d and §11-10-5s of this code.

(c) The Tax Commissioner shall identify any issues he or she has in the administration and enforcement of this rebate and make any suggestions the Commissioner may have for improving the credit or the administration of the rebate.

§11-13EE-14. Rules.

The Tax Commissioner may promulgate such interpretive, legislative, and procedural rules as the commissioner deems to be useful or necessary to carry out the purpose of this article and to implement the intent of the Legislature. The Tax Commissioner may promulgate emergency rules if they are filed in the West Virginia Register before January 1, 2020. All rules shall be promulgated in accordance with the provisions of §29A-3-1 *et seq.* of this code.

§11-13EE-15. Severability.

(a) If any provision of this article or the application thereof is for any reason adjudged by any court of competent jurisdiction to be invalid, the judgment may not affect, impair, or invalidate the remainder of the article, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered, and the applicability of the provision to other persons or circumstances may not be affected thereby.

(b) If any provision of this article or the application thereof is made invalid or inapplicable by reason of the repeal, or any other invalidation of any statute therein addressed or referred to, such invalidation or inapplicability may not affect, impair, or invalidate the remainder of the article, but shall be confined in its operation to the provision thereof directly involved with, pertaining to, addressing, or referring to the statute, and the application of the provision with regard to other statutes or in other instances not affected by any such repealed or invalid statute may not be abrogated or diminished in any way.

§11-13EE-17. Effective date.

The rebate allowed by this article is allowed for capital investment in new machinery, equipment, or improvements to real

property placed in service or use in this state on or after the effective date of this article.

The bill (Eng. H. B. 3144), as amended, was then ordered to third reading. The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

Eng. Com. Sub. for House Bill 2004, Providing for a program of instruction in workforce preparedness.

Eng. House Bill 2209, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician.

Eng. Com. Sub. for House Bill 2378, Relating generally to grounds for revocation of a teaching certificate.

Eng. Com. Sub. for House Bill 2396, West Virginia Fresh Food Act.

Eng. House Bill 2412, Relating to criminal acts concerning government procurement of commodities and services.

Eng. Com. Sub. for House Bill 2422, Relating to the time for the observation of "Celebrate Freedom Week".

Eng. Com. Sub. for House Bill 2524, Permitting a pharmacist to convert prescriptions authorizing refills under certain circumstances.

Eng. Com. Sub. for House Bill 2541, Requiring certain safety measures be taken at public schools.

Eng. Com. Sub. for House Bill 2601, Relating to the review and approval of state property leases.

Eng. Com. Sub. for House Bill 2661, Relating to natural gas utilities.

Eng. Com. Sub. for House Bill 2662, Relating to certificates or employment of school personnel.

Eng. Com. Sub. for House Bill 2715, Relating to Class Q special hunting permit for disabled persons.

Eng. House Bill 2716, Relating to vessel lighting and equipment requirements.

Eng. House Bill 2739, Relating to contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board.

Eng. Com. Sub. for House Bill 2768, Reducing the use of certain prescription drugs.

Eng. Com. Sub. for House Bill 2809, Relating to prohibited acts and penalties in the Hatfield- McCoy Recreation Area.

Eng. House Bill 2816, Removing the terms “hearing impaired,” “hearing impairment,” and “deaf mute” from the West Virginia Code and substituting terms.

Eng. Com. Sub. for House Bill 2831, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

Eng. House Bill 2846, Designating a “Back the Blue” plate in support of law-enforcement personnel.

Eng. Com. Sub. for House Bill 2849, Establishing different classes of pharmacy technicians.

Eng. House Bill 2850, Relating to qualifications for commercial driver’s license.

Eng. House Bill 2926, Requiring the Secretary of the Department of Veterans’ Affairs to study the housing needs of veterans.

Eng. House Bill 2934, West Virginia Lottery Interactive Wagering Act.

Eng. Com. Sub. for House Bill 2982, Amending and updating the laws relating to auctioneers.

Eng. Com. Sub. for House Bill 3016, Relating to the State Aeronautics Commission.

Eng. Com. Sub. for House Bill 3057, Relating to the Adult Drug Court Participation Fund.

Eng. House Bill 3132, Relating to exempting providers that serve no more than 30 patients with office-based medication-assisted treatment.

And,

Eng. House Bill 3141, Requiring capitol building commission authorization for certain renovations.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Palumbo, Smith, Maynard, Baldwin, and Jeffries. Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senator Palumbo were ordered printed in the Appendix to the Journal.

At the request of Senator Lindsay, unanimous consent being granted, the remarks by Senators Baldwin and Jeffries were ordered printed in the Appendix to the Journal.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 2:05 p.m., the Senate recessed until 6 p.m. today.

The Senate reconvened at 6:17 p.m. and, without objection, returned to the third order of business.

Executive Communications

The following communication from His Excellency, the Governor, was reported by the Clerk:



Jim Justice
 Governor of West Virginia

March 6, 2019

SENATE EXECUTIVE MESSAGE NO. 2
 2019 REGULAR SESSION

The Honorable Mitch Carmichael
 President, West Virginia Senate
 Building 1, Room M-229
 1900 Kanawha Boulevard, East
 Charleston, West Virginia 25305

Dear President Carmichael:

The following amends and replaces the "FY 2019 Official Estimate General Revenue – Statement of Revenues by Source" which I submitted to you on January 9, 2019 as part of my Budget Document for the fiscal year ending June 30, 2019:

General Revenue Fund
 Statement of Revenues by Source
 (Expressed in Thousands)

<u>Source of Revenue</u>		FY 2019 Official Estimate Revised
Business and Occupation Tax	\$	117,500
Consumer Sales & Service and Use Tax		1,358,000
Personal Income Tax		2,054,000
Liquor Profit Transfers		20,800
Beer Tax and Licenses		7,500
Tobacco Products Tax		179,700
Business Franchise Fees		670
Property Transfer Tax		13,000
Property Tax		6,900
Insurance Tax		123,500
Departmental Collections		23,600
Corporate Net Income Tax		155,713

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OFFICE OF THE GOVERNOR
 The Honorable Mitch Carmichael
 SENATE EXECUTIVE MESSAGE NO. 2
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Miscellaneous Transfers	1,000
Interest Income	23,000
Severance Tax	424,000
Miscellaneous Receipts	10,700
HB102 – Lottery Transfers	65,000
Special Revenue Transfers	13,250
Senior Citizen Tax Credit Reimbursement	<u>10,000</u>
Total General Revenue	<u>\$ 4,607,833</u>

Note: The Governor's official Revenue Estimates for Fiscal Year 2019 were revised upward by \$25.913 million at the beginning of March. The changes include an increase in the Consumer Sales & Service Tax and Use Tax estimate, Corporate Net Income Tax estimate, and the Severance Tax estimate. These revisions are reflected in the estimates for the first eight months of the fiscal year. As a result of these revisions, cumulative revenue collections at the end of February were \$27.143 million above the cumulative estimate.

The following amends and replaces the FY 2019 "General Revenue Fund – Statement of Revenues, Expenditures, and Changes in Cash Balance" which I submitted to you on January 9, 2019 as part of my Budget Document for the fiscal year ending June 30, 2020:

General Revenue Fund
 Statement of Revenues, Expenditures, and Changes in Cash Balance
 (Nearest Dollar)

Actual Beginning Cash Balance July 1, 2018	\$377,650,037
Less: 31 Day Disbursements (July 1, 2018 - July 31, 2018)	(42,888,978)
Plus: Prior Year Reimbursements (July 1, 2018 - July 31, 2018)	27,203
Less: Prior Year Appropriations Forwarded	(297,422,832)
Less: Cash Balance - Adjustments and Accruals	<u>(1,337,913)</u>
Accumulated Surplus from FY 2018 @ July 31, 2018	\$36,027,517
Less: Transfer to Revenue Shortfall Reserve Fund (Statutory)	(18,013,759)
Less: FY 2019 Surplus Appropriation (FY 2019 Budget Bill)	(13,765,000)
Plus: Prior Year Reimbursements and adjustments (August 1, 2018 – February 22, 2019)	<u>391,340</u>
Estimated Unappropriated Surplus Balance @ June 30, 2019	<u>\$4,640,098</u>

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The Honorable Mitch Carmichael
 SENATE EXECUTIVE MESSAGE NO. 2
 2019 REGULAR SESSION
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Plus: FY 2019 Revenue Estimate	\$4,439,920,000	
Plus: FY 2019 Revision to Revenue Estimate (2019 Regular Session)	142,000,000	
Plus: FY 2019 Revision to Revenue Estimate (2019 Regular Session) 3/5/2019	25,913,000	
Less: FY 2019 Appropriations (FY 2019 Budget Bill) (2018 Regular Session)	(4,381,808,884)	
Plus: FY 2019 Appropriations (FY 2019 Budget Bill) veto	0	
Less: Recommended FY 2019 increases to FY 2019 Appropriations (2019 Regular Session)	<u>(226,023,199)</u>	
Estimated Unappropriated Balance from FY 2019 Activity @ June 30, 2019		\$917
Plus: FY 2020 Revenue Estimate	\$4,675,820,000	
Less: Recommended FY 2020 Appropriations (FY 2020 Budget Bill) (2019 Regular Session)	<u>(4,675,361,773)</u>	
Estimated Unappropriated Balance from FY 2020 Activity @ June 30, 2020		\$458,227
Total Estimated Unappropriated Balance @ June 30, 2020		<u>\$5,099,242</u>

Thank you for your cooperation in this matter.

Sincerely,



Jim Justice
 Governor

Which communication was received and referred to the Committee on Finance.

Senator Carmichael (Mr. President) then laid before the Senate the following communication from His Excellency, the Governor, consisting of executive nominations for appointees:



Jim Justice
Governor of West Virginia

March 6, 2019

Senate Executive Message No. 3
Regular Session 2019

TO: The Honorable Members of the
West Virginia Senate

Ladies and Gentlemen:

I respectfully submit the following nominations for your advice and consent:

1. For Member, Ethics Commission, Lindsey C. Ashley, Pineville, Wyoming County, for the term ending June 30, 2022.
2. For Member, Blue Ridge Community and Technical College Board of Governors, Bradley J. Close, Martinsburg, Berkeley County, for the term ending June 30, 2022.
3. For Member, Blue Ridge Community and Technical College Board of Governors, Taylor James Perry, Jr., Martinsburg, Berkeley County, for the term ending June 30, 2021.
4. For Member, Blue Ridge Community and Technical College Board of Governors, Francisco S. Lanza, Frederick, Maryland, for the term ending June 30, 2022.
5. For Member, Glenville State College Board of Governors, Stephen Gandee, Jane Lew, Lewis County, for the term ending June 30, 2022.
6. For Member, Mountwest Community and Technical College Board of Governors, Jeffrey D. Goad, Barboursville, Cabell County, for the term ending June 30, 2022.
7. For Member, Mountwest Community and Technical College Board of Governors, Melvin J. Miller, Jr., Huntington, Cabell County, for the term ending June 30, 2022.

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8. For Member, Mountwest Community and Technical College Board of Governors, Dinah A. Ledbetter, Ceredo, Wayne County, for the term ending June 30, 2022.
9. For Member, Shepherd University Board of Governors, Chad D. Robinson, Charleston, Kanawha County, for the term ending June 30, 2022.
10. For Member, Shepherd University Board of Governors, Henry M. Kayes, Jr., Martinsburg, Berkeley County, for the term ending June 30, 2022.
11. For Member, West Liberty University Board of Governors, Richard A. Lucas, Wheeling, Ohio County, for the term ending June 30, 2022.
12. For Member, West Virginia State University Board of Governors, Kenneth D. Gray, Morgantown, Monongalia County, for the term ending June 30, 2022.
13. For Member, West Virginia State University Board of Governors, Mark D. Davis, Charleston, Kanawha County, for the term ending June 30, 2022.
14. For Member, BridgeValley Community and Technical College Board of Governors, Srinu Matam, Scott Depot, Putnam County, for the term ending June 30, 2021.
15. For Member, BridgeValley Community and Technical College Board of Governors, Charles A. Kennedy, Charleston, Kanawha County, for the term ending June 30, 2021.
16. For Secretary, Department of Commerce, The Honorable C. Edward Gaunch, Charleston, Kanawha County, to serve at the will and pleasure of the Governor.
17. For Member, West Virginia Board of Veterinary Medicine, Frank J. Cary, Kingwood, Preston County, for the term ending June 30, 2021.
18. For Member, Board of Funeral Service Examiners, John C. Valentine, Weston, Lewis County, for the term ending June 30, 2019.
19. For Executive Director, Real Estate Division, John K. McHugh, Charleston, Kanawha County, to serve at the will and pleasure of the Governor.
20. For Secretary, Department of Administration, Allan L. McVey, St. Albans, Kanawha County, to serve at the will and pleasure of the Governor.
21. For Member, Aeronautics Commission, James W. Wallace, Beverly, Randolph County, for the term ending June 30, 2020.
22. For Member, Board of the College Prepaid Tuition and Savings Program, Chuck Smith, Charleston, Kanawha County, for the term ending June 30, 2023.

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23. For Member, West Virginia University Board of Governors, Charles L. Capito, Jr., Charleston, Kanawha County, for the term ending June 30, 2022.
24. For Member, Commission on the Arts, Rebecca A. Deem, Vienna, Wood County, for the term ending June 30, 2020.
25. For Member, Environmental Quality Board, Stephen G. Capelli, Sr., Elkins, Randolph County, for the term ending June 30, 2022.
26. For Member, Tourism Commission, Barry Kadel, Charleston, Kanawha County, for the term ending May 1, 2021.
27. For Member, Shepherd University Board of Governors, James M. Cherry, Frederick, Maryland, for the term ending June 30, 2022.
28. For Member, West Virginia State University Board of Governors, James Payne, Charleston, Kanawha County, for the term ending June 30, 2021.
29. For Commissioner, Insurance Commission, James A. Dodrill, Hurricane, Putnam County, to serve at the will and pleasure of the Governor.
30. For Member, West Virginia Board of Medicine, Angela A. Mayfield, Nitro, Kanawha County, for the term ending September 30, 2023.
31. For Member, Real Estate Commission, James S. Walker, Morgantown, Monongalia County, for the term ending June 30, 2022.
32. For Member, Board of Directors of the West Virginia United Health System, Jocelyn M. Moore, Inwood, Berkeley County, for the term ending October 15, 2022.
33. For Member, Board of Directors of the West Virginia United Health System, Hannah Hazard-Jenkins, Morgantown, Monongalia County, for the term ending October 15, 2022.
34. For Member, West Virginia Board of Osteopathic Medicine, Heather K. Jones, Chapmanville, Logan County, for the term ending June 2023.
35. For Member, Public Land Corporation Board of Directors, Carl D. Andrews, Charleston, Kanawha County, for the term ending June 30, 2021.
36. For Member, Board of Barbers and Cosmetologists, Donald Snyder, Fayetteville, Fayette County, for the term ending June 30, 2019.

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37. For Member, Eastern West Virginia Community and Technical College Board of Governors, Andrew N. Blackwood, Charleston, Kanawha County, for the term ending June 30, 2021.
38. For Member, Eastern West Virginia Community and Technical College Board of Governors, Sonnee Carter, Petersburg, Grant County, for the term ending June 30, 2021.
39. For Member, West Liberty University Board of Governors, Richard H. Carter, Wheeling, Ohio County, for the term ending June 30, 2020.
40. For Member, West Liberty University Board of Governors, William C. Mercer, Wheeling, Ohio County, for the term ending June 30, 2019.
41. For Member, Aeronautics Commission, Brian Thompson, Huntington, Cabell County, for the term ending June 30, 2022.
42. For Member, Board of Directors of the West Virginia United Health System, Ellen S. Cappellanti, Charleston, Kanawha County, for the term ending October 15, 2024.
43. For Member, State Conservation Committee, Timothy VanReenen, Hillsboro, Pocahontas County, for the term ending June 30, 2022.
44. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Kim Nuckles, Charleston, Kanawha County, for the term ending January 31, 2021.
45. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Douglas Auten, Moundsville, Marshall County, for the term ending January 31, 2021.
46. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Susannah Carpenter, Charleston, Kanawha County, for the term ending January 31, 2021.
47. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Jerry Boyko, Charleston, Kanawha County, for the term ending January 31, 2021.
48. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, John Hyre, Kingwood, Preston County, for the term ending January 31, 2021.

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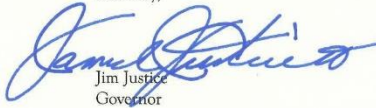
49. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Thomas Belasco II, Bridgeport, Harrison County, for the term ending June 30, 2024.
50. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Gary D. Shaw, Fairmont, Marion County, for the term ending June 30, 2022.
51. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Johnnie E. Brown, Charleston, Kanawha County, for the term ending June 30, 2022.
52. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Richard Casto, Madison, Boone County, for the term ending June 30, 2020.
53. For Member, Family Protection Services Board, Trudi Blaylock, Charleston, Kanawha County, for the term ending June 30, 2019.
54. For Member, Family Protection Services Board, Kimberly Sanford Sizemore, Fraziers Bottom, Putnam County, for the term ending June 30, 2019.
55. For Member, West Virginia Health Care Authority, Robert J. Gray, Charleston, Kanawha County, for the term ending June 30, 2023.
56. For Member, West Virginia Agricultural Land Protection Authority Board of Trustees, Dennis Funk, Kirby, Hardy County, for the term ending June 30, 2021.
57. For Member, West Virginia Agricultural Land Protection Authority Board of Trustees, Charles M. Long, Frankford, Greenbrier County, for the term ending June 30, 2020.
58. For Member, Workforce Development Board, John Sorrenti, Weirton, Hancock County, for the term ending June 30, 2021.
59. For Member, Workforce Development Board, Penny Brown, Belington, Barbour County, for the term ending June 30, 2021.
60. For Member, Workforce Development Board, Eunice Bellinger, Montgomery, Fayette County, for the term ending June 30, 2021.
61. For Member, Workforce Development Board, Kim Barber Tieman, Charleston, Kanawha County, for the term ending June 30, 2021.

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62. For Member, Workforce Development Board, Myisha Robinson, Charleston, Kanawha County, for the term ending June 30, 2020.
63. For Member, Workforce Development Board, Bryan Johnson, Kenova, Wayne County, for the term ending June 30, 2020.
64. For Member, Workforce Development Board, Michael Bombard, Fairmont, Marion County, for the term ending June 30, 2020.
65. For Member, Workforce Development Board, Michael Sirockman, Winfield, Putnam County, for the term ending June 30, 2020.

Notice of these appointments was previously provided to the appropriate legislative staff at the time the appointments were made.

Sincerely,



Jim Justice
Governor

JCJ: mrp

cc: Clerk of the Senate
Assistant Clerk of the Senate
Senate Confirmations Chair

Which communication was received and referred to the Committee on Confirmations.

On motion of Senator Takubo, consideration of the nominations immediately hereinbefore reported was made a special order of business for 11 a.m. on Saturday, March 9, 2019.

Senator Carmichael (Mr. President) next laid before the Senate the following proclamation from His Excellency, the Governor, extending this current legislative session until and including the 10th day of March, 2019, which was received and read by the Clerk:

STATE OF WEST VIRGINIA**EXECUTIVE DEPARTMENT****Charleston****A PROCLAMATION****By the Governor**

WHEREAS, the Constitution of West Virginia sets forth the respective powers, duties, and responsibilities of the three separate branches of government; and

WHEREAS, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of January two thousand nineteen; and

WHEREAS, pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand nineteen regular session of the Legislature is scheduled to conclude on the ninth day of March, two thousand nineteen; and

WHEREAS, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

WHEREAS, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the regular session of the Legislature if the Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

WHEREAS, the Budget Bill has not been finally acted upon by the Legislature as of this sixth day of March, two thousand nineteen.

NOW, THEREFORE, I, JIM JUSTICE, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the two thousand nineteen regular session of the Legislature for an additional period not to exceed one day, through and including the tenth day of March, two thousand nineteen; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except a provision for the cost thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, on this the sixth day of March, in the year of our Lord, Two Thousand Nineteen, and in the One Hundred Fifty-Sixth year of the State.

GOVERNOR

SECRETARY OF STATE

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 6, 2019, he had approved **Enr. Committee Substitute for House Bill 2612**.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 6th day of March, 2019, 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. 2476), Relating to the valuation of a motor vehicle involved in an insurance claim.

(H. B. 2691), Providing that a license to carry a concealed deadly weapon expires on the holder's birthday.

(Com. Sub. for H. B. 2740), Barring a parent from inheriting from a child in certain instances.

And,

(H. B. 2759), Providing for the ancillary administration of West Virginia real estate owned by nonresidents by affidavit and without administration.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Moore Capito,
Chair, House Committee.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 677 (originating in the Committee on Finance)—A Bill supplementing and amending by increasing existing items of

appropriation and adding a new item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health, Central Office, fund 0407, fiscal year 2019, organization 0506; and to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2019, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 677) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Takubo moved that the constitutional rule requiring a bill to be read on three separate days be suspended.

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Hamilton, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

Absent: Boley, Mann, and Plymale—3.

So, less than four fifths of the members present and voting having voted in the affirmative, the President declared the motion to suspend the constitutional rule rejected.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 678 (originating in the Committee on Finance)—A Bill making a supplementary appropriation by adding new items of appropriation from the balance of moneys remaining as an unappropriated balance in the State Fund, State Excess Lottery Revenue Fund, to the Department of Administration, Office of Technology, fund 2532, fiscal year 2019, organization 0231, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 678) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Takubo moved that the constitutional rule requiring a bill to be read on three separate days be suspended.

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Hamilton, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

Absent: Boley, Mann, and Plymale—3.

So, less than four fifths of the members present and voting having voted in the affirmative, the President declared the motion to suspend the constitutional rule rejected.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 679 (originating in the Committee on Finance)—A Bill supplementing and amending by adding a new item of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Administration, Division of Finance, fund 0203, fiscal year 2019, organization 0209, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 679) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Takubo moved that the constitutional rule requiring a bill to be read on three separate days be suspended.

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Hamilton, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

Absent: Boley, Mann, and Plymale—3.

So, less than four fifths of the members present and voting having voted in the affirmative, the President declared the motion to suspend the constitutional rule rejected.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 680 (originating in the Committee on Finance)—A Bill supplementing and amending by increasing existing items of appropriation of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Military Affairs and Public Safety, Division of Homeland Security and Emergency Management, fund 0443, fiscal year 2019, organization 0606; and to the Department of Military Affairs and Public Safety, Division of Corrections, Central Office, fund 0446, fiscal year 2019, organization 0608, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 680) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Takubo moved that the constitutional rule requiring a bill to be read on three separate days be suspended.

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Hamilton, Maroney, Maynard, Roberts, Rucker,

Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

Absent: Boley, Mann, and Plymale—3.

So, less than four fifths of the members present and voting having voted in the affirmative, the President declared the motion to suspend the constitutional rule rejected.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 681 (originating in the Committee on Finance)—A Bill making a supplementary appropriation of Lottery Net Profits by adding a new item of appropriation from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits to the Department of Education and the Arts, Educational Broadcasting Authority, fund 3587, fiscal year 2019, organization 0439, by supplementing and amending the appropriations for the fiscal year ending June 30, 2019.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (S. B. 681) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Takubo moved that the constitutional rule requiring a bill to be read on three separate days be suspended.

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Hamilton, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Stollings, and Unger—12.

Absent: Boley, Mann, and Plymale—3.

So, less than four fifths of the members present and voting having voted in the affirmative, the President declared the motion to suspend the constitutional rule rejected.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 31, SGT James E. Mattingly Bridge.

Senate Concurrent Resolution 32, US Army SSG Henry Kilgore Bridge.

House Concurrent Resolution 2, Senator J. Frank Deem Memorial Bridge.

House Concurrent Resolution 13, Chief Robert Edward Dorsey Memorial Highway.

House Concurrent Resolution 23, U. S. Army SGT Rodney David King and U. S. Army SGT James Harris King Memorial Bridge.

And,

House Concurrent Resolution 66, U. S. Army SPC Thurman 'Duwayne' Young Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 31 and 32 and H. C. R. 2, 13, 23, and 66) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2474, Relating to a reserving methodology for health insurance and annuity contracts.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Weld, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2479, Corporate Governance Annual Disclosure Act. And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2486, Using records of criminal conviction to disqualify a person from receiving a license for a profession or occupation.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2486) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Azinger, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Eng. Com. Sub. for House Bill 2595, Establishing the West Virginia Division of Natural Resources Police Officer Retirement System.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Michael T. Azinger,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on Banking and Insurance pending.

Senator Weld, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2618, Including undue influence as a factor in the definition of financial exploitation of an elderly person or protected person.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

Senator Weld, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2709, Relating to hunting licenses. And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

Senator Boso, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. House Bill 2856, Relating to the administration of the operating fund of the securities division of the Auditor's office.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Boso, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. House Bill 3020, Relating to sole source contracts for goods and services with nonprofit corporations affiliated with the respective education institutions.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Eng. House Bill 3044, Requiring the Commissioner of Highways to develop a formula for allocating road funds.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles H. Clements,
Chair.

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration **House Concurrent Resolution 20**, PFC Charles Everett Hurd Memorial Bridge. And has amended same.

And reports the same back with the recommendation that it be adopted, as amended.

Respectfully submitted,

Charles H. Clements,
Chair.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Takubo, at 6:36 p.m., the Senate adjourned until tomorrow, Thursday, March 7, 2019, at 11 a.m.

THURSDAY, MARCH 7, 2019

The Senate met at 11:25 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Pastor Aaron Karr, Calvary Baptist Church, Hurricane, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Rollan A. Roberts, a senator from the ninth district.

Pending the reading of the Journal of Wednesday, March 6, 2019,

At the request of Senator Baldwin, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

At the request of Senator Takubo, unanimous consent being granted, the Senate proceeded to the sixth order of business.

Senators Maroney, Takubo, Jeffries, Beach, Rucker, and Stollings offered the following resolution:

Senate Concurrent Resolution 51—Requesting the Joint Committee on the Judiciary study legislation relating to the creation of long-term care medical review panels.

Whereas, For many years, West Virginia's legal climate has been the subject of much scrutiny and criticism for lawsuit filings and verdicts considered by many to be outside of the legal mainstream; and

Whereas, Lawsuits against long-term care providers have been of particular focus after significant verdicts were rendered against long-term care providers; and

Whereas, The West Virginia Legislature has taken steps in recent years to modify the Medical Professional Liability Act to confirm that claims against long-term care providers are covered by the act and to appropriately balance the interests of those injured with the interests of health care providers; and

Whereas, The steps taken by the West Virginia Legislature have had a positive impact on the severity of damages awarded in cases against long-term care providers; and

Whereas, The frequency of lawsuits against long-term care providers in West Virginia continues to be an issue, as lawsuit filings have not decreased despite the reforms enacted by the West Virginia Legislature; and

Whereas, Sixteen states currently have legislation authorizing the use of medical review panels to objectively evaluate the sufficiency of medical liability claims; and

Whereas, Medical review panels can provide an opportunity to reduce claims where the standard of care has not been violated, while also supporting the resolution of legitimate claims; and

Whereas, The result of medical review panels in other states is the elimination of unnecessary and unfounded litigation, allowing for a focus on valid claims; and

Whereas, The creation of an effective system of medical review panels devoted to actions or suits brought against long-term care providers in West Virginia could provide a model for dispute resolution for other liability claims under the Medical Professional Liability Act; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is hereby requested to study legislation relating to the creation of long-term care medical review panels; and, be it

Further Resolved, That the Joint Committee on the Judiciary report to the regular session of the Legislature, 2020, 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.

Which, under the rules, lies over one day.

Senators Stollings, Hardesty, Jeffries, Palumbo, Beach, Lindsay, Baldwin, and Sypolt offered the following resolution:

Senate Resolution 73—Congratulating Boone Memorial Hospital for receiving a five-star rating from the Centers for Medicare and Medicaid Services.

Whereas, It is the mission of Boone Memorial Hospital to create an environment in which qualified physicians and other health care personnel can work together to provide high-quality health care services, in an atmosphere of brotherly love and concern, to the residents of Boone County and surrounding areas; and

Whereas, Boone Memorial Hospital strives to provide a comprehensive range of inpatient and outpatient services, including prevention, wellness, diagnosis, treatment, and rehabilitation as well as training and guidance to help our patients lead healthy, productive lives; and

Whereas, Boone Memorial Hospital has previously received national recognition for performance leadership in patient perspectives and was the recipient of the Over the Top Hospital (under 100 beds) Award. In addition, the hospital received Gold Level in the Hospital Challenge Awards presented by Donate Life West Virginia and the Center for Organ Recovery and Education; and

Whereas, For demonstrating excellence in medical care, Boone Memorial Hospital was the only hospital in the state of West

Virginia to be awarded with the coveted five-star rating from the Centers for Medicare and Medicaid Services; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates Boone Memorial Hospital for receiving a five-star rating from the Centers for Medicare and Medicaid Services; and, be it

Further Resolved, That the Senate extends its most sincere gratitude and appreciation to the health care professionals at Boone Memorial Hospital for providing the highest standard of care possible to the people of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Boone Memorial Hospital.

At the request of Senator Stollings, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senator Stollings regarding the adoption of Senate Resolution 73 were ordered printed in the Appendix to the Journal.

On motion of Senator Takubo, at 11:34 a.m., the Senate recessed to present Senate Resolution 73.

The Senate reconvened at 11:37 a.m. and resumed business under the sixth order.

Senators Swope, Azinger, Clements, Hamilton, Hardesty, Maynard, Smith, Tarr, Woelfel, Palumbo, Roberts, Jeffries, Beach, Lindsay, Baldwin, Rucker, Cline, Sypolt, and Stollings offered the following resolution:

Senate Resolution 74—Designating March 7, 2019, as West Virginia Aviation Day.

Whereas, The history of aviation in West Virginia is nearly 100 years old; and

Whereas, The West Virginia Aeronautics Commission is an agency of the West Virginia Department of Transportation; and

Whereas, The West Virginia Airport Managers Association represents commercial and general aviation airports and industry partners throughout the Mountain State; and

Whereas, West Virginia has 24 airports in the National Plan of Integrated Airport Systems: Seven commercial airports and 17 general aviation airports; and

Whereas, Affordable, reliable, and safe air service is integral to our communities, citizens, businesses, and state; and

Whereas, Commercial airports serve our state's 1.8 million residents and hundreds of thousands of visitors annually; and

Whereas, General aviation airports open our state's rural landscape to countless companies to conduct business and often serve as community hubs; and

Whereas, Airports have played, and will continue to play, a critical role in the state's response to natural disasters, medical emergencies, and search and rescue operations; and

Whereas, Growth in air service in West Virginia equates to increased funding for improvements to West Virginia's airports; and

Whereas, West Virginia has been a host to aircraft industries for more than 90 years, from the opening of a Fokker Aircraft plant in Marshall County in 1928, to advanced aviation and aerospace facilities now affiliated with the North Central West Virginia Airport in Harrison County; and

Whereas, Studies of the economic impact of West Virginia's airport have shown that these installations contribute \$2.5 billion to the state's economy; therefore, be it

Resolved by the Senate:

That the Senate hereby designates March 7, 2019, as West Virginia Aviation Day; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the West Virginia Aeronautics Commission and the West Virginia Airport Managers Association.

At the request of Senator Swope, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

On motion of Senator Takubo, 11:43 a.m., the Senate recessed to present Senate Resolution 74.

The Senate reconvened at 11:47 a.m. and, at the request of Senator Azinger, unanimous consent being granted, returned to the second order of business and the introduction of guests.

The Senate again proceeded to the sixth order of business.

Senators Carmichael (Mr. President), Tarr, Swope, Maynard, Woelfel, Cline, Sypolt, and Plymale offered the following resolution:

Senate Resolution 75—Expressing support for the President of the United States, Donald J. Trump, to sign the Appalachian Sky Executive Order.

Whereas, During the 20th century, the coal industry provided direct and indirect jobs to thousands upon thousands of southern West Virginians, creating a robust local economy; and

Whereas, During the mid-2000s, the coal industry began to decline due to many factors, including, but not limited to, inexpensive natural gas, burdensome environmental regulations, and weakening international demand, disproportionately affecting central Appalachia, generally, and southern West Virginia, specifically; and

Whereas, Jackson, Mason, Cabell, and Wayne counties have been selected as part of a 19-county, multistate AERoready Certified region known as the Appalachian Sky corridor with an ultimate goal to attract the aerospace and defense industries to the region; and

Whereas, A proposed Appalachian Sky Executive Order is currently under review with the United States Department of Commerce and the National Economic Council, and would align varying interests in the region with the common goal of attracting manufacturers so that, one day, every aircraft and spacecraft will have a part designed, manufactured, or routinely maintained at a facility in the Appalachian Sky corridor; and

Whereas, Experts estimate that the Appalachian Sky initiative will create 15,000 aerospace-related jobs in the region and create over 18,000 indirect and induced jobs, employing thousands of West Virginians from those areas hardest hit by the decline in the coal industry, and encouraging thousands to move to West Virginia and surrounding states, revitalizing local economies; therefore, be it

Resolved by the Senate:

That the Senate hereby expresses support for the President of the United States, Donald J. Trump, to sign the Appalachian Sky Executive Order; and, be it

Further Resolved, That the Senate respectfully encourages the Honorable Donald J. Trump, President of the United States, to sign the Appalachian Sky Executive Order and bring much needed economic opportunity to regions of West Virginia and neighboring states whose workforce provided the coal and other materials that made America great and secure, and make central Appalachia and West Virginia great again; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Honorable Donald J. Trump, President of the United States of America; to the Honorable Wilbur L. Ross, Jr., Secretary of the United States Department of

Commerce; and to the Honorable Lawrence A. Kudlow, Director of the National Economic Council.

Which, under the rules, lies over one day.

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 1, Increasing access to career education and workforce training.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-6. Classification and standardization of schools; standards for degrees and diplomas; certificates of proficiency; establishment of alternative education programs.

(a) The state board shall promulgate rules for the accreditation, classification, and standardization of all schools in the state, except institutions of higher education, and shall determine the minimum standards for granting diplomas, advanced certifications, and certificates of proficiency by those schools.

(1) The certificates of proficiency shall include specific information regarding the graduate's skills, competence, and

readiness for employment, or honors and advanced education and shall be granted, along with the diploma, to every eligible high school graduate.

(2) The certificate of proficiency shall include the program of study major completed by the student only for those students who have completed the required major courses, or higher level courses, advanced placement courses, college courses, or other more rigorous substitutes related to the major, and the recommended electives.

(3) Students who have completed a secondary education program in a public, private, or home school and have continued to be enrolled in a program leading to an advanced certification or an advanced career education program shall be considered adults enrolled in regular secondary programs in accordance with §18-9A-2(i) of this code: *Provided*, That the State Superintendent of Schools, the Chancellor for the Council for Community and Technical College Education, the Chancellor of the Higher Education Policy Commission, and the Secretary of the Department of Commerce may designate additional programs that provide valuable workplace credentials and students enrolled in such programs shall also be considered adults enrolled in regular secondary programs in accordance with §18-9A-2(i) of this code.

(b) An institution of less than collegiate or university status may not grant any diploma or certificate of proficiency on any basis of work or merit below the minimum standards prescribed by the state board.

(c) A charter or other instrument containing the right to issue diplomas or certificates of proficiency may not be granted by the State of West Virginia to any institution or other associations or organizations of less than collegiate or university status within the state until the condition of granting or issuing the diplomas or other certificates of proficiency has first been approved in writing by the state board.

(d) The state board shall promulgate a rule for the approval of alternative education programs for disruptive students who are at risk of not succeeding in the traditional school structure.

(1) This rule may provide for the waiver of other policies of the state board, the establishment and delivery of a nontraditional curriculum, the establishment of licensure requirements for alternative education program teachers, and the establishment of performance measures for school accreditation.

(2) This rule shall provide uniform definitions of disruptive student behavior and uniform standards for the placement of students in alternative settings or providing other interventions including referrals to local juvenile courts to correct student behavior so that they can return to a regular classroom without engaging in further disruptive behavior.

(e) The state board shall establish up to five pilot projects at the elementary or middle school levels, or both, that employ alternative schools or other placements for disruptive students to learn appropriate behaviors so they can return to the regular classroom without further disrupting the learning environment. The state board shall report to the Legislative Oversight Commission on Education Accountability by December 1, 2010, on its progress in establishing the pilot projects and by December 1 in each year after that for the duration of the pilot projects on the effect of the projects on maintaining student discipline.

(f) If a student attends an approved alternative education program or the Mountaineer Challenge Academy, which is designated as a special alternative education program pursuant to §15-1B-24 of this code, and the student graduates or passes the ~~General Equivalency Development~~ high school equivalency tests within five years of beginning ninth grade, that student shall be considered graduated for the purposes of calculating the high school graduation rate used for school accreditation and school system approval, subject to the following:

(1) The student shall be considered graduated only to the extent that this is not in conflict with any provision of federal law relating to graduation rates;

(2) If the state board determines that this is in conflict with a provision of federal law relating to graduation rates, the state board

shall request a waiver from the United States Department of Education; and

(3) If the waiver is granted, notwithstanding the provisions of §18-2-6(f)(1) of this code, the student graduating or passing the ~~General Educational Development~~ high school equivalency tests within five years shall be considered graduated.

(g) The state board shall promulgate a rule to support the operation of the National Guard Youth Challenge Program operated by the Adjutant General and known as the Mountaineer Challenge Academy which is designated as a special alternative education program pursuant to §15-1B-24 of this code for students who are at risk of not succeeding in the traditional school structure. The rule shall set forth policies and procedures applicable only to the Mountaineer Challenge Academy that provide for, but are not limited to, the following:

(1) Implementation of provisions set forth in §15-1B-24 of this code;

(2) Precedence of the policies and procedures designated by the National Guard Bureau for the operation of the Mountaineer Challenge Academy special alternative education program;

(3) Consideration of a student participating in the Mountaineer Challenge Academy special alternative education program at full enrollment status in the referring county for the purposes of funding and calculating attendance and graduation rates, subject to the following:

(A) The student shall be considered at full enrollment status only for the purposes of calculating attendance and graduation rates to the extent that this is not in conflict with any provision of federal law relating to attendance or graduation rates;

(B) If the state board determines that this is in conflict with a provision of federal law relating to attendance or graduation rates, the state board shall request a waiver from the United States Department of Education;

(C) If the waiver is granted, notwithstanding the provisions of §18-2-6(g)(3)(A) of this code, the student shall be considered at full enrollment status in the referring county for the purposes of calculating attendance and graduation rates; and

(D) Consideration of the student at full enrollment status in the referring county is for the purposes of funding and calculating attendance and graduation rates only. For any other purpose, a student participating in the academy is considered withdrawn from the public school system;

(4) Articulation of the knowledge, skills, and competencies gained through alternative education so that students who return to regular education may proceed toward attainment or may attain the standards for graduation without duplication;

(5) Consideration of eligibility to take the ~~General Educational Development~~ high school equivalency tests by qualifying within the extraordinary circumstances provisions established by state board rule for a student participating in the Mountaineer Challenge Academy special alternative education program who does not meet any other criteria for eligibility; and

(6) Payment of tuition by a county board to the Mountaineer Challenge Academy for each student graduating from the academy with a high school diploma that resides in that county board's school district. For purposes of this subdivision, "tuition" means an amount equal to 75 percent of the amount allotted per pupil under the school aid formula.

(h) Nothing in this section or the rules promulgated under this section compels the Mountaineer Challenge Academy to be operated as a special alternative education program or to be subject to any other laws governing the public schools except by its consent.

(i) The Legislature makes the following findings regarding students at risk:

(1) *Defeated and discouraged learners.* —

(A) Any child who is unlikely to graduate on schedule with both the skills and self-esteem necessary to exercise meaningful options in the areas of work, leisure, culture, civic affairs, and personal relationships may be defined as being an at-risk student;

(B) Problems associated with students at risk often begin for them in the early grades as they gradually fall further behind in the essential skills of reading, writing, and math;

(C) These problems may be accompanied by such behavior patterns as poor attendance, inattentiveness, negative attitudes, and acting out in class. These patterns are both symptoms of and added catalysts for students to become increasingly defeated and discouraged learners;

(D) By the middle grades, students with growing skill deficits usually know they are behind other students and have good reason to feel discouraged. A growing lack of self-confidence and self-worth, limited optimism for the future, avoidance of school and adults, and a dimming view of the relationship between effort and achievement are among the characteristics of defeated and discouraged learners;

(E) Public schools are expected to address the needs of all students, minimizing the likelihood that they will become at risk and giving additional attention to those who do; however, the circumstances involved with a ~~child~~ becoming at risk often are complex and may include influences both within and outside of the school environment; and

(F) In fragile homes, a child who is at risk and is becoming a discouraged and defeated learner often lacks adequate support and may develop peer relationships that further exacerbate the difficulty of reengaging him or her in learning, school, and responsible social behavior.

(2) The Legislature further finds that the public schools should not be deterred from seeking and assisting with enrollment of students in an alternative program that helps remedy the

discouragement, lessens skill deficits, and facilitates a successful return to public school.

(j) For this purpose, subject to approval of the county superintendent, a student enrolled in the public schools of the county may continue to be enrolled while also enrolled in an alternative program subject to the following conditions:

(1) The alternative program is approved by the state board;

(2) The student meets the general description of an at-risk student and exhibits behaviors and characteristics associated with a discouraged and defeated learner;

(3) The alternative program complies with all requests of the county superintendent for information on the educational program and progress of the student;

(4) The alternative program includes a family involvement component in its program. This component shall include, but is not limited to, providing for student and parent participation in activities that help address the challenging issues that have hindered the student's engagement and progress in learning;

(5) The alternative program includes an on-site boarding option for students;

(6) The alternative program provides an individualized education program for students that is designed to prepare them for a successful transition back into the public schools; and

(7) The parents or legal guardian of the student make application for enrollment of the student in the alternative program, agree to the terms and conditions for enrollment, and enroll the student in the program.

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-11. Advanced Career Education.

(a) The Legislature hereby makes the following findings:

(1) Preparing West Virginia students to achieve post-secondary career education and to excel in the workforce is a responsibility shared among all state education agencies and institutions. The state's education agencies and institutions can fulfill this responsibility by establishing partnerships that enable students to attain advanced career education and valuable workforce skills in a more efficient and advantageous manner;

(2) The formation of partnerships between public secondary schools and community and technical colleges or public baccalaureate institutions which establish advanced career education programs would ensure that a full range of community and technical college programs and services are provided in all areas of the state;

(3) Programs which create clear and efficient pathways that begin during secondary education and lead to obtaining advanced certifications and associate degrees will increase the number of students that ultimately obtain a post-secondary credential or degree; and

(4) West Virginia's economic prosperity is directly tied to the level and quality of its workforce career education. Providing the students of this state with increased access to career education will not only improve the general well-being of its citizens, but greatly enhance the economic prosperity of the state.

(b) The purpose of this section and the Advanced Career Education (ACE) programs authorized herein is to connect secondary schools with community and technical colleges or public baccalaureate institutions that provide associate degrees to accomplish the following:

(1) Prepare secondary students for success in post-secondary education and the workforce; and

(2) Provide more opportunities for secondary students to earn post-secondary college credits, certifications, and associate degrees.

(c) To effectuate the purposes set forth in §18-2E-11(b) of this code, community and technical colleges, public baccalaureate institutions, career technical education centers, and county boards of education, or any combination of such secondary and postsecondary entities, shall establish partnerships that provide for ACE programs which feature defined pathways that begin when a student is in secondary education and that ultimately lead to advanced certifications or associate degrees awarded by community and technical colleges or baccalaureate institutions. ACE programs shall be equally available to public, nonpublic, and homeschool students.

(d) ACE programs shall include pathways that consist of a curriculum of courses leading to advanced certifications or an associate degree that have been deemed to satisfy a workforce need as determined by the Department of Commerce.

(1) The Department of Commerce shall, on occasion, but at least annually, provide written notification to the State Board of Education, the West Virginia Council for Community and Technical College Education and the West Virginia Higher Education Policy Commission of a determination of areas of workforce need within the state.

(2) The Department of Commerce, in consultation with the council, the commission and business partners, will develop a hierarchy of high demand skilled professions and workforce needs with shortages, which shall be given priority in administration of the program.

(e) The State Superintendent of Schools, the Chancellor of the Council for Community and Technical College Education, and the Chancellor of the Higher Education Policy Commission, or their designees, shall facilitate the ACE programs. At a minimum, an ACE program shall satisfy the following objectives:

(1) Provide additional opportunities to students in this state to attain advanced certifications and college credentials leading to associate degrees through ACE pathways;

(2) Increase the number of students in this state that attain advanced certifications and college credentials leading to associate degrees through ACE pathways;

(3) Allow students in this state to attain advanced certifications and college credentials leading to associate degrees through ACE pathways at little or no cost;

(4) Ensure that ACE pathways provide a clear roadmap to the courses and requirements necessary to attain advanced certifications and college credentials leading to associate degrees; and

(5) Ensure that course requirements within ACE pathways are not duplicated.

(f) The board and council shall jointly promulgate guidelines for the administration of ACE programs and pathways, which must be affirmatively adopted by the board and the council. At a minimum, such guidelines shall provide for the following:

(1) That ACE program partnerships established between community and technical colleges, public baccalaureate institutions, career technical education centers, and county boards of education, or any combination of such secondary and postsecondary entities, shall be reduced to written partnership agreements;

(2) The information required to be contained within partnership agreements;

(3) That ACE programs and pathways must meet the requirements of the accrediting entity for the community and technical college or public baccalaureate institution awarding the associate degrees or advanced certificates;

(4) That partnership agreements shall be approved by the State Superintendent of Schools, the Chancellor for the Council for Community and Technical College Education and the Chancellor of the Higher Education Policy Commission; and

(5) Any other provisions necessary to effectuate the purposes of this section.

(g) The board and the council shall maintain and annually report to the Governor and the Legislative Oversight Commission on Education Accountability the following information about ACE programs:

(1) The identity and number of partnership agreements;

(2) The ACE programs and pathways that are being utilized by career technical education centers, county boards of education, community and technical colleges, and public baccalaureate institutions; and

(3) The nature and number of degrees and certifications awarded to students participating in ACE programs by each community and technical college, public baccalaureate institution and career technical education center.

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 §18A-4-1 *et seq.* of this code.

(d) “Professional educator” shall be synonymous with and shall have the same meaning as “teacher” as defined in §18-1-1 of this code, 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 §18-1-1 of this code 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 §18-9A-4 of this code, professional student support personnel are professional educators.

(g) “Service personnel salaries” means the state legally mandated salaries for service personnel as provided in §18A-4-8a of this code.

(h) “Service personnel” means all personnel as provided in §18A-4-8 of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by 200: *Provided*, That the computation for any service person employed for three and one-half hours or fewer per day as provided in §18A-4-8a of this code shall be 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 12, 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~~ 2,500 of those adults counted on the basis of full-time equivalency and apportioned annually to each county to support Advanced Career

Education programs, as provided in §18-2E-11 of this code, in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency: *Provided, That beginning with the 2021 fiscal year and every year thereafter, a career technical education center may only receive the funding for enrollment as authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code;* 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 §18-5-44 of this code, counted on the basis of full-time equivalency;

(3) ~~No pupil shall~~ A pupil may not be counted more than once by reason of transfer within the county or from another county within the state, and ~~no pupil shall~~ a pupil may not 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 1,400, 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 §18-9A-2(i)(5)(A) of this code by the difference between 1,400 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 1,400, the increase in net enrollment shall be reduced so that the total does not exceed 1,400; 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 §18-9A-2(i)(5) of this code, 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 §18-9A-2(i)(5) of this code, of the definition of “net enrollment”, to the square miles of the county is equal to or greater than five but less than 10.

(l) “Medium-density county” means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of “net enrollment”, to the square miles of the county is equal to or greater than 10 but less than 20.

(m) “High-density county” means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of “net enrollment”, to the square miles of the county is equal to or greater than 20.

(n) “Levies for general current expense purposes” means 90 percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this code.

(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.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.

§18B-3C-16. Encouragement of collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

(a) The Legislature finds that apprenticeship programs provide a valuable educational opportunity that can be enhanced by community and technical colleges that offer associate degrees. Accordingly, the Legislature hereby encourages, but is not requiring, community and technical colleges that offer associate degrees to enter into collaborative agreements with federally registered apprenticeship programs that are registered with the United States Department of Labor.

(b) On or before January 1 of each year, the council shall provide to the Legislature and the Governor a report regarding the collaborative agreements between community and technical colleges and federally registered apprenticeships programs. The report should identify those community and technical colleges that have entered into a collaborative agreement with federally registered apprenticeship programs, the number of students participating in such apprenticeship programs, the number of community and technical colleges credits earned by students in such apprenticeship programs, the number of students employed in a relevant field of study during such apprenticeship programs and

for the year after completion of such apprenticeship programs, and the average compensation of the students employed in a relevant field of study during their enrollment in such apprenticeship programs and for the year after completion of such apprenticeship programs.

CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.

ARTICLE 9. WEST VIRGINIA INVESTS GRANT PROGRAM.

§18C-9-1. Short title.

This article shall be known and may be cited as the WV Invests Grant Program.

§18C-9-2. Legislative findings and purpose.

(a) The Legislature hereby finds and declares that:

(1) Every West Virginian should have access to education and training that will lead directly to quality employment opportunities within the state. In order for West Virginia to retain and attract business and industry, it must ensure that its workforce has such education and training;

(2) West Virginia currently faces a human capital crisis, as the state regularly ranks amongst the lowest states in the nation in workforce participation rates. Improving the state's workforce participation rates and the level of the workforce's career education is critical to economic development and making West Virginia a more prosperous state;

(3) The 2017 West Virginia Forward Report, a strategy for economic development and job growth, found that "investments in improving human capital are considered the most significant opportunity for improvement in West Virginia, especially because access to a specialized workforce is a significant factor for investment attraction...";

(4) According to the United States Department of Labor’s Bureau of Labor Statistics, the median yearly earnings of an individual with an associate’s degree is approximately \$6,604 more than an individual with only a high school diploma. Therefore, any investment by the state into a citizen obtaining such a degree would be repaid multiple times over through the citizen’s increased contributions to the economy and tax base;

(5) West Virginia is currently facing a devastating drug epidemic, and the hope that comes with increased access to career education and higher quality employment opportunities is an indispensable tool against the spread of drug addiction; and

(6) An investment by the state into increasing access to post-secondary career education will provide its citizens the hope and opportunity for better career opportunities, and provide the state with the trained workforce needed to attract significant economic development.

(b) The purpose of this article is to provide West Virginians with hope and economic prosperity by increasing access to a higher level of career education that is needed to fulfill the needs of today’s workforce and provide for further economic development.

§18C-9-3. Definitions.

As used in this article:

“Council” means the West Virginia Council for Community and Technical College Education;

“Commission mean the West Virginia Higher Education Policy Commission;

“Eligible institution” means a public community and technical college under the authority of the West Virginia Council for Community and Technical College Education or a public baccalaureate institution that grants associate degrees satisfying the requirements of participating in Advanced Career Education (ACE) program partnerships in accordance with §18-2E-11 of this code;

“Eligible post-secondary program” means a curriculum of courses leading to a certificate or associate degree at an eligible institution which satisfies a course of study that has been deemed by the Department of Commerce to satisfy a workforce need as determined by the department in accordance with §18-2E-11(d) of this code; and

“Tuition” means the semester or term charges imposed by an eligible institution and, additionally, all mandatory fees required as a condition of enrollment by all students.

§18C-9-4. WV Invests Grant Program.

(a) There is hereby created a grant program known as the WV Invests Grant Program, which shall be administered by the vice chancellor for administration in accordance with this article.

(b) The council shall award WV Invests Grants pursuant to the following terms and conditions:

(1) A WV Invests Grant may only be awarded to applicants satisfying the requirements provided in §18C-9-5 of this code;

(2) The maximum amount of a WV Invests Grant shall be the cost of tuition charged to all students for coursework leading to completion of the chosen associate degree or certificate, less all other state and federal scholarships and grants for which the student is eligible. All other state and federal scholarships and grants for which the grant recipient is eligible shall be deducted from the amount of the WV Invests Grant for each individual student. The amount of a WV Invests Grant at an eligible public baccalaureate institution shall not exceed the average cost of tuition and mandatory fees of the community and technical colleges.

(3) Grant payments shall be made directly to the eligible institutions;

(4) If a grant recipient transfers from one eligible institution to another, the grant is transferable only with approval of the vice chancellor for administration;

(5) A WV Invests Grant may be used at any eligible institution to seek an associate degree or certificate in an eligible post-secondary program. An institution is not required to accept a grant recipient for enrollment and may enforce its own admission requirements, standards, and policies; and

(6) If a WV Invests Grant recipient terminates enrollment for any reason during the academic year, the unused portion of the grant shall be returned by the institution to the council in accordance with the council's policy for issuing refunds. The council shall transfer such funds to the WV Invests Fund for allocation and expenditure.

(c) On or before January 1 annually, the council shall provide to the Legislature and the Governor a report on the WV Invests Grant Program, which shall include, but not be limited to, research and data concerning student success and grant retention.

(d) The council shall propose legislative rules for legislative approval pursuant to §29A-3A-1 *et seq.* of this code to implement the provisions of this article, which shall provide for:

(1) Application requirements and deadlines fully implementing requirements of this article;

(2) Appeal procedures for the denial or revocation of the grant; and

(3) Any other provisions necessary to effectuate the purposes of this article.

(e) The Legislature hereby declares that an emergency situation exists and, therefore, the council may establish, by emergency rule, under the procedures of §29A-3A-1 *et seq.* of this code, a rule to implement the provisions of this article.

(f) Beginning with the 2021 fiscal year, and for every fiscal year thereafter, any appropriation by the Legislature to support and or alleviate the cost to citizens in this state to obtain advanced certifications and associate degrees shall only be distributed to those community and technical colleges or public baccalaureate

institutions that form one or more partnerships to establish ACE programs and pathways. Once distributed, such funds may be used to support any eligible post-secondary program or pathway provided by an eligible institution leading to the award of such degree or certification.

§18C-9-5. Eligibility requirements; agreements.

(a) To be eligible for a WV Invests Grant, an individual must satisfy the following requirements:

(1) Be a citizen or legal resident of the United States and have been a resident of West Virginia for at least one year immediately preceding the date of application for a grant;

(2) Have completed a secondary education program in a public, private, or home school;

(3) Have not been previously awarded a post-secondary degree;

(4) Be at least 18 years of age: *Provided*, That individuals younger than 18 years of age may qualify for the grant upon completion of a secondary education program in a public, private, or home school;

(5) Meet the admission requirements of, and be admitted into, an eligible institution;

(6) Satisfactorily meet any additional qualifications of enrollment, academic promise, or achievement as established by the council through rule;

(7) Have filed a completed free application for federal student aid for the academic year in which the grant award is sought;

(8) Be enrolled in an eligible post-secondary program;

(9) Be enrolled in at least six credit hours per semester;

(10) Have completed a WV Invests Grant application as provided by the council in accordance with a schedule established by the council; and

(11) Have, prior to the start of each semester, satisfactorily passed a drug test administered by the eligible institution: *Provided*, That the applicant shall be responsible for the actual cost of the drug test.

(b) Each grant may be renewed until the course of study is completed as long as the following qualifications, as determined by the vice chancellor for administration and the council, are satisfied:

(1) Maintaining satisfactory academic standing, including a cumulative grade point average of at least 2.0;

(2) Making adequate progress toward completion of the eligible post-secondary program;

(3) Satisfactory participation in a community service program authorized by the council. The council shall include in the legislative rules, required by §18C-9-4 of this code, provisions for the administration of community service requirements, including, but not limited to, requiring completion of at least eight hours of unpaid community service during the time of study, which may include, but is not limited to, participating with nonprofit, governmental, institutional, or community-based organizations designed to improve the quality of life for community residents, meet the needs of community residents, or foster civic responsibility;

(4) Continued satisfaction of eligibility requirements provided by §18C-9-5(a) of this code; and

(5) Satisfaction of any additional eligibility criteria established by the council through legislative rule.

(c) Each recipient of a WV Invests Grant shall enter into an agreement with the vice chancellor for administration, which shall require repayment of an amount of the grant or grants awarded to the recipient, in whole or in part, if a recipient chooses to reside

outside the state within two years following obtainment of the degree or certificate for which the grant or grants were awarded. The council may not require a recipient to repay grants, in whole or in part, unless the prospective recipient has been informed of this requirement in writing before initial acceptance of the grant award. Each WV Invests Grant agreement shall include the following:

(1) Disclosure of the full terms and conditions under which assistance under this article is provided and under which repayment may be required; and

(2) A description of the appeals procedure required to be established under this article.

(d) WV Invests Grant recipients found to be in noncompliance with the agreement entered into under §18C-9-5(c) of this code shall be required to repay the amount of the grant awards received, plus interest, and, where applicable, reasonable collection fees, on a schedule and at a rate of interest prescribed in rules promulgated by the council. The council shall also provide for proration of the amount to be repaid by a recipient who maintains employment in the state for a period of time within the time period required under §18C-9-5(c) of this code.

(e) A recipient is not in violation of an agreement entered into pursuant to §18C-9-5(c) of this code during any period in which the recipient is meeting any of the following conditions:

(1) Pursuing a half-time course of study at an accredited institution of higher education;

(2) Serving as a member of the armed services of the United States;

(3) Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician; or

(4) Satisfying the provisions of any additional repayment exemptions prescribed by the council through rule.

§18C-9-6. WV Invests Fund; established.

(a) The WV Invests Fund is hereby created in the State Treasury as a special revenue account. The fund shall be administered by the vice chancellor for administration and may consist of:

(1) All appropriations by the Legislature for the WV Invests Fund;

(2) Any gifts, grants, or contributions received for the WV Invests Fund; and

(3) All interest or other income earned from investment of the WV Invests Fund.

(b) The WV Invests Fund shall be expended for the purpose of administering the WV Invests Grant Program, including the awarding of grants authorized by this article. Any funds remaining in the fund at the close of the fiscal year are carried forward for use in the next fiscal year.

(c) Nothing in this section requires any specific level of funding by the Legislature nor guarantees or entitles any individual to any benefit or grant of funds.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Com. Sub. for Senate Bill 1—A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-11; to amend and reenact §18-9A-2 of said code; to amend said code by adding thereto a new section, designated §18B-3C-16; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all relating generally to increasing access to career education and workforce training; requiring State Board of Education to promulgate rules for advanced certifications;

providing that certain individuals who have completed a secondary education program in a public, private, or home school shall be considered adults enrolled in regular secondary programs for funding purposes; redesignating certain qualifying tests as high school equivalency tests; requiring pathways and other additional requirements for Advanced Career Education programs; requiring community and technical colleges, public baccalaureate institutions, career technical education centers and county boards of education, or any combination of such secondary and postsecondary entities, to establish partnerships that provide for Advanced Career Education programs; providing requirements for Advanced Career Education programs and pathways; requiring Department of Commerce to provide written notification to State Board of Education, West Virginia Council for Community and Technical College Education and West Virginia Higher Education Policy Commission of a determination of areas of workforce need within the state and to develop a hierarchy therefore; requiring State Superintendent of Schools, Chancellor of the Council for Community and Technical College Education, Chancellor of the Higher Education Policy Commission and the Chancellor of the Higher Education Policy Commission to facilitate the Advanced Career Education programs; requiring State Board of Education and West Virginia Council for Community and Technical College Education to jointly promulgate certain guidelines and maintain and report certain information to Governor and Legislative Oversight Commission on Education Accountability; requiring State Superintendent of Schools, Chancellor for the Council for Community and Technical College Education and Chancellor of the Higher Education Policy Commission to approve written partnership agreements; modifying definition of net enrollment to increase number of Advanced Career Education programs students for which secondary education funding may be provided and imposing conditions on certain institutions to receive funding; encouraging community and technical colleges that offer associate degrees to enter into collaborative agreements with federally registered apprenticeship programs and requiring a report regarding such collaborative agreements be provided to the Legislature and Governor annually; establishing WV Invests Grant Program; providing findings and purposes; defining terms;

providing for administration of program by vice chancellor for administration; requiring West Virginia Council for Community and Technical College Education to award WV Invests grants under certain terms and conditions; requiring the council to report certain information on WV Invests Grant Program to Governor and Legislature; requiring the council to propose legislative rules and authorizing emergency rules; limiting eligibility for funding beginning fiscal year 2021; providing eligibility and renewal requirements for a WV Invests Grant; requiring applicants enter into certain agreements; and establishing the WV Invests Fund.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 1, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 1 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 1) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for Senate Bill 60, Licensing practice of athletic training.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the reconsideration, amendment, and passage as amended, by a vote of a majority of all the members elected to the House of Delegates as a result of the objections of the Governor, of

Enr. Com. Sub. for Senate Bill 61, Adding certain crimes for which prosecutor may apply for wiretap.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 187, Authorizing Department of Revenue to promulgate legislative rules.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 285, Relating to sale of homemade food items.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting section and inserting in lieu thereof the following:

ARTICLE 35. FARMERS MARKETS AND COTTAGE FOODS.**§19-35-2. Definitions.**

For purposes of this article:

“Consignment farmers market” means a farmers market in which two or more vendors deliver their own farm and food products to a common location maintained by a third party that markets the vendors’ products and receives a percentage share of the profits from sales, with the individual vendor retaining ownership of the farm and food product until it is sold. A consignment farmers market may be mobile or in a stationary location.

“Delivered” means transferred to the consumer, either immediately upon sale or at a time thereafter.

“Department” means the Department of Agriculture.

“Farm and food product” means any agriculture, horticulture, agroforestry, animal husbandry, dairy, livestock, cottage food, beekeeping, or other similar product. Farm and food products are to be properly labeled.

“Farmers market” means:

(1) A traditional farmers market in which two or more vendors gather to sell farm and food products directly to consumers at a fixed location;

(2) An on-farm market or farm stand run by an individual producer that sells farm and food products;

(3) An online farmers market in which two or more vendors collectively market farm and food products and retain ownership of those products until they are sold; or

(4) A consignment farmers market as defined herein.

“Farmers market vendor” or “vendor” means a person or entity that sells farm and food products at a farmers market.

“Homemade food item” means a nonpotentially hazardous food item, including a nonalcoholic beverage, which is produced and/or packaged at the private residence of the producer.

“Nonpotentially hazardous” means food that does not require time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

“Produce” means to prepare a food item by cooking, baking, drying, mixing, cutting, fermenting, preserving, dehydrating, growing, raising, or other process.

“Producer” means the person who produces a homemade food item.

“Retailer” means and includes every person engaging in the business of selling, leasing, or renting tangible personal property.

“Seller” means the person who sells a homemade food item to a consumer. The seller of the homemade food item may be the producer of the item, an agent of the producer, or a third-party vendor, such as a retail shop or grocery store.

§19-35-6. Direct sale of homemade food items.

(a) The production and sale of homemade food items, when done in conformity with this section, are exempt from licensing, permitting, inspection, packaging, and labeling laws of this state.

(b) The following conditions apply to the sale and delivery of homemade food items:

(1) The homemade food item must be sold by the producer to the consumer, whether in person or remotely, or by an agent of the producer or a third-party vendor; and

(2) The homemade food items must be delivered to the consumer by the producer, an agent of the producer, a third-party vendor, or a third-party carrier.

(c) The following information must be provided to the consumer, in the format required by subsection (d) of this section:

(1) The name, home address, and telephone number of the producer of the homemade food item;

(2) The common or usual name of the homemade food item;

(3) The ingredients of the homemade food item in descending order of predominance; and

(4) The following statement: “This product was produced at a private residence that is exempt from State licensing and inspection. This product may contain allergens.”.

(d) The information required by subsection (c) of this section must be provided:

(1) On a label affixed to the package, if the homemade food item is packaged;

(2) On a label affixed to the container, if the homemade food item is offered for sale from a bulk container;

(3) On a placard displayed at the point of sale, if the homemade food item is neither packaged nor offered for sale from a bulk container;

(4) On the webpage on which the homemade food item is offered for sale, if the homemade food item is offered for sale on the Internet; or

(5) On a receipt or other document provided to the customer with the homemade food item.

(e) The homemade food item must not be meat, meat byproduct, meat food product, poultry, poultry byproduct, or poultry food product, as those terms are defined for purposes of the federal Meat Inspection Act and federal Poultry Products Inspection Act, unless the production and sale of the items are within the exemption in 9 C.F.R. §303.1(d), §381.10(c), or §381.10(d) and comply with other applicable federal regulations.

(f) This section shall not be construed to:

(1) Impede the authority of a local health department or the department to investigate or cease the production or sale of food items reported to have caused a foodborne illness;

(2) Preclude the department from providing assistance, consultation, or inspection at the request of the producer of a homemade food item;

(3) Preclude the production or sale of food items otherwise allowed by law;

(4) Exempt a producer, seller, third-party vendor, or third-party agent from any applicable tax law;

(5) Exempt producers or sellers of homemade food items from any law that requires the producer, seller, third-party vendor, or third-party agent to register its business name, address, and other identification information with the state;

(6) Exempt producers or sellers of homemade food items from any applicable law of the federal government, including any federal law prohibiting the sale of certain food items in interstate commerce; or

(7) Exempt producers or sellers of homemade food items from any applicable law of another state.

(g) This section preempts county, municipal, and other political jurisdictions from prohibiting and regulating the production and sale of homemade food items: *Provided*, That such preemption shall not include space rentals at governmental owned or operated facilities, governmental sanctioned or operated events, or product placement agreements with governmentally owned facilities as well as temporary events 14 days or less in duration.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Com. Sub. for Senate Bill 285—A Bill to amend and reenact §19-35-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-35-6, all relating to the sale of homemade food items; defining terms; authorizing production and sale of homemade food items under certain circumstances; establishing conditions for exemption from licensure, permitting, inspection, packaging, and labeling laws; providing required notices to consumer; defining manner of providing notices; exempting certain products from the scope of this provision; permitting local health departments and the Department of Agriculture to investigate and cease production or sale of food items reported to have caused a foodborne illness; authorizing Department of Agriculture to provide assistance, consultation, or inspection at request of producer; providing for preemption of county, local, and municipal ordinances; providing that preemption does not apply to space rentals at governmental owned or operated facilities, governmental sanctioned or operated events, or product placement agreements with governmentally owned facilities as well as temporary events 14 days or less in duration; and providing for exemptions.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 285, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 285) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 546, Relating to health care provider taxes.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, section thirty-nine, line two, by striking out the word “is” and inserting in lieu thereof the words “shall be”;

On page one, section thirty-nine, line four, by striking out the words “eligible acute care hospitals and health systems that provide” and inserting in lieu thereof the words “an eligible acute care hospital that provides”;

On page one, section thirty-nine, line six, by striking out the words “and health system”;

On page one, section thirty-nine, lines fourteen and fifteen, by striking out the words “and health systems”;

On page two, section thirty-nine, lines twenty-four through twenty-nine, by striking out all of subsection (e) and inserting in lieu thereof the following:

(e) There is hereby created a special fund known as the “Acute Care Clearing Fund”. The amount of taxes collected under this section and under §11-27-38 of this code, including any interest, additions to tax and penalties collected under article ten of this chapter, less the amount of allowable refunds, the amount of any interest payable with respect to such refunds, and costs of administration and collection, shall be deposited into the Acute Care Clearing Fund created by this section. The Tax Commissioner shall establish and maintain the funds collected under this section and then periodically distribute the same by the fifth day of the month following the end of the calendar quarter in which the taxes were collected. Provided, that notwithstanding any provision of the code to the contrary, the portion attributable to the taxes, any interest, additions to tax and penalties associated with the tax imposed under §11-27-38 of this code shall be distributed into the Eligible Acute Care Provider Enhancement Account created under that section and the portion attributable to the taxes, any interest, additions to tax and penalties associated with the tax imposed under this section shall be distributed into a new account to be created under the Medicaid State Share Fund to be designated as the “Eligible Acute Care Practitioner Enhancement Account.” Disbursements from the Eligible Acute Care Practitioner Enhancement Account within the Medicaid State Share Fund may be used only to support increasing practitioner payment fee schedules for practitioners employed by eligible acute care hospitals.;

On page two, section thirty-nine, line thirty-three, by striking out the words “medical or”;

On page two, section thirty-nine, line forty, by striking out the words “and health systems”;

On page two, section thirty-nine, line forty-two, by striking out the word “Fund” and inserting in lieu thereof the word “Account”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 546—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-27-39, relating to creating a tax on certain acute care hospitals; defining terms; imposing a tax on eligible acute care hospitals; providing exceptions to the tax; creating a fund; providing for how the funds may be spent; permitting the tax to be eligible to be matched by federal funds; providing an effective date; and providing an expiration date for the tax.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 546, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 546) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect July 1, 2019.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 546) takes effect July 1, 2019.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 587, Relating to PEIA reimbursement of air ambulance providers.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 617, Relating to method of payment to Municipal Pensions Security Fund.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page three, section nineteen, lines fifty-nine and sixty, by striking out the words “§8-22-18(b) and §33-3-14(b)” and inserting in lieu thereof the words “§8-22-18b and §33-3-14d”;

On page four, section nineteen, line eighty-two, by striking out “§8-22-18b(c)” and inserting in lieu thereof “§8-22-18b”;

And,

On page four, section nineteen, lines eighty-two and eighty-three, by striking out the words “the Municipal Pensions and Protection Fund or”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 617, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 617) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 653, Relating generally to practice of medical corporations.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page six, after line one hundred eighteen, by inserting the following:

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS**§30-14-9a. Osteopathic medical corporations — Application for registration; fee; notice to Secretary of State of issuance of certificate; action by secretary of state.**

(a) ~~When~~ One or more osteopathic physicians, allopathic physicians or duly licensed to practice osteopathic medicine in the State of West Virginia or physician assistants wish to may form an osteopathic medical corporation. ~~such osteopathic physician or surgeon, or osteopathic physicians or surgeons~~ An osteopathic physician or osteopathic physician assistant shall file a written application with the board on a form prescribed by the board, and shall furnish proof satisfactory to the board that the signer or all of the signers of such application is or are a duly-licensed ~~osteopathic physician or surgeon or osteopathic physicians or surgeons~~. A reasonable fee, ~~the amount of such reasonable fee~~ to be set by the board rules, shall accompany ~~each such~~ the application, no part of which shall be returnable.

(b) If the board finds that the signer or all of the signers of ~~such~~ the application are ~~duly~~ licensed, the board shall notify the Secretary of State that a certificate of authorization has been issued. ~~to the individual or individuals signing such application.~~

(c) When the Secretary of State receives notification from the board that a certain individual or individuals has or have been issued a certificate of authorization, he or she shall attach ~~such~~ the authorization to the corporation application and upon compliance by the corporation with §31-1-1 et seq. of this code, the Secretary of State shall notify the incorporators that ~~such~~ the corporation, ~~through a duly licensed osteopathic physician, or surgeon or duly licensed osteopathic physicians and surgeons, license allopathic physician~~ may engage in the appropriate practice. ~~of osteopathic medicine and surgery.;~~

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 653—A Bill to amend and reenact §30-3-15 of the Code of West Virginia, 1931, as amended, and to amend and reenact §30-14-9a of said, all relating to medical corporations; updating terminology; providing that medical corporations may only practice medicine through certain licensees; permitting certain licensees to be employees of medical corporations; and providing that licensed hospitals do not need to obtain a certificate of authorization so long as the hospital does not exercise control of the independent medical judgment of a licensee.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 653, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 653) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, with its Senate amended title, of

Eng. Senate Bill 668, Relating to physician assistants collaborating with physicians in hospitals.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 675, Requiring DEP create and implement Adopt-A-Stream Program.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. House Bill 2009, Creating a new category of Innovation in Education grant program.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

Senator Takubo then moved that the Senate accede to the request of the House of Delegates and recede from its amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforesaid motion, the same was put and prevailed.

Engrossed House Bill 2009, as amended by deletion, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Palumbo, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—21.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2009) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

Eng. House Bill 2311, Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 2362, Ardala Miller Memorial Act.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

Eng. Com. Sub. for House Bill 2405, Imposing a healthcare related provider tax on certain health care organizations.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

Eng. House Bill 2509, Clarifying that theft of a controlled substance is a felony.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

Eng. House Bill 2525, Tobacco Cessation Therapy Access Act.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. House Bill 2530, Creating a voluntary certification for recovery residences.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. House Bill 2872, Authorizing law-enforcement officers to assist the State Fire Marshal.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 2907, Requiring a form of a certified commitment order to the Division of Corrections and Rehabilitation.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

Eng. House Bill 2958, Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

The Senate proceeded to the fourth order of business.

Senator Azinger, from the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration

Senate Concurrent Resolution 52 (originating in the Committee on Banking and Insurance)—Requesting the Joint Committee on Government and Finance study the settlements and verdicts under the West Virginia Board of Risk and Insurance Management to determine whether the frequency or claim amounts paid provide a basis for improving the effectiveness of operations of any agencies or other units of state government.

Whereas, The West Virginia Board of Risk and Insurance Management (BRIM) is the state agency that is responsible for handling lawsuits brought against all state agencies, boards, and commissions; and

Whereas, BRIM spends millions of dollars every year to settle lawsuits; and

Whereas, The frequency and dollar amount of claims settled or tried to verdict under BRIM may give insight into agencies and other units of state government so that operations may be improved; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the settlements and verdicts under the West Virginia Board of Risk and Insurance Management to determine whether the frequency or claim amounts paid provide a basis for improving the effectiveness of operations of any agencies or other units of state government; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Michael T. Azinger,
Chair.

On motion of Senator Azinger, the resolution (S. C. R. 52) contained in the foregoing report from the Committee on Banking and Insurance was then referred to the Committee on Rules.

Senator Boso, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Concurrent Resolution 53 (originating in the Committee on Government Organization)—Requesting the Joint Committee on Government and Finance study the state's appraisal laws as they relate to broker price opinions, inspections, and evaluations and how they compare to other states' laws.

Whereas, The citizens of the state and its businesses rely on various products to determine the value of real property for business purposes and for financing; and

Whereas, It is important to compare our state's laws that regulate broker price opinions, inspections, and evaluations to those of other states to be sure our citizens are well served and are not placed at an economic disadvantage; and

Whereas, The Legislature is committed to periodically reviewing the state's laws to ensure the citizens are well served; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the state's appraisal laws as they relate

to broker price opinions, inspections, and evaluations and how they compare to other states' laws; and, be it

Further Resolved, That the Joint Committee on Government and Finance study the appraisal laws in West Virginia as compared to those of other states as they relate to broker price opinions, inspections, and evaluations as regulated by the West Virginia Real Estate Appraiser Licensing and Certification Board to determine if there is a need to update our current statutes; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of the West Virginia Real Estate Appraiser Licensing and Certification Board in conducting this study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Gregory L. Boso,
Chair.

At the request of Senator Boso, unanimous consent being granted, the resolution (S. C. R. 53) contained in the foregoing report from the Committee on Government Organization was then referred to the Committee on Rules.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2049, Relating to a prime contractor's responsibility for wages and benefits.

With amendments from the Committee on the Workforce pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on March 2, 2019;

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 2665, Supplemental appropriation for PEIA Rainy Day Fee.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2670, Relating to damages for medical monitoring.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2673, Creating the Oil and Gas Abandoned Well Plugging Fund.

With an amendment from the Committee on Energy, Industry, and Mining pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 2, 2019;

And reports the same back with the recommendation that it do pass as last amended by the Committee on Finance.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, and by unanimous consent, the Senate returned to the consideration of

Eng. House Bill 2665, Supplemental appropriation for PEIA Rainy Day Fee.

Having been reported from the Committee on Finance in earlier proceedings today,

At the request of Senator Takubo, unanimous consent being granted, Engrossed House Bill 2665 was taken up for immediate consideration, read a first time, and ordered to second reading.

At the request of Senator Takubo, and by unanimous consent, the Senate returned to the consideration of

Eng. Com. Sub. for House Bill 2670, Relating to damages for medical monitoring.

Having been reported from the Committee on the Judiciary in earlier proceedings today,

At the request of Senator Takubo, unanimous consent being granted, Engrossed Committee Substitute for House Bill 2670 was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2674, Creating a student loan repayment program for a mental health provider.

With amendments from the Committee on Health and Human Resources pending;

Now on second reading, having been read a first time and referred to the Committee on Finance on March 5, 2019;

And reports the same back with the recommendation that it do pass as amended by the Committee on Health and Human Resources to which the bill was first referred.

Respectfully submitted,

Craig Blair,
Chair.

Senator Weld, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2779, Providing that proceeds from certain oil and gas wells to persons whose name or address are unknown are to be kept in a special fund.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2779) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2807, Creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations engaged in banking.

With amendments from the Committee on Banking and Insurance pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 4, 2019;

And reports the same back with the recommendation that it do pass as amended by the Committee on Banking and Insurance to which the bill was first referred; and as last amended by the Committee on Finance.

Respectfully submitted,

Craig Blair,
Chair.

Senator Weld, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2933, Modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse resulting in injury.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2933) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. House Bill 2968, Adding remote service unit to the definition of customer bank communications terminals.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on March 4, 2019;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 3139, Relating to funding of the Public Employees Health Insurance Program.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 3139) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 3142, Relating to reducing the severance tax on thermal or steam coal.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 3142) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the seventh order of business.

Senate Resolution 69, Congratulating George Washington High School Patriots boys' basketball team on winning 2018 Class AAA state championship.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was laid over one day, retaining its place on the calendar.

House Concurrent Resolution 20, PFC Charles Everett Hurd Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk.

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

On page one, in the Resolved clause, by striking out the word “PFC” and inserting in lieu thereof the words “U.S. Marine Corps PFC”;

On page two, in the first Further Resolved clause, by striking out the word “PFC” and inserting in lieu thereof the words “U.S. Marine Corps PFC”;

And,

By striking out the title and inserting in lieu thereof a new title, to read as follows:

House Concurrent Resolution 20—Requesting the Division of Highways name bridge number 18-13-0-.12, near Sandyville in Jackson County, locally known as the Sandyville Bridge, the “U.S. Marine Corps PFC Charles Everett Hurd Memorial Bridge”.

The question now being on the adoption of the resolution (H. C. R. 20), as amended, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 150, Budget Bill.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

Eng. Com. Sub. for House Bill 2001, Relating to exempting social security benefits from personal income tax.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2001) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2001—A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exemptions from personal income tax; providing for an exemption for members of certain uniformed services; exempting social security benefits from personal income tax; clarifying that tier one railroad retirement benefits are not subject to personal income tax; specifying an effective date; and removing obsolete language.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

At the request of Senator Azinger, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 2363, Relating to the Upper Kanawha Valley Resiliency and Revitalization Program.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2363) passed.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendment to the title of the bill was withdrawn.

The following amendment to the title of the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2363—A Bill to amend and reenact §5B-2-15 of the Code of West Virginia, 1931, as amended, relating to the Upper Kanawha Valley Resiliency and Revitalization Program; modifying definition of “Upper Kanawha Valley”; defining terms; extending the length of the program; adding to duties of revitalization council; clarifying the reporting requirements for the program; removing certain language regarding funding; and requiring an assessment of the option of establishing or maintaining schools jointly pursuant to authority granted in said code.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2452, Creating the West Virginia Cybersecurity Office.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2452) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 2480, Relating to the regulation of an internationally active insurance group.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2480) passed.

The following amendment to the title of the bill, from the Committee on Banking and Insurance, was reported by the Clerk and adopted:

Eng. House Bill 2480—A Bill to amend and reenact §33-27-2 and §33-27-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-27-6b, all relating to the regulation of an internationally active insurance group; defining group-wide supervisor and internationally active insurance group; providing authority for the insurance commissioner to act as a group-wide supervisor for an internationally active insurance group; permitting the insurance commissioner to acknowledge another regulatory official as the group-wide supervisor for an internationally active insurance group under certain criteria; requiring insurance companies to submit information necessary for the insurance commissioner to determine whether he or she may act as the group-wide supervisor for an internationally active insurance group; authorizing specific regulatory actions when the insurance commissioner is acting as a group-wide supervisor for an internationally active insurance group; allowing the insurance commissioner to enter into agreements with insurers regarding his or her role as group-wide supervisor for an internationally active insurance group; making insurers liable for the reasonable expenses of the insurance commissioner's participation as a group-wide supervisor for an internationally active insurance group; and rendering information provided by insurers to the insurance commissioner in connection with the commissioner's role as a group-wide supervisor for an internationally active insurance group as confidential and privileged.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2579, Relating to the collection of tax and the priority of distribution of an estate or property in receivership.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2579) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 2667, Supplemental appropriation to the Department of Military Affairs and Public Safety, Division of Corrections.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2667) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2667) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 2703, Relating to refunds of excise taxes collected from dealers of petroleum products.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2703) passed.

On motion of Senator Blair, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2703—A Bill to amend and reenact §11-14-10 of the Code of West Virginia, 1931, as amended, relating to refunds of excise taxes collected from dealers of petroleum products under certain circumstances; and increasing a cap on the amount of tax that may be refunded for fuels lost through evaporation.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2853, Establishing the West Virginia Program for Open Education Resources.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2853) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 2954, Defining certain terms used in insurance.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Senator Tarr requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senator Tarr would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2954) passed.

The following amendment to the title of the bill, from the Committee on Banking and Insurance, was reported by the Clerk and adopted:

Eng. House Bill 2954—A Bill to amend and reenact §33-45-1 and §33-45-2 of the Code of West Virginia, 1931, as amended, all relating to ethics and fairness in insurer business practices; clarifying “provider” definition; correcting citations; and requiring payment for services of a provider who provides services during the credentialing period.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2992, Relating to governmental websites.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2992) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3135, Expiring funds to the balance of the Department of Commerce, Development Office.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3135) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

Eng. House Bill 3135—A Bill expiring funds to the balance of the Department of Commerce, Development Office – Entrepreneurship and Innovation Investment Fund, fund 3014, fiscal year 2019, organization 0307, in the amount of \$500,000, from the Auditor’s Office – Purchasing Card Administration Fund, fund 1234, fiscal year 2019, organization 1200, by supplementing and amending chapter 12, Acts of the Legislature, 2018, known as the Budget Bill.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3135) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 3144, North Central Appalachian Coal Severance Tax Rebate Act.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

At the request of Senator Beach, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

On motion of Senator Takubo, at 12:45 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 1:25 p.m. and proceeded to the ninth order of business.

Senate Bill 677, Supplemental appropriation to Division of Health and Division of Human Services.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

Engrossed Senate Bill 677 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings,

Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 677) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 677) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senate Bill 678, Supplemental appropriation from State Excess Lottery Revenue Fund to Office of Technology.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

Engrossed Senate Bill 678 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 678) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 678) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senate Bill 679, Supplemental appropriation to Division of Finance.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

Engrossed Senate Bill 679 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 679) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 679) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senate Bill 680, Supplemental appropriations to various divisions in DMAPS.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

Engrossed Senate Bill 680 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 680) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 680) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senate Bill 681, Supplemental appropriation from Lottery Net Profits to Educational Broadcasting Authority.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

Engrossed Senate Bill 681 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 681) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings,

Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Plymale—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 681) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

At the request of Senator Jeffries, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the ninth order of business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 2004, Providing for a program of instruction in workforce preparedness.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendments to the bill were withdrawn.

On motion of Senator Rucker, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On pages one and two, by striking out all of section seven-d and inserting in lieu thereof a new section, designated section seven-d, to read as follows:

§18-2-7d. Program in workforce preparedness.

(a) The Legislature finds that, in addition to specialized skills relating to specific professions and trades, students will be better

prepared to enter the workforce and succeed in their chosen fields of employment or education by having the opportunity to participate in training related to general workforce preparedness, productive workplace skills and processes, time management and efficiency, and teamwork and leadership competencies in the workplace. The Legislature further finds that employers in the state are the best source for articulating the general skills and attributes they, in common, seek in future employees and that employers may collaborate in the development of a graduate profile incorporating these skills and attributes.

(b) The state board shall promulgate a rule pursuant to 29A-3B-1 et seq. of this code that adopts a program of instruction in general workforce and career preparedness for all students. The program of instruction shall include guidelines for schools working through their local school improvement councils and business partners to communicate to students the common skills and attributes sought by employers in prospective employees.;

On page two, section forty, by striking out the section caption and substituting therefor a new section caption, to read as follows:

§18-2-42. Providing career and technical education program information to students and parents; transcript of post-secondary credit; career technical education student participation in graduation ceremony.;

On page three, section forty, line two, by striking out the words “the State Fire Commission and State Fire Marshal”;

On page three, section forty, line eighteen, by striking out the word “to”;

On page three, section forty, after line twenty-five, by adding a new subsection, designated subsection (d), to read as follows:

(d) Any career technical education student who fulfills the high school graduation requirements required of other students in the district in which he or she is enrolled shall be eligible to participate in the graduation ceremony in the same manner as all other students in the district.;

On page five, section four, line twenty-eight, by striking out the words “Collaborative Degree Completion Program” and inserting in lieu thereof the words “any program that allows students to earn college credit while they are still in high school”;

On page seven, section four, lines seventy-four through seventy-six, after the word “competency.” by striking out the remainder of the subdivision;

On page seven, section four, lines eighty-one and eighty-two, by striking out the words “Work Force Investment Act” and inserting in lieu thereof the words “Workforce Innovation and Opportunity Act”;

On page nine, section four, line one hundred twenty-eight, by striking out the words “Bridgemont Community and Technical College and Kanawha Valley” and inserting in lieu thereof the word “BridgeValley”;

On page nine, section four, line one hundred thirty-one, by striking out the words “Bridgemont Community and Technical College; Kanawha Valley” and inserting in lieu thereof the word “BridgeValley”;

On page nine, section four, line one hundred forty-eight, by striking out the word “Bridgemont” and inserting in lieu thereof the word “BridgeValley”;

On page ten, section four, lines one hundred sixty-seven through one hundred seventy-four, by striking out all of subdivision (4) and inserting in lieu thereof a new subdivision, designated subdivision (4), to read as follows:

(4) Submits annually the Carl D. Perkins local planning guide to the council and the state board.;

And,

On page eleven, section four, lines one hundred ninety-one through two hundred, by striking out all of subsection (f) and

inserting in lieu thereof a new subsection, designated subsection (f), to read as follows:

(f) The State Superintendent of Schools and the Chancellor for the Council for Community and Technical College Education are responsible for annually evaluating the progress made in meeting the goals for each consortium through the development and collection of performance indicator data.

The bill (Eng. Com. Sub. for H. B. 2004), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2010, Relating to foster care.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-27. Transitioning foster care into managed care.

(a) “Eligible services” means acute care, including medical, pharmacy, dental, and behavioral health services.

(b) The secretary shall transition to a capitated Medicaid program for a child classified as a foster child and a child placed in foster care under Title IV-E of the Social Security Act who is living in the state by January 1, 2020. The program shall be statewide, fully integrated, and risk based; shall integrate Medicaid-reimbursed eligible services; and shall align incentives to ensure the appropriate care is delivered in the most appropriate place and time.

(c) The secretary shall make payments for the eligible services, including home and community-based services, using a managed care model.

(d) The secretary shall submit, if necessary, applications to the United States Department of Health and Human Services for waivers of federal Medicaid requirements that would otherwise be violated in the implementation of the program, and shall consolidate any additional waivers where appropriate: *Provided*, That this subsection does not apply to the Aged and Disabled Waiver, the Intellectual/Developmental Disabilities Waiver, and the Traumatic Brain Injury Waiver.

(e) If a selected managed care organization ceases to contract with the Department of Health and Human Services to provide Medicaid managed care services, it must provide all patient records, including medical records, to the next selected managed care organization to ensure the Eligible Medicaid Beneficiaries do not experience an interruption in care.

(f) In designing the program, the secretary shall ensure that the program:

(1) Reduces fragmentation and offers a seamless approach to meeting participants' needs;

(2) Delivers needed supports and services in the most integrated, appropriate, and cost-effective way possible;

(3) Offers a continuum of acute care services, which includes an array of home and community-based options;

(4) Includes a comprehensive quality approach across the entire continuum of care services; and

(5) Consults stakeholders in the program development process, and the managed care organization that is awarded the contract shall create a voluntary advisory group of foster parents, which shall meet every six months, to discuss issues they are encountering with the managed care organization.

(g) The department shall evaluate the transition to managed care and shall collect and annually report on the following items: the number of claims submitted, the number of claims approved, the number of claims denied, the number of claims appealed, the

resolution of appealed claims, the average time of an appeal, the average length of stay in a child residential care center, and health outcomes. The initial report will be filed by July 1, 2021, with the Legislative Oversight Commission on Health and Human Resources Accountability and the Foster Care Ombudsman with a final report submitted July 1, 2023.

(h) The transition of foster care to managed care shall terminate on June 30, 2024, unless cancelled by the secretary at an earlier date.

(i) (1) The Office of the Inspector General shall employ an independent foster care ombudsman, with experience in the area of child welfare;

(2) The duties of the ombudsman shall include, but are not limited to, the following:

(A) Advocating for the rights of foster children and foster parents;

(B) Participating in any procedure to investigate, and resolve complaints filed on behalf of a foster child or foster parent, relating to action, inaction or decisions of providers of managed care services, or the representatives of such providers, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare and rights of the foster child or foster parent;

(C) Monitoring the development and implementation of federal, state and local legislation, regulations and policies with respect to foster care services; and

(D) Establishing and maintaining a statewide uniform reporting system to collect and analyze data relating to complaints for the purpose of identifying and resolving significant problems faced by foster children and foster parents as a class. The data shall be submitted to the Bureau of Children and Families within the Department of Health and Human Resources and the Legislative Oversight Commission on Health and Human Resources Accountability on a quarterly basis;

(3) The ombudsman shall participate in ongoing training programs related to his or her duties or responsibilities.

(j) An employee of the department who, as a function of that employment, has engaged in the development of any contract developed pursuant to the requirements of this section may not for a period of two years thereafter be employed by any agency or company that has benefitted or stands to benefit directly from a contract between the department and that agency or company.

(k) Any managed care company selected as the managed care contractor pursuant to the provisions of this article shall have at least 80 percent of the total full-time equivalent positions allocated to manage care of foster children in West Virginia according to the contract must have a primary work place in the state of West Virginia.

CHAPTER 49. CHILD WELFARE.

Article 1. General Provisions and Definitions.

§49-1-206. Definitions related, but not limited to, child advocacy, care, residential, and treatment programs.

When used in this chapter, terms defined in this section have the meanings ascribed to them that relate to, but are not limited to, child advocacy, care, residential, and treatment programs, except in those instances where a different meaning is provided or the context in which the word used clearly indicates that a different meaning is intended.

“Child Advocacy Center (CAC)” means a community-based organization that is a member in good standing with the West Virginia Child Abuse Network, Inc., as set forth in §49-3-101 of this code.

“Child care” means responsibilities assumed and services performed in relation to a child’s physical, emotional, psychological, social, and personal needs and the consideration of the child’s rights and entitlements, but does not include secure detention or incarceration under the jurisdiction of the ~~Division of~~

~~Juvenile Services~~ Division of Corrections and Rehabilitation pursuant to §49-2-901 *et seq.* of this code. It includes the provision of child care services or residential services.

“Child care center” means a facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private for the care of 13 or more children for child care services in any setting, if the facility is open for more than 30 days per year per child.

“Child care services” means direct care and protection of children during a portion of a 24- hour day outside of the child’s own home which provides experiences to children that foster their healthy development and education.

“Child placing agency” means a child welfare agency organized for the purpose of placing children in private family homes for foster care or for adoption. The function of a child placing agency may include the investigation and certification of foster family homes and foster family group homes as provided in this chapter. The function of a child placing agency may also include the supervision of children who are 16 or 17 years old and living in unlicensed residences.

“Child welfare agency” means any agency or facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, to receive children for care and maintenance or for placement in residential care facilities, including, without limitation, private homes or any facility that provides care for unmarried mothers and their children. A child welfare agency does not include juvenile detention facilities or juvenile correctional facilities operated by or under contract with the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, pursuant to §49-2-901 *et seq.* of this code, nor any other facility operated by that division for the secure housing or holding of juveniles committed to its custody.

“Community based” means a facility, program, or service located near the child’s home or family and involving community participation in planning, operation, and evaluation and which may include, but is not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, substance abuse, and any other treatment or rehabilitation services.

“Community-based juvenile probation sanctions” means any of a continuum of nonresidential accountability measures, programs, and sanctions in response to a technical violation of probation, as part of a system of community-based juvenile probation sanctions and incentives, that may include, but are not limited to:

(A) Electronic monitoring;

(B) Drug and alcohol screening, testing, or monitoring;

(C) Youth reporting centers;

(D) Reporting and supervision requirements;

(E) Community service; and

(F) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment.

“Community services” means nonresidential prevention or intervention services or programs that are intended to reduce delinquency and future court involvement.

“Evidence-based practices” means policies, procedures, programs, and practices demonstrated by research to reliably produce reductions in the likelihood of reoffending.

“Facility” means a place or residence, including personnel, structures, grounds, and equipment used for the care of a child or children on a residential or other basis for any number of hours a day in any shelter or structure maintained for that purpose. Facility

does not include any juvenile detention facility or juvenile correctional facility operated by or under contract with the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody.

“Family child care facility” means any facility which is used to provide nonresidential child care services for compensation for seven to 12 children, including children who are living in the household, who are under six years of age. A facility may be in a provider’s residence or a separate building.

“Family child care home” means a facility which is used to provide nonresidential child care services for compensation in a provider’s residence. The provider may care for four to six children at one time, including children who are living in the household, who are under six years of age.

“Family resource network” means:

(A) A local community organization charged with service coordination, needs and resource assessment, planning, community mobilization, and evaluation, and which has met the following criteria:

(i) Agreeing to a single governing entity;

(ii) Agreeing to engage in activities to improve service systems for children and families within the community;

(iii) Addressing a geographic area of a county or two or more contiguous counties;

(iv) Having nonproviders, which include family representatives and other members who are not employees of publicly funded agencies, as the majority of the members of the governing body, and having family representatives as the majority of the nonproviders;

(v) Having representatives of local service agencies, including, but not limited to, the public health department, the behavioral

health center, the local health and human resources agency, and the county school district, on the governing body; and

(vi) Accepting principles consistent with the cabinet's mission as part of its philosophy.

(B) A family resource network may not provide direct services, which means to provide programs or services directly to children and families.

"Family support", for the purposes of §49-2-601 *et seq.* of this code, means goods and services needed by families to care for their family members with developmental disabilities and to enjoy a quality of life comparable to other community members.

"Family support program" means a coordinated system of family support services administered by the Department of Health and Human Resources through contracts with behavioral health agencies throughout the state.

"Foster family home" means a private residence which is used for the care on a residential basis of no more than five children who are unrelated by blood, marriage, or adoption to any adult member of the household.

"Health care and treatment" means:

(A) Developmental screening;

(B) Mental health screening;

(C) Mental health treatment;

(D) Ordinary and necessary medical and dental examination and treatment;

(E) Preventive care including ordinary immunizations, tuberculin testing, and well-child care; and

(F) Nonemergency diagnosis and treatment. However, nonemergency diagnosis and treatment does not include an abortion.

“Home-based family preservation services” means services dispensed by the Department of Health and Human Resources or by another person, association, or group who has contracted with that division to dispense services when those services are intended to stabilize and maintain the natural or surrogate family in order to prevent the placement of children in substitute care. There are two types of home-based family preservation services and they are as follows:

(A) Intensive, short-term intervention of four to six weeks; and

(B) Home-based, longer-term after care following intensive intervention.

“Informal family child care” means a home that is used to provide nonresidential child care services for compensation for three or fewer children, including children who are living in the household who are under six years of age. Care is given in the provider’s own home to at least one child who is not related to the caregiver.

“Needs Assessment” means an evidence-informed assessment which identifies the needs a child or family has, which, if left unaddressed, will likely increase the chance of reoccurring.

“Nonsecure facility” means any public or private residential facility not characterized by construction fixtures designed to physically restrict the movements and activities of individuals held in lawful custody in that facility and which provides its residents access to the surrounding community with supervision.

“Nonviolent misdemeanor offense” means a misdemeanor offense that does not include any of the following:

(A) An act resulting in bodily injury or death;

(B) The use of a weapon in the commission of the offense;

(C) A domestic abuse offense involving a significant or likely risk of harm to a family member or household member;

(D) A criminal sexual conduct offense; or

(E) Any offense for driving under the influence of alcohol or drugs.

“Out-of-home placement” means a post-adjudication placement in a foster family home, group home, nonsecure facility, emergency shelter, hospital, psychiatric residential treatment facility, staff secure facility, hardware secure facility, detention facility, or other residential placement other than placement in the home of a parent, custodian, or guardian.

“Out-of-school time” means a child care service which offers activities to children before and after school, on school holidays, when school is closed due to emergencies, and on school calendar days set aside for teacher activities.

“Placement” means any temporary or permanent placement of a child who is in the custody of the state in any foster home, group home, or other facility or residence.

“Pre-adjudicatory community supervision” means supervision provided to a youth prior to adjudication, for a period of supervision up to one year for an alleged status or delinquency offense.

“Regional family support council” means the council established by the regional family support agency to carry out the responsibilities specified in §49-2-601 *et seq.* of this code.

“Relative family child care” means a home that provides nonresidential child care services only to children related to the caregiver. The caregiver is a grandparent, great grandparent, aunt, uncle, great-aunt, great-uncle, or adult sibling of the child or children receiving care. Care is given in the provider’s home.

“Residential services” means child care which includes the provision of nighttime shelter and the personal discipline and supervision of a child by guardians, custodians, or other persons or entities on a continuing or temporary basis. It may include care or treatment, or both, for transitioning adults. Residential services

does not include or apply to any juvenile detention facility or juvenile correctional facility operated by the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, created pursuant to this chapter, for the secure housing or holding of juveniles committed to its custody.

“Risk and needs assessment” means a validated, standardized actuarial tool which identifies specific risk factors that increase the likelihood of reoffending and the factors that, when properly addressed, can reduce the likelihood of reoffending.

“Secure facility” means any public or private residential facility which includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.

“Staff secure facility” means any public or private residential facility characterized by staff restrictions of the movements and activities of individuals held in lawful custody in such facility, and which limits its residents’ access to the surrounding community, but is not characterized by construction fixtures designed to physically restrict the movements and activities of residents.

“Standardized screener” means a brief, validated nondiagnostic inventory or questionnaire designed to identify juveniles in need of further assessment for medical, substance abuse, emotional, psychological, behavioral, or educational issues, or other conditions.

“State family support council” means the council established by the Department of Health and Human Resources pursuant to §49-2-601 *et seq.* of this code to carry out the responsibilities specified in §49-2-101 *et seq.* of this code.

“Time-limited reunification services” means individual, group, and family counseling, inpatient, residential, or outpatient substance abuse treatment services, mental health services, assistance to address domestic violence, services designed to provide temporary child care, and therapeutic services for families, including crisis nurseries and transportation to or from those

services, provided during 15 of the most recent 22 months a child or juvenile has been in foster care, as determined by the earlier date of the first judicial finding that the child is subjected to abuse or neglect, or the date which is 60 days after the child or juvenile is removed from home.

“Technical violation” means an act that violates the terms or conditions of probation or a court order that does not constitute a new delinquent offense.

“Truancy diversion specialist” means a school-based probation officer or truancy social worker within a school or schools who, among other responsibilities, identifies truants and the causes of the truant behavior, and assists in developing a plan to reduce the truant behavior prior to court involvement.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§§49-2-107. Foster-home care; minimum standards; certificate of operation; inspection.

(a) The department shall establish minimum standards for foster-home care to which all certified foster homes must conform by legislative rule. Any home that conforms to the standards of care set by the department shall receive a certificate of operation.

(b) The certificate of operation shall be in force for ~~one~~ three years from the date of issuance and may be renewed unless revoked because of willful violation of this chapter.

(c) The certificate shall show the name of the person or persons authorized to conduct the home, its exact location and the number of children that may be received and cared for at one time and other information as set forth in legislative rule. No certified foster home shall provide care for more children than are specified in the certificate.

(d) No unsupervised foster home shall be certified until an investigation of the home and its standards of care has been made by the department or by a licensed child welfare agency serving as a representative of the department.

§49-2-111a. Performance based contracting for child placing agencies.

(a) For purposes of this section:

(1) “Child” means:

(A) A person less than 18 years of age; or

(B) A person age 18 to 21 years who is eligible to receive the extended foster care services.

(2) “Child-placing agency” means an agency licensed by the department to place a child in a foster care home.

(3) “Department” means the Department of Health and Human Resources.

(4) “Evidence-based” means a program or practice that is cost-effective and includes at least two randomized or statistically controlled evaluations that have demonstrated improved outcomes for its intended population.

(5) “Performance-based contracting” means structuring all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes and linking payment for services to contractor performance.

(6) “Promising practice” means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(7) “Research-based” means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(b) No later than December 1, 2020, the department shall enter into performance-based contracts with child placing agencies.

(c) In conducting the procurement, the department shall actively consult with other state agencies and other entities with expertise in performance-based contracting with child placing agencies.

(d) The procurement process shall be developed and implemented in a manner that complies with applicable provisions of this code.

(e) The procurement and resulting contracts shall include, but are not limited to, the following:

(1) Adequate capacity to meet the anticipated service needs in the contracted service area of the child placing agency;

(2) The use of evidence-based, research-based, and promising practices, where appropriate, including fidelity and quality assurance provisions;

(3) Child placing agency data reporting, including data on performance and service outcomes; including but not limited to:

(A) Safety outcomes;

(B) Permanency outcomes;

(C) Well-being outcomes;

(D) Incentives earned; and

(E) Recruitment and retention of foster parents; and

(4) A hold harmless period to determine a baseline for evaluation.

(f) As part of the procurement process under this section, the department shall issue the request for proposals no later than July 1, 2020. The department shall notify the apparently successful bidders no later than September 1, 2020.

(g) Performance-based payment methodologies must be used in child placing agency contracting. Performance measures should

relate to successful engagement by a child or parent in services included in their case plan, and resulting improvement in identified problem behaviors and interactions. For the first year of implementation of performance-based contracting, the department may transfer financial risk for the provision of services to the child placing agency only to the limited extent necessary to implement a performance-based payment methodology, such as phased payment for services. However, the department may develop a shared savings methodology through which the child placing agency will receive a defined share of any savings that result from improved performance. If the department receives a Title IV-E waiver, the shared savings methodology must be consistent with the terms of the waiver. If a shared savings methodology is adopted, the child placing agency shall reinvest the savings in enhanced services to better meet the needs of the families and children they serve.

(h) The department shall actively monitor the child placing agency's compliance with the terms of contracts executed under this section.

(i) The use of performance-based contracts under this section shall be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare-related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

(j) The department shall report the performance of the child placing agency to the Legislative Oversight Commission on Health and Human Resources Accountability by December 31, annually.

§49-2-111b. Study of kinship foster care families.

(a) The department shall conduct a study and make recommendations for improving services provided for kinship foster care families. This study shall include at a minimum:

(1) A review of best practices in other states;

(2) A proposal for an alternate system of regulation for kinship foster care that includes the same reimbursement as other foster care families as well as a reasonable time period for obtaining certification;

(3) An evaluation of what training and supports are needed to ensure that kinship care homes are successful.

(b) The results of this shall be shared with all members of the Legislature by October 1, 2019.

§49-2-113. Residential child-care centers; licensure, certification, approval and registration; requirements.

(a) Any person, corporation or child welfare agency, other than a state agency, which operates a residential child-care center shall obtain a license from the department.

(b) Any residential child-care facility, day-care center or any child-placing agency operated by the state shall obtain approval of its operations from the secretary.

(c) Any family day-care facility which operates in this state, including family day-care facilities approved by the department for receipt of funding, shall obtain a statement of certification from the department.

(d) Every family day-care home which operates in this state, including family day-care homes approved by the department for receipt of funding, shall obtain a certificate of registration from the department. The facilities and placing agencies shall maintain the same standards of care applicable to licensed facilities, centers or placing agencies of the same category.

(e) This section does not apply to:

(1) A kindergarten, preschool or school education program which is operated by a public school or which is accredited by the state Department of Education or any other kindergarten, preschool or school programs which operate with sessions not exceeding four hours per day for any child;

(2) An individual or facility which offers occasional care of children for brief periods while parents are shopping, engaging in recreational activities, attending religious services or engaging in other business or personal affairs;

(3) Summer recreation camps operated for children attending sessions for periods not exceeding 30 days;

(4) Hospitals or other medical facilities which are primarily used for temporary residential care of children for treatment, convalescence or testing;

(5) Persons providing family day care solely for children related to them;

(6) Any juvenile detention facility or juvenile correctional facility operated by or under contract with the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody;

(7) Any out-of-school time program that has been awarded a grant by the West Virginia Department of Education to provide out-of-school time programs to kindergarten through 12th grade students when the program is monitored by the West Virginia Department of Education; or

(8) Any out-of-school time program serving children six years of age or older and meets all of the following requirements, or is an out-of-school time program that is affiliated and in good standing with a national congressionally chartered organization or is operated by a county parks and recreation commission, boards and municipalities and meets all of the following requirements:

(A) The program is located in a facility that meets all fire and health codes;

(B) The program performs state and federal background checks on all volunteers and staff;

(C) The programs' primary source of funding is not from fees for service except for programs operated by county parks and recreation commissions, boards and municipalities; and

(D) The program has a formalized monitoring system in place.

(f) The secretary is authorized to issue an emergency rule relating to conducting a survey of existing facilities in this state in which children reside on a temporary basis in order to ascertain whether they should be subject to licensing under this article or applicable licensing provisions relating to behavioral health treatment providers.

(g) Any informal family child-care home or relative family child-care home may voluntarily register and obtain a certificate of registration from the department.

(h) All facilities or programs that provide out-of-school time care shall register with the department upon commencement of operations and on an annual basis thereafter. The department shall obtain information, such as the name of the facility or program, the description of the services provided and any other information relevant to the determination by the department as to whether the facility or program meets the criteria for exemption under this section.

(i) Any child-care service that is licensed or receives a certificate of registration shall have a written plan for evacuation in the event of fire, natural disaster or other threatening situation that may pose a health or safety hazard to the children in the child-care service.

(1) The plan shall include, but not be limited to:

(A) A designated relocation site and evacuation;

(B) Procedures for notifying parents of the relocation and ensuring family reunification;

(C) Procedures to address the needs of individual children including children with special needs;

(D) Instructions relating to the training of staff or the reassignment of staff duties, as appropriate;

(E) Coordination with local emergency management officials;
and

(F) A program to ensure that appropriate staff are familiar with the components of the plan.

(2) A child-care service shall update the evacuation plan by December 31 of each year. If a child-care service fails to update the plan, no action shall be taken against the child-care services license or registration until notice is provided and the child-care service is given 30 days after the receipt of notice to provide an updated plan.

(3) A child-care service shall retain an updated copy of the plan for evacuation and shall provide notice of the plan and notification that a copy of the plan will be provided upon request to any parent, custodian or guardian of each child at the time of the child's enrollment in the child-care service and when the plan is updated.

(4) All child-care centers and family child-care facilities shall provide the plan and each updated copy of the plan to the Director of the Office of Emergency Services in the county where the center or facility is located.

(j) A residential child care center which has entered into a contract with the department to provide services to a certain number of foster children, shall accept any foster child who meets the residential child care center's program criteria, if the residential child care center has not met its maximum capacity as provided for in the contract. Any residential child-care center who has entered into a contract with the department may not discharge any child in its program, except as provided in the contract, including that if the youth does not meet the residential treatment level and target population, the provider shall request a MDT and work toward an alternative placement.

§49-2-708. Rule-making authority.

(a) The Secretary of the Department of Health and Human Resources is authorized to propose rules for legislative approval

necessary to implement this article ~~for legislative approval~~ in accordance with §29A-3-1 *et seq.* of this code.

(b) The rules:

(1) Shall create a three year certification period for a foster home, unless a substantial change occurs. A home safety assessment is performed at least annually. The department has sole authority to determine if a substantial change has occurred;

(2) Shall require that a criminal background check be conducted at the time of the recertification;

(3) May not prevent the placement or cause the removal of a foster child for cosmetic damage to a residence. "Cosmetic damages" means damage that does not affect the safety or wellbeing of a child;

(4) Shall permit the use of dedicated sleeping spaces as appropriate for the child's needs and age, and similar to the sleeping spaces for other household members; and

(5) Shall review and update the legislative rules while considering normalcy and the reasonable and prudent parent standard.

(c) Notwithstanding the time frames in §29A-3-1 *et seq.*, of this code the department shall revise the foster care legislative rules and shall submit for review and approval to the Rule-making Review Committee by October 31, 2019.

ARTICLE 4. COURT ACTIONS.

§49-4-108. Payment of services.

(a) At any time during any proceedings brought pursuant to this ~~article~~ chapter, the court may upon its own motion, or upon a motion of any party, order the Department of Health and Human Resources to pay the Medicaid rates for professional services rendered by a ~~psychologist, psychiatrist, physician, therapist or other~~ health care professional to a child or other party to the

proceedings. Professional services include, but are not limited to, treatment, therapy, counseling, evaluation, report preparation, consultation and preparation of expert testimony. ~~The Department of Health and Human Resources shall set the fee schedule for the services in accordance with the Medicaid rate, if any, or the customary rate and adjust the schedule as appropriate. Every psychologist, psychiatrist, physician, therapist or other~~ A health care professional shall be paid by the Department of Health and Human Resources upon completion of services and submission of a final report or other information and documentation as required by the policies and procedures implemented by the Department of Health and Human Resources: Provided, That if the service is covered by Medicaid and the service is not provided within 30 days, the court may order the service to be provided by a provider at a rate higher than the Medicaid rate. The department may object and request to be heard, after which the court shall issue findings of fact and conclusions of law supporting its decision.

(b) At any time during any proceeding brought pursuant to this chapter, the court may upon its own motion, or upon a motion of any party, order the Department of Health and Human Resources to pay for socially necessary services rendered by an entity who has agreed to comply with §9-2-6(21) of this code. The Department of Health and Human Resources shall set the reimbursement rates for the socially necessary services: Provided, That if services are not provided within 30 days, the court may order a service to be provided by a provider at a rate higher than the department established rate. The department may object and request to be heard, after which the court shall issue findings of fact and conclusions of law supporting its decision.

§49-4-406. Multidisciplinary treatment process for status offenders or delinquents; requirements; custody; procedure; reports; cooperation; inadmissibility of certain statements.

(a) When a juvenile is adjudicated as a status offender pursuant to §49-4-711 of this code, the Department of Health and Human Resources shall promptly convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform

comprehensive assessment instrument or protocol, including a ~~risk and~~ needs assessment, to determine the juvenile's mental and physical condition, maturity and education level, home and family environment, rehabilitative needs and recommended service plan, which shall be provided in writing to the court and team members. Upon completion of the assessment, the treatment team shall prepare and implement a comprehensive, individualized service plan for the juvenile.

(b) When a juvenile is adjudicated as a delinquent or has been granted a pre-adjudicatory community supervision period pursuant to §49-4-708 of this code, the court, either upon its own motion or motion of a party, may require the Department of Health and Human Resources to convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform comprehensive assessment instrument or protocol, including a ~~risk and~~ needs assessment, to determine the juvenile's mental and physical condition, maturity and education level, home and family environment, rehabilitative needs and recommended service plan, which shall be provided in writing to the court and team members. A referral to the Department of Health and Human Resources to convene a multidisciplinary treatment team and to conduct such an assessment shall be made when the court is considering placing the juvenile in the department's custody or placing the juvenile out-of-home at the department's expense pursuant to §49-4-714 of this code. In any delinquency proceeding in which the court requires the Department of Health and Human Resources to convene a multidisciplinary treatment team, the probation officer shall notify the department at least 15 working days before the court proceeding in order to allow the department sufficient time to convene and develop an individualized service plan for the juvenile.

(c) When a juvenile has been adjudicated and committed to the custody of the Director of the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, including those cases in which the juvenile has been committed for examination and diagnosis, or the court considers commitment for examination and diagnosis, the ~~Division of Juvenile Services~~ Division of

Corrections and Rehabilitation shall promptly convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform comprehensive assessment instrument or protocol, including a risk and needs assessment, to determine the juvenile's mental and physical condition, maturity and education level, home and family environment, rehabilitative needs and recommended service plan. Upon completion of the assessment, the treatment team shall prepare and implement a comprehensive, individualized service plan for the juvenile, which shall be provided in writing to the court and team members. In cases where the juvenile is committed as a post-sentence disposition to the custody of the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, the plan shall be reviewed quarterly by the multidisciplinary treatment team. Where a juvenile has been detained in a facility operated by the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation without an active service plan for more than 60 days, the director of the facility may call a multidisciplinary team meeting to review the case and discuss the status of the service plan.

(d)(1) The rules of juvenile procedure shall govern the procedure for obtaining any assessment of a juvenile, preparing an individualized service plan and submitting the plan and any assessment to the court.

(2) In juvenile proceedings conducted pursuant to §49-4-701 *et seq.* of this code, the following representatives shall serve as members and attend each meeting of the multidisciplinary treatment team, so long as they receive notice at least seven days prior to the meeting:

(A) The juvenile;

(B) The juvenile's case manager in the Department of Health and Human Resources or the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation;

(C) The juvenile's parent, guardian or custodian;

(D) The juvenile's attorney;

(E) Any attorney representing a member of the multidisciplinary treatment team;

(F) The prosecuting attorney or his or her designee;

(G) The county school superintendent or the superintendent's designee;

(H) A treatment or service provider with training and clinical experience coordinating behavioral or mental health treatment; and

(I) Any other person or agency representative who may assist in providing recommendations for the particular needs of the juvenile and family, including domestic violence service providers. In delinquency proceedings, the probation officer shall be a member of a multidisciplinary treatment team. When appropriate, the juvenile case manager in the Department of Health and Human Resources and the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation shall cooperate in conducting multidisciplinary treatment team meetings when it is in the juvenile's best interest.

(3) Prior to disposition, in each case in which a treatment planning team has been convened, the team shall advise the court as to the types of services the team has determined are needed and type of placement, if any, which will best serve the needs of the child. If the team determines that an out-of-home placement will best serve the needs of the child, the team shall first consider placement at facilities or programs located within the state. The team may only recommend placement in an out-of-state facility if it concludes, after considering the best interests and overall needs of the child, that there are no available and suitable in-state facilities which can satisfactorily meet the specific needs of the child. The multidisciplinary treatment team shall also determine and advise the court as to the individual treatment and rehabilitation plan recommended for the child for either out-of-home placement or community supervision. The plan may focus on reducing the likelihood of reoffending, requirements for the child to take responsibility for his or her actions, completion of evidence-based services or programs or any other relevant goal for the child.

The plan may also include opportunities to incorporate the family, custodian or guardian into the treatment and rehabilitation process.

(4) The multidisciplinary treatment team shall submit written reports to the court as required by applicable law or by the court, shall meet with the court at least every three months, as long as the juvenile remains in the legal or physical custody of the state, and shall be available for status conferences and hearings as required by the court. The multidisciplinary treatment team shall monitor progress of the plan identified in subdivision (3) of this subsection and review progress of the plan at the regular meetings held at least every three months pursuant to this section, or at shorter intervals, as ordered by the court, and shall report to the court on the progress of the plan or if additional modification is necessary.

(5) In any case in which a juvenile has been placed out of his or her home except for a temporary placement in a shelter or detention center, the multidisciplinary treatment team shall cooperate with the state agency in whose custody the juvenile is placed to develop an after-care plan. The rules of juvenile procedure and §49-4-409 of this code govern the development of an after-care plan for a juvenile, the submission of the plan to the court and any objection to the after-care plan.

(6) If a juvenile respondent admits the underlying allegations of the case initiated pursuant to §49-4-701 through §49-4-725 of this code, in the multidisciplinary treatment planning process, his or her statements may not be used in any juvenile or criminal proceedings against the juvenile, except for perjury or false swearing.

§49-4-413. Individualized case planning.

(a) For any juvenile ordered to probation supervision pursuant to §49-4-714 of this code, the probation officer assigned to the juvenile shall develop and implement an individualized case plan in consultation with the juvenile's parents, guardian or custodian, and other appropriate parties, and based upon the results of a ~~risk and~~ needs assessment conducted within ~~the last six months~~ 90 days prior to the disposition to probation. The probation officer shall

work with the juvenile and his or her family, guardian or custodian to implement the case plan following disposition. At a minimum, the case plan shall:

(1) Identify the actions to be taken by the juvenile and, if appropriate, the juvenile's parents, guardian or custodian to ensure future lawful conduct and compliance with the court's disposition order; and

(2) Identify the services to be offered and provided to the juvenile and, if appropriate, the juvenile's parents, guardian or custodian and may include services to address: Mental health and substance abuse issues; education; individual, group and family counseling services; community restoration; or other relevant concerns identified by the probation officer.

(b) For any juvenile disposed to an out-of-home placement with the department, the department shall ensure that the residential service provider develops and implements an individualized case plan based upon the recommendations of the multidisciplinary team pursuant to §49-4-406 of this code and the results of a ~~risk~~ ~~and~~ needs assessment. At a minimum, the case plan shall include:

(1) Specific treatment goals and the actions to be taken by the juvenile in order to demonstrate satisfactory attainment of each goal;

(2) The services to be offered and provided by the residential service providers; and

(3) A detailed plan designed to assure appropriate reintegration of the juvenile to his or her family, guardian, school and community following the satisfactory completion of the case plan treatment goals, including a protocol and timeline for engaging the parents, guardians or custodians prior to the release of the juvenile.

(c) For any juvenile committed to the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation shall develop and implement an individualized case plan based upon the recommendations made to the court by the

multidisciplinary team pursuant to ~~section four hundred six, article four of this chapter~~ §49-4-406(c) of this code and the results of a risk and needs assessment. At a minimum, the case plan shall include:

(1) Specific correctional goals and the actions to be taken by the juvenile to demonstrate satisfactory attainment of each goal;

(2) The services to be offered and provided by the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation and any contracted service providers; and

(3) A detailed plan designed to assure appropriate reintegration of the juvenile to his or her family, guardian, school and community following the satisfactory completion of the case plan treatment goals, including a protocol and timeline for engaging the parents, guardians or custodians prior to the release of the juvenile.

§49-4-604. Disposition of neglected or abused children; case plans; dispositions; factors to be considered; reunification; orders; alternative dispositions.

(a) *Child and family case plans.* — Following a determination pursuant to §49-4-602 of this code wherein the court finds a child to be abused or neglected, the department shall file with the court a copy of the child’s case plan, including the permanency plan for the child. The term “case plan” means a written document that includes, where applicable, the requirements of the family case plan as provided in §49-4-408 of this code and that also includes, at a minimum, the following:

(1) A description of the type of home or institution in which the child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to assure that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions that made the child unsafe in the care of his or her parent(s), including any reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. § 12101 *et seq.*, to parents

with disabilities in order to allow them meaningful access to reunification and family preservation services;

(2) A plan to facilitate the return of the child to his or her own home or the concurrent permanent placement of the child; and address the needs of the child while in relative or foster care, including a discussion of the appropriateness of the services that have been provided to the child.

The term “permanency plan” refers to that part of the case plan which is designed to achieve a permanent home for the child in the least restrictive setting available. The plan must document efforts to ensure that the child is returned home within approximate time lines for reunification as set out in the plan. Reasonable efforts to place a child for adoption or with a legal guardian should be made at the same time, or concurrent with, reasonable efforts to prevent removal or to make it possible for a child to return to the care of his or her parent(s) safely. If reunification is not the permanency plan for the child, the plan must state why reunification is not appropriate and detail the alternative, concurrent permanent placement plans for the child to include approximate time lines for when the placement is expected to become a permanent placement. This case plan shall serve as the family case plan for parents of abused or neglected children. Copies of the child’s case plan shall be sent to the child’s attorney and parent, guardian or custodian or their counsel at least five days prior to the dispositional hearing. The court shall forthwith proceed to disposition giving both the petitioner and respondents an opportunity to be heard.

(b) *Disposition decisions.* — The court shall give precedence to dispositions in the following sequence:

(1) Dismiss the petition;

(2) Refer the child, the abusing parent, the battered parent or other family members to a community agency for needed assistance and dismiss the petition;

(3) Return the child to his or her own home under supervision of the department;

(4) Order terms of supervision calculated to assist the child and any abusing parent or battered parent or parents or custodian which prescribe the manner of supervision and care of the child and which are within the ability of any parent or parents or custodian to perform;

(5) Upon a finding that the abusing parent or battered parent or parents are presently unwilling or unable to provide adequately for the child's needs, commit the child temporarily to the care, custody, and control of the state department, a licensed private child welfare agency, or a suitable person who may be appointed guardian by the court. The court order shall state:

(A) That continuation in the home is contrary to the best interests of the child and why;

(B) Whether or not the department has made reasonable efforts, with the child's health and safety being the paramount concern, to preserve the family, or some portion thereof, and to prevent or eliminate the need for removing the child from the child's home and to make it possible for the child to safely return home;

(C) Whether the department has made reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. § 12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services;

(D) What efforts were made or that the emergency situation made those efforts unreasonable or impossible; and

(E) The specific circumstances of the situation which made those efforts unreasonable if services were not offered by the department. The court order shall also determine under what circumstances the child's commitment to the department are to continue. Considerations pertinent to the determination include whether the child should:

(i) Be considered for legal guardianship;

(ii) Be considered for permanent placement with a fit and willing relative; or

(iii) Be placed in another planned permanent living arrangement, but only in cases where the child has attained 16 years of age and the department has documented to the circuit court a compelling reason for determining that it would not be in the best interests of the child to follow one of the options set forth in subparagraphs (i) or (ii) of this paragraph. The court may order services to meet the special needs of the child. Whenever the court transfers custody of a youth to the department, an appropriate order of financial support by the parents or guardians shall be entered in accordance with §49-4-801 through §49-4-803 of this code;

(6) Upon a finding that there is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future and, when necessary for the welfare of the child, terminate the parental, custodial and guardianship rights and responsibilities of the abusing parent and commit the child to the permanent sole custody of the nonabusing parent, if there be one, or, if not, to either the permanent guardianship of the department or a licensed child welfare agency. The court may award sole custody of the child to a nonabusing battered parent. If the court shall so find, then in fixing its dispositional order the court shall consider the following factors:

(A) The child's need for continuity of care and caretakers;

(B) The amount of time required for the child to be integrated into a stable and permanent home environment; and

(C) Other factors as the court considers necessary and proper. Notwithstanding any other provision of this article, the court shall give consideration to the wishes of a child 14 years of age or older or otherwise of an age of discretion as determined by the court regarding the permanent termination of parental rights. No adoption of a child shall take place until all proceedings for termination of parental rights under this article and appeals thereof are final. In determining whether or not parental rights should be terminated, the court shall consider the efforts made by the department to provide remedial and reunification services to the parent. The court order shall state:

(i) That continuation in the home is not in the best interest of the child and why;

(ii) Why reunification is not in the best interests of the child;

(iii) Whether or not the department made reasonable efforts, with the child's health and safety being the paramount concern, to preserve the family, or some portion thereof, and to prevent the placement or to eliminate the need for removing the child from the child's home and to make it possible for the child to safely return home, or that the emergency situation made those efforts unreasonable or impossible; and

(iv) Whether or not the department made reasonable efforts to preserve and reunify the family, or some portion thereof, including a description of what efforts were made or that those efforts were unreasonable due to specific circumstances.

(7) For purposes of the court's consideration of the disposition custody of a child pursuant to this subsection, the department is not required to make reasonable efforts to preserve the family if the court determines:

(A) The parent has subjected the child, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent to aggravated circumstances which include, but are not limited to, abandonment, torture, chronic abuse, and sexual abuse;

(B) The parent has:

(i) Committed murder of the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(ii) Committed voluntary manslaughter of the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(iii) Attempted or conspired to commit murder or voluntary manslaughter, or been an accessory before or after the fact to either crime;

(iv) Committed a malicious assault that results in serious bodily injury to the child, the child's other parent, guardian or custodian, to another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent; or

(v) Committed sexual assault or sexual abuse of the child, the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent.

(C) The parental rights of the parent to another child have been terminated involuntarily;

(D) A parent has been required by state or federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted by a preservation of the family.

(c) As used in this section, "No reasonable likelihood that conditions of neglect or abuse can be substantially corrected" means that, based upon the evidence before the court, the abusing adult or adults have demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help. Those conditions exist in the following circumstances, which are not exclusive:

(1) The abusing parent or parents have habitually abused or are addicted to alcohol, controlled substances or drugs, to the extent that proper parenting skills have been seriously impaired and the person or persons have not responded to or followed through the recommended and appropriate treatment which could have improved the capacity for adequate parental functioning;

(2) The abusing parent or parents have willfully refused or are presently unwilling to cooperate in the development of a

reasonable family case plan designed to lead to the child's return to their care, custody and control;

(3) The abusing parent or parents have not responded to or followed through with a reasonable family case plan or other rehabilitative efforts of social, medical, mental health, or other rehabilitative agencies designed to reduce or prevent the abuse or neglect of the child, as evidenced by the continuation or insubstantial diminution of conditions which threatened the health, welfare, or life of the child;

(4) The abusing parent or parents have abandoned the child;

(5) The abusing parent or parents have repeatedly or seriously injured the child physically or emotionally, or have sexually abused or sexually exploited the child, and the degree of family stress and the potential for further abuse and neglect are so great as to preclude the use of resources to mitigate or resolve family problems, or assist the abusing parent or parents in fulfilling their responsibilities to the child; and

(6) The battered parent's parenting skills have been seriously impaired and the person has willfully refused or is presently unwilling or unable to cooperate in the development of a reasonable treatment plan, or has not adequately responded to or followed through with the recommended and appropriate treatment plan.

(d) The court may, as an alternative disposition, allow the parents or custodians an improvement period not to exceed six months. During this period the court shall require the parent to rectify the conditions upon which the determination was based. The court may order the child to be placed with the parents, or any person found to be a fit and proper person, for the temporary care of the child during the period. At the end of the period, the court shall hold a hearing to determine whether the conditions have been adequately improved and at the conclusion of the hearing shall make a further dispositional order in accordance with this section.

(e) The court may not terminate the parental right of a parent on the sole basis that the parent is participating in a medication-assisted treatment program, as regulated in §16-5Y-1 et seq., for substance use disorder, as long as the parent is successfully fulfilling his or her treatment obligations in the medication-assisted treatment program.

§49-4-608. Permanency hearing; frequency; transitional planning; out-of-state placements; findings; notice; permanent placement review.

(a) *Permanency hearing when reasonable efforts are not required.* — If the court finds, pursuant to this article, that the department is not required to make reasonable efforts to preserve the family, then, notwithstanding any other provision, a permanency hearing must be held within 30 days following the entry of the court order so finding, and a permanent placement review hearing must be conducted at least once every 90 days thereafter until a permanent placement is achieved.

(b) *Permanency hearing every 12 months until permanency is achieved.* — If, 12 months after receipt by the department or its authorized agent of physical care, custody, and control of a child either by a court-ordered placement or by a voluntary agreement, the department has not placed a child in an adoptive home, placed the child with a natural parent, placed the child in legal guardianship, or permanently placed the child with a fit and willing relative, the court shall hold a permanency hearing. The department shall file a progress report with the court detailing the efforts that have been made to place the child in a permanent home and copies of the child's case plan, including the permanency plan as defined in §49-1-201 and §49-4-604 of this code. Copies of the report shall be sent to the parties and all persons entitled to notice and the right to be heard. The court shall schedule a hearing, giving notice and the right to be present to the child's attorney; the child; the child's parents; the child's guardians; the child's foster parents; any preadoptive parent, or any relative providing care for the child; any person entitled to notice and the right to be heard; and other persons as the court may, in its discretion, direct. The child's presence may be waived by the child's attorney at the request of the child or if

the child is younger than 12 years and would suffer emotional harm. The purpose of the hearing is to review the child's case, to determine whether and under what conditions the child's commitment to the department shall continue, to determine what efforts are necessary to provide the child with a permanent home, and to determine if the department has made reasonable efforts to finalize the permanency plan. The court shall conduct another permanency hearing within 12 months thereafter for each child who remains in the care, custody, and control of the department until the child is placed in an adoptive home, returned to his or her parents, placed in legal guardianship, or permanently placed with a fit and willing relative.

(c) *Transitional planning for older children.* — In the case of a child who has attained 16 years of age, the court shall determine the services needed to assist the child to make the transition from foster care to independent living. The child's case plan should specify services aimed at transitioning the child into adulthood. When a child turns 17, or as soon as a child aged 17 comes into a case, the department must immediately provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. The plan must include specific options on housing, health insurance, education, local opportunities for mentors, continuing support services, work force support, and employment services, and the plan should be as detailed as the child may elect. In addition to these requirements, when a child with special needs turns 17, or as soon as a child aged 17 with special needs comes into a case, he or she is entitled to the appointment of a department adult services worker to the multidisciplinary treatment team, and coordination between the multidisciplinary treatment team and other transition planning teams, such as special education individualized education planning (IEP) teams.

(d) *Out-of-state placements.* — ~~In any case in which the court decides to order the child placed in an out-of-state facility or program it shall set forth in the order directing the placement the reasons why the child was not placed in an in-state facility or program~~ A court may not order a child to be placed in an out-of-

state facility unless the child is diagnosed with a health issue that no in-state facility or program serves, unless a placement out of state is in closer proximity to the child's family for the necessary care, or the services are able to be provided more timely. If the child is to be placed with a relative or other responsible person out of state, the court shall use judicial leadership to help expedite the process under the Interstate Compact for the Placement of Children provided in §49-7-101 and §49-7-102 and the Uniform Child Custody Jurisdiction and Enforcement Act provided in §48-20-101 *et seq.* of this code.

(e) *Findings in order.* — At the conclusion of the hearing the court shall, in accordance with the best interests of the child, enter an order containing all the appropriate findings. The court order shall state:

(1) Whether or not the department made reasonable efforts to preserve the family and to prevent out-of-home placement or that the specific situation made the effort unreasonable;

(2) Whether or not the department made reasonable efforts to finalize the permanency plan and concurrent plan for the child;

(3) The appropriateness of the child's current placement, including its distance from the child's home and whether or not it is the least restrictive one (most family-like one) available;

(4) The appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;

(5) Services required to meet the child's needs and achieve permanency; and

(6) In addition, in the case of any child for whom another planned permanent living arrangement is the permanency plan, the court shall: (A) Inquire of the child about the desired permanency outcome for the child; (B) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child; and (C) provide in the court order compelling reasons why it continues

to not be in the best interest of the child to (i) return home, (ii) be placed for adoption, (iii) be placed with a legal guardian, or (iv) be placed with a fit and willing relative.

(f) The department shall annually report to the court the current status of the placements of children in the care, custody and control of the state department who have not been adopted.

(g) The department shall file a report with the court in any case where any child in the custody of the state receives more than three placements in one year no later than 30 days after the third placement. This report shall be provided to all parties and persons entitled to notice and the right to be heard. Upon motion by any party, the court shall review these placements and determine what efforts are necessary to provide the child with a permanent home. No report may be provided to any parent or parent's attorney whose parental rights have been terminated pursuant to this article.

(h) The department shall give actual notice, in writing, to the court, the child, the child's attorney, the parents and the parents' attorney at least 48 hours prior to the move if this is a planned move, or within 48 hours of the next business day after the move if the child is in imminent danger in the child's current placement, except where the notification would endanger the child or the foster family. A multidisciplinary treatment team shall convene as soon as practicable after notice to explore placement options. This requirement is not waived by placement of the child in a home or other residence maintained by a private provider. No notice may be provided pursuant to this provision to any parent or parent's attorney whose parental rights have been terminated pursuant to this article.

(i) Nothing in this article precludes any party from petitioning the court for review of the child's case at any time. The court shall grant the petition upon a showing that there is a change in circumstance or needs of the child that warrants court review.

(j) Any foster parent, preadoptive parent or relative providing care for the child shall be given notice of and the right to be heard at the permanency hearing provided in this section.

§49-4-711. Adjudication for alleged status offenders and delinquents; mandatory initial disposition of status offenders.

At the outset of an adjudicatory hearing, the court shall inquire of the juvenile whether he or she wishes to admit or deny the allegations in the petition. The juvenile may elect to stand silent, in which event the court shall enter a general denial of all allegations in the petition.

(1) If the respondent juvenile admits the allegations of the petition, the court shall consider the admission to be proof of the allegations if the court finds: (A) The respondent fully understands all of his or her rights under this article; (B) the respondent voluntarily, intelligently and knowingly admits all facts requisite for an adjudication; and (C) the respondent in his or her admission has not set forth facts which constitute a defense to the allegations.

(2) If the respondent juvenile denies the allegations, the court shall dispose of all pretrial motions and the court or jury shall proceed to hear evidence.

(3) If the allegations in a petition alleging that the juvenile is delinquent are admitted or are sustained by proof beyond a reasonable doubt, the court shall schedule the matter for disposition pursuant to §49-4-704 of this code. The court shall receive and consider the results of the ~~risk and~~ needs assessment, as defined in §49-1-206 of this code, prior to or at the disposition. ~~pursuant to section seven hundred twenty four, article four of this chapter~~

(4) If the allegations in a petition alleging that the juvenile is a status offender are admitted or sustained by clear and convincing evidence, the court shall consider the results of the ~~risk and~~ needs assessment, as defined in §49-1-206 of this code, prior to or at the disposition ~~pursuant to section seven hundred twenty four, article four of this chapter~~ and refer the juvenile to the Department of Health and Human Resources for services, pursuant to §49-4-712 of this code, and order the department to report back to the court with regard to the juvenile's progress at least every 90 days or until the court, upon motion or sua sponte, orders further disposition under §49-4-712 of this code or dismisses the case from its docket:

Provided, That in a judicial circuit operating a truancy program, a circuit judge may, in lieu of referring truant juveniles to the department, order that the juveniles be supervised by his or her probation office: Provided, *however*, That a circuit judge may also refer a truant juvenile to a truancy diversion specialist.

(5) If the allegations in a petition are not sustained by evidence as provided in §49-4-711(c) and §49-4-711(d) of this code, the petition shall be dismissed and the juvenile shall be discharged if he or she is in custody.

(6) Findings of fact and conclusions of law addressed to all allegations in the petition shall be stated on the record or reduced to writing and filed with the record or incorporated into the order of the court. The record shall include the treatment and rehabilitation plan the court has adopted after recommendation by the multidisciplinary team as provided for in §49-4-406 of this code.

§49-4-714. Disposition of juvenile delinquents; appeal.

(a) In aid of disposition of juvenile delinquents, the juvenile probation officer assigned to the juvenile shall, upon request of the court, make an investigation of the environment of the juvenile and the alternative dispositions possible. The court, upon its own motion, or upon request of counsel, may order the use of a standardized screener, as defined in §49-1-206 of this code or, if additional information is necessary, a psychological examination of the juvenile. The report of an examination and other investigative and social reports shall not be relied upon the court in making a determination of adjudication. Unless waived, copies of the report shall be provided to counsel for the petitioner and counsel for the juvenile no later than 72 hours prior to the dispositional hearing.

(b) Following the adjudication, the court shall receive and consider the results of a ~~risk and~~ needs assessment, ~~conducted pursuant to section seven hundred twenty four, article four of this chapter as defined in §49-1-206 of this code,~~ and shall conduct the disposition, giving all parties an opportunity to be heard. The

disposition may include reasonable and relevant orders to the parents, custodians or guardians of the juvenile as is necessary and proper to effectuate the disposition. At disposition the court shall not be limited to the relief sought in the petition and shall, in electing from the following alternatives, consider the best interests of the juvenile and the welfare of the public:

(1) Dismiss the petition;

(2) Refer the juvenile and the juvenile's parent or custodian to a community agency for needed assistance and dismiss the petition;

(3) Upon a finding that the juvenile is in need of extra-parental supervision: (A) Place the juvenile under the supervision of a probation officer of the court or of the court of the county where the juvenile has his or her usual place of abode or other person while leaving the juvenile in custody of his or her parent or custodian; and (B) prescribe a program of treatment or therapy or limit the juvenile's activities under terms which are reasonable and within the child's ability to perform, including participation in the litter control program established pursuant to §22-15A-3 of this code or other appropriate programs of community service;

(4) Upon a finding that a parent or custodian is not willing or able to take custody of the juvenile, that a juvenile is not willing to reside in the custody of his or her parent or custodian or that a parent or custodian cannot provide the necessary supervision and care of the juvenile, the court may place the juvenile in temporary foster care or temporarily commit the juvenile to the department or a child welfare agency. The court order shall state that continuation in the home is contrary to the best interest of the juvenile and why; and whether or not the department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible. Whenever the court transfers custody of a youth to the department, an appropriate order of financial support by the parents or guardians shall be entered in accordance with §49-4-801 through §49-4-803 *et seq.* of this code and guidelines promulgated by the Supreme Court of Appeals;

(5) (A) Upon a finding that the best interests of the juvenile or the welfare of the public require it, and upon an adjudication of delinquency, the court may commit the juvenile to the custody of the ~~Director of the Division of Juvenile Services~~ Director of the Division of Corrections and Rehabilitation for placement in a juvenile services facility for the treatment, instruction and rehabilitation of juveniles. The court maintains discretion to consider alternative sentencing arrangements.

(B) Notwithstanding any provision of this code to the contrary, in the event that the court determines that it is in the juvenile's best interests or required by the public welfare to place the juvenile in the custody of the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, the court shall provide the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation with access to all relevant court orders and records involving the underlying offense or offenses for which the juvenile was adjudicated delinquent, including sentencing and presentencing reports and evaluations, and provide the division with access to school records, psychological reports and evaluations, ~~risk and~~ needs assessment results, medical reports and evaluations or any other such records as may be in the court's possession as would enable the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation to better assess and determine the appropriate counseling, education and placement needs for the juvenile offender.

(C) Commitments may not exceed the maximum term for which an adult could have been sentenced for the same offense and any such maximum allowable term of confinement to be served in a juvenile correctional facility shall take into account any time served by the juvenile in a detention center pending adjudication, disposition or transfer. The order shall state that continuation in the home is contrary to the best interests of the juvenile and why; and whether or not the state department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible; or

(6) After a hearing conducted under the procedures set out in §27-5-4(c) and §27-5-4(d) of this code, commit the juvenile to a

mental health facility in accordance with the juvenile's treatment plan; the director of the mental health facility may release a juvenile and return him or her to the court for further disposition. The order shall state that continuation in the home is contrary to the best interests of the juvenile and why; and whether or not the state department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible.

The court shall make all reasonable efforts to place the juvenile in the least restrictive alternative appropriate to the needs of the juvenile and the community: *Provided*, That a juvenile adjudicated delinquent for a nonviolent misdemeanor offense may not be placed in an out-of-home placement within the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation or the department if that juvenile has no prior adjudications as either a status offender or as a delinquent, or no prior dispositions to a pre-adjudicatory improvement period or probation for the current matter, excluding placements made for abuse or neglect: *Provided, however*, That if the court finds by clear and convincing evidence that there is a significant and likely risk of harm, as determined by a ~~risk and~~ needs assessment, to the juvenile, a family member or the public and that continued placement in the home is contrary to the best interest of the juvenile, such juvenile may be ordered to an out-of-home placement: *Provided further*, That the department has made all reasonable efforts to prevent removal of the juvenile from his or her home, or that reasonable efforts are not required due to an emergent situation.

(c) In any case in which the court decides to order the juvenile placed in an out-of-state facility or program, it shall set forth in the order directing the placement the reasons the juvenile was not placed in an in-state facility or program.

(d) The disposition of the juvenile shall not be affected by the fact that the juvenile demanded a trial by jury or made a plea of not guilty. Any disposition is subject to appeal to the Supreme Court of Appeals.

(e) Following disposition, the court shall inquire whether the juvenile wishes to appeal and the response shall be transcribed; a negative response shall not be construed as a waiver. The evidence shall be transcribed as soon as practicable and made available to the juvenile or his or her counsel, if the same is requested for purposes of further proceedings. A judge may grant a stay of execution pending further proceedings.

(f) Following a disposition under §49-4-714(b)(4), §49-4-714(b)(5), or §49-4-714(b)(6) of this code, the court shall include in the findings of fact the treatment and rehabilitation plan the court has adopted upon recommendation of the multidisciplinary team under §49-4-406 of this code.

(g) Notwithstanding any other provision of this code to the contrary, if a juvenile charged with delinquency under this chapter is transferred to adult jurisdiction and there tried and convicted, the court may make its disposition in accordance with this section in lieu of sentencing the person as an adult.

§49-4-724. ~~Standardized risk and needs assessment~~ assessments.

(a) The Supreme Court of Appeals is requested to adopt a risk and needs assessment to be used for juvenile dispositions adjudicated delinquents, detained and delivered to, or committed to the custody of the Commissioner of Corrections and Rehabilitation. A validation study of the risk and needs assessment may be conducted at least every three years to ensure that the risk and needs assessment is predictive of the risk of reoffending.

(b) Each juvenile adjudicated for a ~~status or~~ delinquency offense and committed or detained with the Division of Corrections and Rehabilitation in accordance with ~~this chapter~~ §49-4-714(b)(5)(A) of this code shall undergo a risk and needs assessment prior to disposition to identify specific factors that predict a juvenile's likelihood of reoffending and, when appropriately addressed, may reduce the likelihood of reoffending. The risk and needs assessment may be conducted by a ~~probation officer, other court official or the state department~~ division worker trained to conduct the risk and needs assessment.

(c) Each multidisciplinary team convened pursuant to ~~section four hundred six, article four of this chapter~~ §49-4-406(c) of this code shall receive and consider the results of the risk and needs assessment of the juvenile.

(d) The results of the risk and needs assessment shall be provided to the court prior to disposition or at the time of the dispositional hearing.

The following amendments to the Health and Human Resources committee amendment to the bill (Eng. Com. Sub. for H. B. 2010), from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section twenty-seven, subsection (f), by striking out all of subdivision (5) and inserting in lieu thereof a new subdivision (5) to read as follows:

“(5) Consult stakeholders in the program development process, and the managed care organization that is awarded the contract shall create a voluntary advisory group of foster, adoptive, and kinship parents, which shall meet every quarter for the first year following the effective date of the changes made to this section during the 2019 Regular Session of the Legislature and then every six months thereafter, to discuss issues they are encountering with the managed care organization and recommend solutions. The managed care organization shall report on the recommendations of the advisory group and address how and why procedures have or have not changed based on those recommendations. This report shall be submitted to the secretary and the Legislative Oversight Commission on Health and Human Resources Accountability as set forth in §16-29E-1 *et seq.* of this code, and the public in a timely fashion and shall be available on the managed care organization’s webpage.”;

And,

On page two, section twenty-seven, subsection (i), subdivision (1), after the word “with” by inserting the words “experience as a former foster parent or”.

On motion of Senator Lindsay, the following amendment to the Health and Human Resources committee amendment to the bill (Eng. Com. Sub. for H. B. 2010) was next reported by the Clerk:

On page one, by striking out all of section twenty-seven and inserting in lieu thereof a new section, designated section twenty-seven, to read as follows:

§9-5-27. Creation of workgroup to plan and implement Family First Prevention Services Act; prohibiting the transition to managed care.

(a) It is the intent of the Legislature in enacting this section to establish an open, transparent, and inclusive process for the planning and implementation of the Family First Prevention Services Act, as part of Division E in the Bipartisan Budget Act of 2018. The Family First Prevention Services Act redirects federal funds to provide services to keep children safely with their families and out of foster care, and when foster care is needed, allows federal reimbursement for care in family-based settings and certain residential treatment programs for children with emotional and behavioral disturbance requiring special treatment.

(b) In a manner consistent with the intent expressed in subsection (a), on or before July 1, 2019, the secretary shall establish a working group to coordinate planning for the Family First Prevention Services Act and related improvements in the child welfare and foster care systems among the department's bureaus, including the Bureau for Children and Families, the Bureau of Medical Services, the Bureau for Behavior Health, the Bureau for Public Health, and the Office of Drug Control Policy.

(c) The working group shall study and make recommendations on the following:

(1) The department's ability to build on the planning of state initiatives under the Court Improvement Project, the Juvenile Justice Commission, behavioral health in the schools, the Foster, Kinship, and Adoptive Parents Network, and other related state level initiatives.

(2) The department's ability to support community level planning in all 55 counties in coordination with child welfare community collaboratives, drug policy councils, drug courts, and other local initiatives.

(3) The department's ability to reduce fragmentation and ways to offer a seamless approach to meeting participants' needs;

(4) The department's ability to provide supports and services in the most integrated, appropriate, and cost-effective way possible;

(5) The department's ability to provide a continuum of acute care services, including an array of home and community-based options; and

(6) Standards for care coordination are necessary including coordination between settings, community services, and services provided by other MCOs or through fee-for-service arrangements.

(d) The secretary shall ensure that the working group consults stakeholders in the program development and implementation process, including foster, adoptive, and kinship parents.

(e) Beginning on August 1, 2019, and each month thereafter, the secretary shall submit a report to the Legislative Oversight Committee on Health and Human Resources Accountability on the progress of the workgroup. The duty to submit a report shall continue until the secretary submits a final report along with the final recommendations of the workgroup.

(f) Notwithstanding any other provision of this chapter to the contrary, the secretary may not initiate a transition to a capitated Medicaid program for a child classified as a foster child or a child placed in foster care under Title IV-E of the Social Security Act until expressly authorized to do so by the legislature.

Following discussion,

The question being on the adoption of Senator Lindsay's amendment to the Health and Human Resources committee amendment to the bill, the same was put and did not prevail.

The question now being on the adoption of the Health and Human Resources committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2010), as amended, was then ordered to third reading.

Eng. House Bill 2209, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2378, Relating generally to grounds for revocation of a teaching certificate.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Education, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section six, by striking out the section caption and substituting therefor a new section caption, to read as follows:

§18A-3-6. Grounds for revocation of certificates; recalling certificates for correction.

On page two, section six, line twenty, after the word “offender,” by striking out the word “or”;

And,

On page two, section six, line twenty-one, after the word “substance,” by inserting the words “or upon a finding of abuse by the Department of Health and Human Resources under §49-1-1 *et seq.* of this code.”.

The bill (Eng. Com. Sub. for H. B. 2378), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2396, West Virginia Fresh Food Act.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Agriculture and Rural Development, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 37. WEST VIRGINIA FRESH FOOD ACT.

§19-37-1. Legislative findings and purpose.

(a) According to the West Virginia Farm Bureau state schools alone currently purchase \$100 million of food from out-of-state sources.

(b) Locally grown food is healthier and more beneficial to the environment than food imported from other states and other countries.

(c) This article will:

(1) Stimulate the agricultural economy of the state, especially in its economically depressed areas, and allow small farmers to expand operations as well as act as an incentive to new people to begin farming;

(2) Encourage state-funded institutions to begin growing their own produce, thus enabling people to learn and practice agricultural techniques, as well as lowering operational costs of those institutions; and

(3) Spur self-sufficiency and economic independence of those who learn and engage in agricultural activities.

§19-37-2. State-funded institutions to purchase food from in-state sources; exception.

Beginning July 1, 2019, all state-funded institutions, such as schools, colleges, correctional facilities, governmental agencies and state parks, shall purchase a minimum of five percent of its fresh produce, meat and poultry products from in-state producers: *Provided*, That such produce, meat and poultry products can be grown or is available from in-state producers.

§19-37-3. Rule-making authority and enforcement.

The Commissioner of Agriculture shall be charged with the enforcement of this article and shall have authority to make and enforce rules and regulations for the administration of this article.

The bill (Eng. Com. Sub. for H. B. 2396), as amended, was then ordered to third reading.

Eng. House Bill 2412, Relating to criminal acts concerning government procurement of commodities and services.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-28. Financial interest of secretary, etc.; receiving reward from interested party; penalty; application of bribery statute.

[Repealed.]

§5A-3-30. Statement of purpose; obtaining money and property under false pretenses or by fraud from the state; penalties; definition.

[Repealed.]

§5A-3-31. Corrupt actions, combinations, collusions or conspiracies prohibited; penalties.

[Repealed.]

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 5B. PROHIBITED ACTS IN GOVERNMENT PROCUREMENT.

§61-5B-1 Definitions.

As used in this article, the terms listed in this section have the meaning assigned to them below.

(a) “Business entity” means any individual, legal person, firm, partnership, association, or similar organization with the capacity to contract under West Virginia law;

(b) “Commodities” means supplies, material, equipment, and any other articles or things used by, or furnished to, a governmental entity, including the use, extension, loan or grant of money, credit, or waivers of debt or liability;

(c) “Governmental entity” means any department, agency, commission, institution, board, or similar entity within any branch of government of the State of West Virginia;

(d) “Inferior commodities or services” means:

(1) Any commodity or service that materially fails to meet the specification or standard issued by the governmental entity;

(2) any commodity or service that does not meet a specification or standard required by state or federal law; or (3) any commodity or service which is of a materially lesser quality, quantity, or

measure of any kind set forth within the specification or standard issued by the procuring governmental entity.

(e) "Services" means the furnishing of labor, time, expertise, or effort, not involving the delivery of a specific end commodity or product other than one that may be incidental to the required performance.

§61-5B-2. Financial Interests of state purchasing agents; prohibitions; offenses; penalties.

(a) Except as authorized by the provisions of §6B-1-1 et seq. of this code:

(1) No person purchasing or contracting for the purchase of commodities or services for a governmental entity may have any interest, direct or indirect, in any business entity bidding, contracting with or selling commodities or services to the governmental entity for which the person is acting as an agent.

(2) No person purchasing or contracting for the purchase of commodities or services on behalf of a governmental entity may accept anything of value from a business entity offering to sell, providing, or contracting to sell or provide commodities or services to the governmental entity for which the person is acting as an agent.

(3) No business entity selling, offering to sell, or bidding on a contract to provide commodities or services to a governmental entity may offer to any person acting as an agent for a governmental entity in said purchase or contract anything of value without receiving fair value therefor.

(b) Any person or entity violating the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail for not more than one year, or both fined and confined.

§61-5B-3. Obtaining money and property under false pretenses or by fraud from the state; penalties; definition; application of change orders.

(a) It is unlawful for any business entity to obtain any money or other thing of value from a governmental entity by knowing delivery of inferior commodities or services to a governmental entity, with the intent to defraud the governmental entity.

(b) It is unlawful for any person to knowingly accept delivery of inferior commodities or services on behalf of a governmental entity with intent to defraud that governmental entity.

(c) Any person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(d) It shall not be a defense to a charge under this section that: (1) The commodities or services were accepted and used, or are being used, by the relevant governmental entity; or (2) the commodities or services are functional or suitable for the purpose for which the commodities or services were purchased by the governmental entity notwithstanding a deviation from the standard or specification issued by the governmental entity that makes the commodities inferior.

(e) Nothing in this section prohibits the negotiation, issuance, or approval of a change order to modify the initial specification or standard issued, provided that the intent of the modification is to serve the best interests of the governmental entity and not to defraud the governmental entity, circumvent competitive bidding requirements, or provide a beneficial personal interest to a procurement authority.

The bill (Eng. H. B. 2412), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2420, Establishing the Mountaineer Trail Network Recreation Authority.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

Eng. Com. Sub. for House Bill 2422, Relating to the time for the observation of “Celebrate Freedom Week”.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2486, Using records of criminal conviction to disqualify a person from receiving a license for a profession or occupation.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-22. Use of criminal records as disqualification of authorization to practice.

Notwithstanding any other provision of this chapter to the contrary, except for the professions and occupations in §30-2-1 et seq., §30-3-1 et seq., §30-3E-1 et seq., §30-14-1 et seq., §30-18-1 et seq., and §30-29-1 et seq. of this code and where not in conflict with an existing compact or model act:

(a) Boards or licensing authorities referred to in this chapter may not disqualify an applicant for initial licensure, certification or registration because of a prior criminal conviction that has not been reversed unless that conviction is for a crime that bears a rational

nexus to the occupation requiring licensure, certification, or registration.

(b) Because the term “moral turpitude” is vague and subject to inconsistent applications, boards or licensing authorities referred to in this chapter when making licensure, certification or registration determination may not rely upon the description of a crime as one of “moral turpitude” unless the underlying crime bears a rational nexus to the occupation requiring licensure, certification, or registration.

(c) If an applicant is disqualified for initial licensure, certification or registration because of a criminal conviction that has not been reversed, the board or licensing authority shall afford the applicant the opportunity to reapply for licensure, certification or registration after the expiration of five years from the date of conviction or date of release from the penalty that was imposed, whichever is later, if the individual has not been convicted of any other crime during that period of time: *Provided*, That convictions for violent or sexual offenses shall subject an individual to a longer period of disqualification, to be determined by the individual board or licensing authority.

(d) An individual with a criminal record who has not previously applied for licensure, certification, or registration may petition a board at any time for a determination of whether the individual’s criminal record will disqualify the individual from obtaining a license or other authorization to practice. This petition shall include sufficient details about the individual’s criminal record to enable the licensing authority to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The licensing authority shall inform the individual of his or her standing within 60 days of receiving the petition from the applicant. The licensing authority may charge a fee to recoup its costs for each petition.

(e) Nothing in this section alters the standards and procedures each licensing authority uses for evaluating licensure, certification, or registration renewals.

(f) Every board subject to the provisions of this section shall propose rules or amendments to existing rules for legislative approval to comply with the provisions of this section. These rules or amendments to rules shall be proposed pursuant to the provisions of §29A-3-1 et seq. of this code within the applicable time limit to be considered by the Legislature during its regular session in the year 2020.

ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS AND PHARMACIES.

§30-5-11. Registration of pharmacy technicians.

(a) To be eligible for registration as a pharmacy technician to assist in the practice of pharmacist care, the applicant shall:

(1) Submit a written application to the board;

(2) Pay the applicable fees;

(3) Have graduated from high school or obtained a ~~Certificate of General Educational Development (GED)~~ Test Assessing Secondary Completion (TASC) or equivalent;

(4) Have:

(A) Graduated from a competency-based pharmacy technician education and training program as approved by legislative rule of the board;

(B) Completed a pharmacy-provided, competency-based education and training program approved by the board; or

(C) Obtained a national certification as a pharmacy technician and have practiced in another jurisdiction for a period of time as determined by the board.

(5) Have successfully passed an examination developed using nationally recognized and validated psychometric and pharmacy practice standards approved by the board;

(6) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered;

(7) Not have been convicted of a felony in any jurisdiction within 10 years preceding the date of application for license, which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §29A-3-1 et seq. of this code.*

(8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted ~~bearing~~ bears a rational nexus to the practice of pharmacist care, which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code; and*

(9) Have fulfilled any other requirement specified by the board in rule.

(b) A person whose license to practice pharmacist care has been denied, revoked, suspended, or restricted for disciplinary purposes in any jurisdiction is not eligible to be registered as a pharmacy technician.

(c) A person registered to assist in the practice pharmacist care issued by the board shall for all purposes be considered registered under this article and may renew pursuant to the provisions of this article.

§30-5-11a. Pharmacy technician trainee qualifications.

(a) To be eligible for registration as a pharmacy technician trainee to assist in the practice of pharmacist care, the applicant shall:

(1) Submit a written application to the board;

(2) Pay the applicable fees;

(3) (A) Have graduated from a high school or obtained a ~~Certificate of General Educational Development (GED)~~ Test Assessing Secondary Completion (TASC), or equivalent;

(B) Be currently enrolled in a high school competency-based pharmacy technician education and training program;

(4) (A) Be currently enrolled in a competency-based pharmacy technician education and training program of a learning institution or training center approved by the board; or

(B) Be an employee of a pharmacy in an on-the-job competency-based pharmacy technician training program.

(5) Not be an alcohol or drug abuser as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered;

(6) Not have been convicted of a felony in any jurisdiction within 10 years preceding the date of application for registration, which conviction remains unreversed: *Provided*, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;

(7) Not have been convicted of a misdemeanor or felony in any jurisdiction which bears a rational nexus to the practice of pharmacist care, which conviction remains unreversed: *Provided*, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code; and

(8) Have requested and submitted to the board the results of a fingerprint-based state and a national electronic criminal history records check.

(b) The rules, authorized duties, and unauthorized prohibitions as set out in §30-5-12 of this code for pharmacy technicians apply to pharmacy technician trainees.

(c) The board shall promulgate an emergency rule and legislative rule pursuant to §29A-2-1 *et seq.* of this code to authorize the requirements of this section to permit pharmacy technician trainee.

ARTICLE 10. VETERINARIANS.

§30-10-8. Requirements for Veterinary License.

(a) To be eligible for a license to practice veterinary medicine under the provisions of this article, the applicant must:

(1) Be of good moral character;

(2) (A) Be a graduate of an accredited school approved by the board; or

(B) Be a graduate of a foreign veterinary school and hold a certificate of competence issued by a foreign veterinary graduate educational organization as approved by the board;

(3) Have passed the examinations required by the board;

(4) Be at least 18 years of age;

(5) Be a citizen of the United States or be eligible for employment in the United States; and

~~(6) Not have been convicted of a crime involving moral turpitude;~~

~~(7)~~ (6) Not have been convicted of a felony under the laws of any jurisdiction within five years preceding the date of application for licensure which conviction remains unreversed: Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code; and

~~(8)~~ (7) Not have been convicted of a misdemeanor or a felony under the laws of any jurisdiction at any time if the offense for which the applicant was convicted related to the practice of veterinary medicine or animal abuse or neglect: Provided, That any

consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code.

(b) A person seeking a license under the provisions of this article shall submit an application on a form prescribed by the board and pay all applicable fees.

(c) An applicant from another jurisdiction shall comply with all the requirements of this article.

(d) A license to practice veterinary medicine issued by the board prior to July 1, 2010, shall for all purposes be considered a license issued under this article and may be renewed under this article.

(e) An application for a license to practice veterinary medicine submitted to the board prior to July 1, 2010, shall be considered in conformity with the licensing provisions of this article and the rules promulgated thereunder in effect at the time of the submission of the application.

§30-10-10. Requirements for a registered veterinary technician.

(a) To be eligible for a registration to practice veterinary technology under the provisions of this article, the applicant must:

(1) Be of good moral character;

(2) Have a degree in veterinary technology from an accredited school, approved by the board;

(3) Have passed the examinations required by the board;

(4) Be at least 18 years of age;

(5) Be a citizen of the United States or be eligible for employment in the United States; and

~~(6) Not have been convicted of a crime involving moral turpitude;~~

~~(7)~~ (6) Not have been convicted of a felony under the laws of any jurisdiction within five years preceding the date of application for registration which conviction remains unreversed: Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code; and

~~(8)~~ (7) Not have been convicted of a misdemeanor or a felony under the laws of any jurisdiction at any time if the offense for which the applicant was convicted related to the practice of veterinary technology or animal abuse or neglect: Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;

(b) A person seeking registration under the provisions of this article shall submit an application on a form prescribed by the board and pay all applicable fees.

(c) A person registered to practice veterinary technology issued by the board prior to July 1, 2010, shall for all purposes be considered registered under this article and may renew pursuant to the provisions of this article.

ARTICLE 13A. LAND SURVEYORS.

§30-13A-9. Surveying license requirements.

(a) The board shall issue a surveying license to an applicant who meets the following requirements:

(1) Is of good moral character;

(2) Is at least 18 years of age;

(3) Is a citizen of the United States or is eligible for employment in the United States;

(4) Holds a high school diploma or its equivalent; and

~~(5) Has not been convicted of a crime involving moral turpitude; and~~

(5) Has not been convicted of a felony in any jurisdiction within five years preceding the date of application of license which conviction remains unreversed; *Provided*; That any consideration of prior criminal convictions shall be governed by §30-1-22.

(6) Has completed all of one of the education, experience, and examination requirements set out in §30-13A-8 of this code.

(b) An application for a surveying license shall be made on forms provided by the board and include the following:

(1) Name and address of the applicant;

(2) Applicants education and experience;

(3) Location and date of passage of all the examinations;

(4) Names of five persons for reference, at least three of whom shall be licensees or persons authorized in another jurisdiction to engage in the practice of surveying, and who have knowledge of the applicant's work; and

(5) Any other information the board prescribes.

(c) An applicant shall pay all the applicable fees.

(d) A license to practice surveying issued by the board prior to July 1, 2010, shall for all purposes be considered a license issued under this article: *Provided*, That a person holding a license to practice surveying issued by the board prior to July 1, 2010, must renew the license pursuant to the provisions of this article.

§30-13A-12. Surveyor intern requirements.

(a) To be recognized as a surveyor intern by the board, a person ~~must~~ who meets the following requirements:

(1) Is of good moral character;

(2) Is at least 18 years of age;

(3) Is a citizen of the United States or is eligible for employment in the United States;

(4) Holds a high school diploma or its equivalent;

~~(5) Has not been convicted of a crime involving moral turpitude;~~

(5) Has not been convicted of a felony in any jurisdiction within five years preceding the date of application of license which conviction remains unreversed; *Provided*; That any consideration of prior criminal convictions shall be governed by §30-1-22 of this code.

(6) Has completed one of the education requirements set out in §30-13A-8 of this code; and

(7) Has passed an examination in the fundamentals of land surveying.

(b) A surveyor intern must pass the principles and practice of land surveying examination and the West Virginia examination within 10 years of passing the fundamentals of land surveying examination. If the examinations are not passed within 10 years, then the surveyor intern must retake the fundamentals of land surveying examination.

ARTICLE 20. PHYSICAL THERAPISTS.

§30-20-8. License to practice physical therapy.

(a) To be eligible for a license to engage in the practice of physical therapy, the applicant must:

(1) Submit an application to the board;

(2) Be at least 18 years of age;

(3) Be of good moral character;

(4) Have graduated from an accredited school of physical therapy approved by the Commission on Accreditation in Physical Therapy Education or a successor organization;

(5) Pass a national examination as approved by the board;

(6) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered;

(7) Not have been convicted of a felony in any jurisdiction within 10 years preceding the date of application for license which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;*

(8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of physical therapy, which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;* and

(9) Has fulfilled any other requirement specified by the board.

(b) A physical therapist shall use the letters “PT” immediately following his or her name to designate licensure under this article.

(c) A license to practice physical therapy issued by the board prior to July 1, 2010, is considered a license issued under this article: *Provided*, That a person holding a license issued prior to July 1, 2010, must renew the license pursuant to the provisions of this article.

§30-20-10. License to act as a physical therapist assistant.

(a) To be eligible for a license to act as a physical therapist assistant, the applicant must:

(1) Submit an application to the board;

(2) Be at least 18 years of age;

(3) Be of good moral character;

(4) Have graduated from a two-year college level education program for physical therapist assistants which meets the standards established by the Commission on Accreditation in Physical Therapy Education and the board;

(5) Have passed the examination approved by the board for a license to act as a physical therapist assistant;

(6) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered;

(7) Not have been convicted of a felony in any jurisdiction within 10 years preceding the date of application for license which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;*

(8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of physical therapy, which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;* and

~~(10)~~ (9) Meet any other requirements established by the board.

(b) A physical therapist assistant shall use the letters “PTA” immediately following his or her name to designate licensure under this article.

(c) A license to act as a physical therapist assistant issued by the board prior to July 1, 2010, is considered a license issued under

this article: *Provided*, That a person holding a license issued prior to July 1, 2010, must renew the license pursuant to the provisions of this article.

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-7. Qualifications of applicants; exceptions; applications; fee.

(a) To be eligible for a license to engage in the practice of psychology, the applicant must:

(1) Be at least 18 years of age;

(2) Be of good moral character;

(3) Be a holder of a doctor of philosophy degree or its equivalent or a masters degree in psychology from an accredited institution of higher learning, with adequate course study at such institution in psychology, the adequacy of any such course study to be determined by the board;

(4) When the degree held is a doctor of philosophy degree or its equivalent, at least 1,800 hours must be a predoctoral internship in the performance of any of the psychological services described in §30-21-2(e) of this code, including those activities excluded from the definition of the term practice of psychology in said subdivision (e), and, when the degree held is a masters degree, have at least five years' experience subsequent to receiving said degree in the performance of any of the psychological services described in said subdivision (e), including those activities excluded from the definition of the term "practice of psychology" in said subdivision (e);

(5) Have passed the examination prescribed by the board, which examination shall cover the basic subject matter of psychology and psychological skills and techniques;

(6) Not have been convicted of a felony ~~or crime involving moral turpitude~~: *Provided*, That any consideration of prior criminal

convictions shall be governed by the provisions of §30-1-22 of this code; and

(7) Not, within the next preceding six months, have taken and failed to pass the examination required by subdivision (5), subsection (a) of this section.

(b) The following persons shall be eligible for a license to engage in the practice of psychology without examination:

(1) Any applicant who holds a doctor of philosophy degree or its equivalent from an institution of higher learning, with adequate course study at such institution in psychology and who is a diplomate of the “American Board of Examiners in Professional Psychology”; and

(2) Any person who holds a license or certificate to engage in the practice of psychology issued by any other state, the requirements for which license or certificate are found by the board to be at least as great as those provided in this article.

(c) Any person who is engaged in the practice of psychology in this state, or is engaged in any of the activities described in §30-21-2(e)(1), 30-21-2(e)(2), or §30-21-2(e)(3) of this code, in this state, on the effective date of this article and has been so engaged for a period of two consecutive years immediately prior thereto shall be eligible for a license to engage in the practice of psychology without examination and without meeting the requirements of subdivision (4), subsection (a) of this section, if application for such license is made within six months after the effective date of this article and if such person meets the requirements of subdivisions (1), (2), (3) and (6), subsection (a) of this section: *Provided*, That an equivalent of a masters degree in psychology may be considered by the board, only for the purpose of this subsection (c), as meeting the requirements of subdivision (3), subsection (a) of this section.

(d) Any applicant for any such license shall submit an application therefor at such time (subject to the time limitation set forth in subsection (c) of this section), in such manner, on such

forms and containing such information as the board may from time to time by reasonable rule and regulation prescribe, and pay to the board an application fee.

ARTICLE 22. LANDSCAPE ARCHITECTS.

§30-22-10. License requirements.

(a) The board shall issue a license to practice under the provisions of this article to an applicant who meets the following requirements:

(1) Is of good moral character;

(2) Is at least 18 years of age;

(3) Is a citizen of the United States or is eligible for employment in the United States;

~~(4) Has not been convicted of a crime involving moral turpitude;~~

~~(5)~~ (4) Has not had his or her application for a license to practice as a landscape architect refused in any state of the United States;

~~(6)~~ (5) Has not had his or her license to practice landscape architecture suspended or revoked in any state of the United States; and

~~(7)~~ (6) Has completed the licensure requirements set out in this article and the rules promulgated hereunder.

(b) The board may issue a license to practice under the provisions of this article to an applicant who does not meet the licensure requirements set out in subdivisions ~~(5) or (6)~~ (4) or (5) of subsection (a) of this section, but who does meet the licensure requirements established by rule by the board.

(c) An application for a license shall be made on forms prescribed by the board.

(d) An applicant shall pay all the applicable fees.

(e) A license to practice landscape architecture issued by the board prior to July 1, 2006, shall for all purposes be considered a license issued under this article: *Provided*, That a person holding a license to practice landscape architecture issued prior to July 1, 2006, must renew the license pursuant to the provisions of this article.

ARTICLE 23. RADIOLOGIC TECHNOLOGISTS.

§30-23-9. Requirements for Radiologic Technology license.

(a) To be eligible for a license to practice Radiologic Technology, the applicant must:

(1) Be of good moral character;

(2) Have a high school diploma or its equivalent;

(3) Have successfully completed an accredited program in Radiologic Technology, as determined by an accreditation body recognized by the board, from a school of Radiologic Technology that has been approved by the board;

(4) Have passed the examination prescribed by the board, which examination shall cover the basic subject matter of Radiologic Technology, skills and techniques; and

(5) Not have been convicted of a felony under the laws of any state or the United States within five years preceding the date of application for licensure, which conviction remains unreversed: *Provided*, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code; and

(6) Not have been convicted of a misdemeanor or a felony under the laws of any state or the United States at any time if the offense for which the applicant was convicted related to the practice of Medical Imaging, which conviction remains unreversed: *Provided*, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code.

(b) A person seeking a Radiologic Technology license shall submit an application on a form prescribed by the board and pay the license fee, which fee shall be returned to the applicant if the license application is denied.

(c) A Radiologic Technology license issued by the board prior to July 1, 2009, shall for all purposes be considered a license issued under this article.

§30-23-15. Requirements for Nuclear Medicine Technologist license

(a) To be eligible for a license to practice Nuclear Medicine Technology, the applicant must:

(1) Be of good moral character;

(2) Have a high school diploma or its equivalent;

(3) Not have been convicted of a felony under the laws of any state or the United States within five years preceding the date of application for licensure, which conviction remains unreversed;

(4) Not have been convicted of a misdemeanor or felony under the laws of any state or the United States if the offense for which the applicant was convicted related to the practice of Medical Imaging, which conviction remains unreversed: Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;

(5) Meet one of the following qualifications:

(A) Have a baccalaureate or associate degree in one of the physical or biological sciences pertaining to the Medical Imaging or Radiation Therapy profession;

(B) Have a baccalaureate or associate degree in other disciplines of Medical Imaging with successful completion of courses in the following areas: college algebra, physics or chemistry, human anatomy, physiology, and radiation safety;

(C) National certification as a certified Nuclear Medicine Technologist (CNMT);

(D) National certification as a Registered Radiographer (ARRT (R));

(E) National certification as a Registered Radiographer specializing in Nuclear Medicine (ARRT (N)); or

(F) National certification as a Radiation Therapist (ARRT (T)); and

(6) Pass an examination which has been approved by the board, with a minimum passing score of 75 percent, which examination shall cover the basic subject matter of medical imaging, radiation safety, skills and techniques as it pertains to Nuclear Medicine.

(b) A person seeking a Nuclear Medicine Technology license shall submit an application on a form prescribed by the board and pay the license fee, which fee shall be returned to the applicant if the license application is denied.

(c) A Nuclear Medicine Technology license issued by the board prior to July 1, 2007, shall for all purposes be considered a license issued under this article: *Provided*, That a person holding a Nuclear Medicine Technology license issued prior to July 1, 2007, must renew the license pursuant to the provisions of this article.

§30-23-17. Requirements for Magnetic Resonance Imaging Technologist license.

(a) To be eligible for a license to practice Magnetic Resonance Imaging Technology, the applicant must:

(1) Be of good moral character;

(2) Have a high school diploma or its equivalent;

(3) Not have been convicted of a felony under the laws of any state or the United States within five years preceding the date of application for licensure, which conviction remains unreversed:

Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;

(4) Not have been convicted of a misdemeanor or a felony under the laws of any state or the United States if the offense for which the applicant was convicted practice of Medical Imaging, which conviction remains unreversed: Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;

(5) Meet one of the following qualifications:

(A) Have a baccalaureate or associate degree in one of the physical or biological sciences pertaining to the Medical Imaging or Radiation Therapy profession;

(B) Have a baccalaureate or associate degree in other disciplines of Medical Imaging with successful completion of courses in the following areas: college algebra, physics or chemistry, human anatomy, physiology, and radiation safety;

(C) National certification as a certified Nuclear Medicine Technologist (CNMT);

(D) National certification as a Registered Radiographer (ARRT (R));

(E) National certification as a Registered Radiographer specializing in Nuclear Medicine (ARRT (N));

(F) National certification as a Radiation Therapist (ARRT(T));
or

(G) National certification as an MRI technologist (ARRT (MR) or ARMRICT); and

(6) Pass an examination which has been approved by the board, with a minimum passing score of 75 percent, which examination shall cover the basic subject matter of Medical Imaging, radiation safety, skills and techniques as it pertains to Magnetic Resonance Imaging.

(b) A person seeking a Magnetic Resonance Imaging Technology license shall submit an application on a form prescribed by the board and pay the license fee, which fee shall be returned to the applicant if the license application is denied.

(c) A Magnetic Resonance Imaging Technology license issued by the board prior to July 1, 2007, shall for all purposes be considered a license issued under this article: *Provided*, That a person holding a Magnetic Resonance Imaging Technology license issued prior to July 1, 2007, must renew the license pursuant to the provisions of this article.

§30-23-20. Requirements for Podiatric Medical Assistant permit.

(a) To be eligible for a Podiatric Medical Assistant permit to perform podiatric radiographs, the applicant must:

(1) Be of good moral character;

(2) Have a high school diploma or its equivalent;

(3) Pass a written examination for certification from the American Society of Podiatric Medical Assistants (ASPMA);

(4) Maintain an active certification in the American Society of Podiatric Medical Assistants (ASPMA) and meet all requirements of that organization including the continuing education requirements; and

(5) Not have been convicted of a felony under the laws of any state or the United States within five years preceding the date of application for licensure, which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code; and*

(6) Not have been convicted of a misdemeanor or felony under the laws of any state or the United States if the offense for which the applicant was convicted related to the practice of Radiologic Technology, which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code.*

(b) A person seeking a Podiatric Medical Assistant permit shall submit an application on a form prescribed by the board and pay the permit fee, which fee shall be returned to the applicant if the permit application is denied.

Upon application for renewal, the permittee shall submit documentation of an active certification in ASPMA and payment of a renewal fee.

(c) A Podiatric Medical Assistant permit issued by the board prior to July 1, 2007, shall for all purposes be considered a permit issued under this article: Provided, That a person holding a Podiatric Medical Assistant permit issued prior to July 1, 2007, must renew the permit pursuant to the provisions of this article.

ARTICLE 25. NURSING HOME ADMINISTRATORS.

§30-25-8. Qualifications for license; exceptions; application; fees.

(a) To be eligible for a license to engage in the practice of nursing home administration, the applicant must:

- (1) Submit an application to the board;
- (2) Be of good moral character;
- (3) Obtain a baccalaureate degree;
- (4) Pass a state and national examination as approved by the board;
- (5) Complete the required experience as prescribed by the board;
- (6) Successfully complete a criminal background check, through the West Virginia State Police and the National Criminal Investigative Center;
- (7) Successfully complete a Health Integrity Protection Data Bank check;

(8) Not be an alcohol or drug abuser as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered;

(9) Not have been convicted of a felony in any jurisdiction within 10 years preceding the date of application for license which conviction remains unreversed;

(10) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of nursing home administration, which conviction remains unreversed: *Provided*, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code; and

(11) Has fulfilled any other requirement specified by the board.

(b) A license issued by the board prior to July 1, 2010, shall for all purposes be considered a license issued under this article: *Provided*, That a person holding a license issued prior to July 1, 2010, must renew the license pursuant to the provisions of this article.

ARTICLE 26. HEARING-AID DEALERS AND FITTERS.

§30-26-5. Application for licenses; qualifications of applicants; fees; duties of the board with respect thereto.

Each person desiring to obtain a license from the board to engage in the practice of dealing in or fitting of hearing aids shall make application to the board. The application shall be made in such manner and form as prescribed by the board and shall be accompanied by the prescribed fee. The application shall state under oath that the applicant:

(1) Intends to maintain a permanent office or place of business in this state or that the applicant has at the time of application a permanent office or place of business in another state within a reasonable commuting distance from this state. The board shall

determine and prescribe by regulation the term “reasonable distance” as used herein;

(2) Is a person of good moral character ~~and that he or she has never been convicted of nor is presently under indictment for a crime involving moral turpitude;~~

(3) Is 18 years of age or older;

(4) Has an education equivalent to a four-year course in an accredited high school; and

(5) Is free of chronic infectious or contagious diseases.

Any person who fails to meet any of the standards set forth in the next preceding paragraph shall not be eligible or qualified to take the examination nor shall any such person be eligible or qualified to engage in the practice of dealing in or fitting of hearing aids.

The board, after first determining that the applicant is qualified and eligible in every respect to take the examination, shall notify the applicant that he or she has fulfilled all of the qualifications and eligibility requirements as required by this section and shall advise him or her of the date, time, and place for him or her to appear to be examined as required by the provisions of this article and the regulations promulgated by the board pursuant to this article.

The board, with the aid and assistance of the department, shall give at least one annual examination of the type required by this article and may give such additional examinations, at such times and places, as the board and the department may deem proper, giving consideration to the number of applications.

§30-26-13. Refusal to issue, suspension or revocation of license or trainee permit; false and deceptive advertising.

(a) The board may refuse to issue or renew, or may suspend or revoke any license or trainee permit for ~~any one, or~~ any combination of the following causes: Violation of a rule or regulation governing the ethical practice of dealing in or fitting of

hearing aids promulgated by the board under the authority granted by this article; conviction of a felony, as shown by a certified copy of the record of the court wherein such conviction was had after such conviction has become final; the obtaining of or the attempt to obtain a license, money, or any other thing of value, by fraudulent misrepresentation; malpractice; continued practice of dealing in or fitting of hearing aids by a person knowingly having a chronic infectious or contagious disease; habitual drunkenness or addiction to the use of a controlled substance as defined in §60-1-101 *et seq.* of this code; advertising, practicing or attempting to practice under a name other than ones own; advertising by means of or selling by the use of knowingly false or deceptive statements: Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code.

(b) False and deceptive advertisement shall constitute unethical practice and the board, by rules and regulations, may regulate and proscribe acts considered by it to be false and deceptive advertisement.

The rules and regulations promulgated pursuant to this subsection shall include prohibitions against: (1) Advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised; (2) representing that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, or using the words “doctor”, “clinic”, or similar words, abbreviations, or symbols which tend to connote the medical profession when such use is not accurate; and (3) advertising a manufacturers product or using a manufacturers name or trademark which implies a relationship with the manufacturer that does not exist or using the words “audiologist”, “state licensed clinic”, “state registered”, “state certified”, or “state approved”, or any other term, abbreviation, or symbol when it would falsely give the impression that service is being provided by persons holding a degree in

audiology or trained in clinical audiology, or that licensees service has been recommended by the state when such is not the case.

(c) The refusal to issue or renew a license or trainee permit, or the suspension or revocation of a license or trainee permit by the board must have the concurrence of a majority of the members of the board.

ARTICLE 30. SOCIAL WORKERS.

§30-30-8. License to practice as an independent clinical social worker.

To be eligible for a license to practice as an independent clinical social worker, the applicant must:

- (1) Submit an application to the board;
- (2) Be at least 18 years of age;
- (3) Be of good moral character;
- (4) Have obtained a masters degree from a school of social work accredited by the council on social work education that included a concentration of clinically-oriented course work as defined by the board;
- (5) Have completed a supervised clinical field placement at the graduate level, or post-masters clinical training that is found by the board to be equivalent;
- (6) Have practiced clinical social work for at least two years in full-time employment, or 3,000 under the supervision of an independent clinical social worker, or clinical supervision that is found by the board to be equivalent;
- (7) Have passed an examination approved by the board;
- (8) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;

(9) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(10) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license which conviction remains unreversed;

(11) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed: *Provided*, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code; and

(12) Meet any other requirements established by the board.

§30-30-10. License to practice as a certified social worker.

(a) To be eligible for a license to practice as certified social worker, the applicant must:

(1) Submit an application to the board;

(2) Be at least 18 years of age;

(3) Be of good moral character;

(4) Have obtained a masters degree from a school of social work accredited by the council on social work education;

(5) Have practiced social work for at least two-years post-masters experience in full-time employment or earned 3,000 hours of post-master's social work experience;

(6) Have passed an examination approved by the board;

(7) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;

(8) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(9) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;*

(10) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code; and*

(11) Meet other additional requirements as established by the board.

(b) A certified social worker may engage in the practice of clinical social work, if that certified social worker has:

(1) Obtained a masters degree from a school of social work accredited by the council on social work education that included a concentration of clinically-oriented course work as defined by the board;

(2) Has completed a supervised clinical field placement at the graduate level, or post-master's clinical training that is found by the board to be equivalent;

(3) Has contracted, in writing, with a licensed clinical social worker who shall assume responsibility for and supervise the certified social workers practice as directed by the board by promulgation of legislative rules;

(4) Is an employee of an institution or organization in which the certified social worker has no direct or indirect interest other than employment.

(c) A certified social worker may not practice clinical social work until his or her contract has been approved by the board and shall cease the practice of clinical social work immediately upon the termination of the contract. At the termination of the contract, the certified social worker shall apply for licensure as a licensed clinical social worker or request an extension of the contract from the board.

§30-30-12. License to practice as a licensed graduate social worker.

(a) To be eligible for a license to practice as a graduate social worker, the applicant must:

(1) Submit an application to the board;

(2) Be at least 18 years of age;

(3) Be of good moral character;

(4) Have obtained a master's degree from a school of social work accredited by the council on social work education;

(5) Have passed an examination approved by the board;

(6) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;

(7) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(8) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license which conviction remains unreversed: *Provided*, That any

consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;

(9) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed: Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code; and

(10) Meet any other requirements established by the board.

(b) A licensed graduate social worker may engage in the practice of clinical social work, if he or she has:

(1) Obtained a masters degree from a school of social work accredited by the council on social work education that included a concentration of clinically oriented course work as defined by the board;

(2) Has completed a supervised clinical field placement at the graduate level, or post-master's clinical training that is found by the board to be equivalent;

(3) Has contracted, in writing, with a licensed clinical social worker who shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of legislative rules;

(4) Be employed by an institution or organization in which the graduate social worker has no direct or indirect interest other than employment.

(c) A graduate social worker may not practice clinical social work until this contract has been approved by the board and shall cease the practice of clinical social work immediately upon the termination of the contract. At the termination of the contract, the graduate social worker shall apply for licensure as a licensed independent clinical social worker or request an extension of the contract from the board.

§30-30-14. License to practice as a social worker.

To be eligible for a license to practice as a social worker, the applicant must:

- (1) Submit an application to the board;
- (2) Be at least 18 years of age;
- (3) Be of good moral character;
- (4) Have a baccalaureate degree in social work from a program accredited by the council on social work education;
- (5) Have passed an examination approved by the board;
- (6) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;
- (7) Not be an alcohol or drug abuser, as these terms are defined in 27A-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;
- (8) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;*
- (9) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed: *Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;* and
- (10) Meet any other requirements established by the board.

§30-30-26. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may upon its own motion based on credible information, and shall upon the written complaint of any person, cause an investigation to be made to determine whether grounds exist for disciplinary action under this article or the legislative rules promulgated pursuant to this article.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee or permittee.

(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license or permit or the imposition of sanctions against the licensee or permittee. Any hearing shall be held in accordance with this article.

(e) Any member of the board or the administrator of the board may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person regulated by the article.

(f) Any member of the board or its administrator may sign a consent decree or other legal document on behalf of the board.

(g) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend, restrict, or revoke the license or permit of, or impose probationary conditions upon or take disciplinary action against, any licensee or permittee for any of the following reasons once a violation has been proven by a preponderance of the evidence:

(1) Obtaining a license or permit by fraud, misrepresentation, or concealment of material facts;

(2) Being convicted of a felony ~~or other crime involving moral turpitude~~: Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;

(3) Being guilty of unprofessional conduct which placed the public at risk, as defined by legislative rule of the board;

(4) Intentional violation of a lawful order or legislative rule of the board;

(5) Having had a license or other authorization revoked or suspended, other disciplinary action taken, or an application for licensure or other authorization revoked or suspended by the proper authorities of another jurisdiction;

(6) Aiding or abetting unlicensed practice; or

(7) Engaging in an act while acting in a professional capacity which has endangered or is likely to endanger the health, welfare, or safety of the public.

(h) For the purposes of subsection (g) of this section, effective July 1, 2011, disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Restrictions;

(4) Administrative fine, not to exceed \$1,000 per day per violation;

(5) Mandatory attendance at continuing education seminars or other training;

(6) Practicing under supervision or other restriction; or

(7) Requiring the licensee or permittee to report to the board for periodic interviews for a specified period of time.

(i) In addition to any other sanction imposed, the board may require a licensee or permittee to pay the costs of the proceeding.

ARTICLE 31. LICENSED PROFESSIONAL COUNSELORS.

§30-31-8. Requirements for license to practice counseling.

(a) To be eligible for a license to practice professional counseling, an applicant must:

(1) Be of good moral character;

(2) Be at least 18 years of age;

(3) Be a citizen of the United States or be eligible for employment in the United States;

(4) Pay the applicable fee;

(5)(A)(i) Have earned a master's degree in an accredited counseling program or in a field closely related to an accredited counseling program as determined by the board or have received training equivalent to such degree as may be determined by the board; and

(ii) Have at least two years of supervised professional experience in counseling of such a nature as is designated by the board after earning a master's degree or equivalent; or

(B)(i) Have earned a doctorate degree in an accredited counseling program or in a field closely related to an accredited counseling program as determined by the board or have received training equivalent to such degree as may be determined by the board; and

(ii) Have at least one year of supervised professional experience in counseling of such a nature as is designated by the board after earning a doctorate degree or equivalent;

(6) Have passed a standardized national certification examination in counseling approved by the board;

(7) Not have been convicted of a felony ~~or crime involving moral turpitude~~ under the laws of any jurisdiction: Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code:

(A) If the applicant has never been convicted of a felony ~~or a crime involving moral turpitude~~, the applicant shall submit letters of recommendation from three persons not related to the applicant and a sworn statement from the applicant stating that he or she has never been convicted of a felony ~~or a crime involving moral turpitude~~; or

(B) If the applicant has been convicted of a felony ~~or a crime involving moral turpitude~~, it is a rebuttable presumption that the applicant is unfit for licensure unless he or she submits competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensed professional counselor as may be established by the production of:

(i) Documentary evidence including a copy of the relevant release or discharge order, evidence showing compliance with all conditions of probation or parole, evidence showing that at least one year has elapsed since release or discharge without subsequent conviction, and letters of reference from three persons who have been in contact with the applicant since his or her release or discharge; and

(ii) Any collateral evidence and testimony as may be requested by the board which shows the nature and seriousness of the crime, the circumstances relative to the crime or crimes committed and any mitigating circumstances or social conditions surrounding the crime or crimes and any other evidence necessary for the board to judge present fitness for licensure or whether licensure will enhance the likelihood that the applicant will commit the same or similar offenses;

(8) Not be an alcohol or drug abuser as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant who has had at least two continuous years of uninterrupted sobriety in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered; and

(9) Has fulfilled any other requirement specified by the board.

(b) A person who holds a license or other authorization to practice counseling issued by another state, the qualifications for which license or other authorization are determined by the board to be at least substantially equivalent to the license requirements in this article, is eligible for licensure.

(c) A person seeking licensure under the provisions of this section shall submit an application on a form prescribed by the board and pay all applicable fees. A person applying for licensure may elect for a temporary permit to utilize during the application process while the applicant takes the required examination. The temporary permit shall be valid for a period not to exceed six months and may not be renewed. The fee for the temporary permit is \$50. The permittee shall be supervised by an approved licensed professional supervisor while practicing under the temporary permit. Supervision hours completed under the temporary permit count as supervised professional experience as required for licensure under this section. The supervision requirements are the same as required with a provisional license as defined in section six of this article. The temporary permit may be revoked at any time by a majority vote of the board.

(d) A person who has been continually licensed under this article since 1987, pursuant to prior enactments permitting waiver of certain examination and other requirements, is eligible for renewal under the provisions of this article.

(e) A license to practice professional counseling issued by the board prior to July 1, 2009, shall for all purposes be considered a license issued under this article: *Provided*, That a person holding a

license issued prior to July 1, 2009, must renew the license pursuant to the provisions of this article.

§30-31-9. Requirements for a license to practice marriage and family therapy.

(a) To be eligible for a license to practice marriage and family therapy, an applicant must:

(1) Be of good moral character;

(2) Be at least 18 years of age;

(3) Be a citizen of the United States or be eligible for employment in the United States;

(4) Pay the applicable fee;

(5)(A)(i) Have earned a master's degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, the Council for Accreditation of Counseling and Related Education Programs, or a comparable accrediting body as approved by the board, or in a field closely related to an accredited marriage and family therapy program as determined by the board, or have received training equivalent to such degree as may be determined by the board; and

(ii) Have at least two years of supervised professional experience in marriage and family therapy of such a nature as is designated by the board after earning a master's degree or equivalent; or

(B)(i) Have earned a doctorate degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, the Council for Accreditation of Counseling and Related Education Programs, or a comparable accrediting body as approved by the board, or in a field closely related to an accredited marriage and family therapy program as determined by the board, or have

received training equivalent to such degree as may be determined by the board; and

(ii) Have at least one year of supervised professional experience in marriage and family therapy of such a nature as is designated by the board after earning a doctorate degree or equivalent;

(6) Have passed a standardized national certification examination in marriage and family therapy as approved by the board;

(7) Not have been convicted of a felony ~~or crime involving moral turpitude~~ under the laws of any jurisdiction: Provided, That any consideration of prior criminal convictions shall be governed by the provisions of §30-1-22 of this code:

(A) If the applicant has never been convicted of a felony ~~or a crime involving moral turpitude~~, the applicant shall submit letters of recommendation from three persons not related to the applicant and a sworn statement from the applicant stating that he or she has never been convicted of a felony ~~or a crime involving moral turpitude~~; or

(B) If the applicant has been convicted of a felony ~~or a crime involving moral turpitude~~, it is a rebuttable presumption that the applicant is unfit for licensure unless he or she submits competent evidence of sufficient rehabilitation and present fitness to perform the duties of a person licensed to practice marriage and family therapy as may be established by the production of:

(i) Documentary evidence including a copy of the relevant release or discharge order, evidence showing compliance with all conditions of probation or parole, evidence showing that at least one year has elapsed since release or discharge without subsequent conviction, and letters of reference from three persons who have been in contact with the applicant since his or her release or discharge; and

(ii) Any collateral evidence and testimony as may be requested by the board which shows the nature and seriousness of the crime,

the circumstances relative to the crime or crimes committed and any mitigating circumstances or social conditions surrounding the crime or crimes, and any other evidence necessary for the board to judge present fitness for licensure or whether licensure will enhance the likelihood that the applicant will commit the same or similar offenses;

(8) Not be an alcohol or drug abuser as these terms are defined in §27-1A-1 of this code: *Provided*, That an applicant who has had at least two continuous years of uninterrupted sobriety in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a 12-step program or other similar group or process, may be considered; and

(9) Has fulfilled any other requirement specified by the board.

(b) A person who holds a license or other authorization to practice marriage and family therapy issued by another state, the qualifications for which license or other authorization are determined by the board to be at least substantially equivalent to the license requirements in this article, is eligible for licensure.

(c) A person seeking licensure under the provisions of this section shall submit an application on a form prescribed by the board and pay all applicable fees. A person applying for licensure may elect for a temporary permit to utilize during the application process while the applicant takes the required examination. The temporary permit shall be valid for a period not to exceed six months and may not be renewed. The fee for the temporary permit is \$50. The permittee shall be supervised by an approved licensed professional supervisor while practicing under the temporary permit. Supervision hours completed under the temporary permit count as supervised professional experience as required for licensure under this section. The supervision requirements are the same as required with a provisional license as defined in section six of this article. The temporary permit may be revoked at any time by a majority vote of the board.

(d) A person who is licensed for five years as of July 1, 2010, and has substantially similar qualifications as required by

subdivisions (1), (2), (3), (4), (5)(A)(i) or (5)(B)(i), (7) and (8), subsection (a) of this section is eligible for a license to practice marriage and family therapy until July 1, 2012, and is eligible for renewal under section ten of this article.

ARTICLE 38. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT.

§30-38-12. Refusal to issue or renew license or certification; suspension or revocation; grounds for disciplinary action.

(a) The following acts or omissions are grounds for disciplinary action, and the board may refuse to issue or renew a license or certification, or after issuance may suspend or revoke a license or certification, or impose disciplinary sanctions for:

(1) Procuring or attempting to procure license or certification under this article by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the board, or procuring or attempting to procure a license or certification through fraud or misrepresentation;

(2) Paying money other than the fees provided for by this article to any member or employee of the board to procure a license or certification under this article;

(3) An act or omission in the practice of real estate appraising which constitutes dishonesty, fraud, or misrepresentation with the intent to substantially benefit the licensee or another person or with the intent to substantially injure another person;

(4) Entry of a final civil or criminal judgment against a licensee on grounds of fraud, misrepresentation, or deceit in the making of an appraisal of real estate;

(5) Conviction, including a conviction based upon a plea of guilty or ~~nolo contendere~~ nolo contendere of a crime which is substantially related to the qualifications, functions, or duties of a person developing real estate appraisals and communicating real estate appraisals to others: Provided, That any consideration of

prior criminal convictions shall be governed by the provisions of §30-1-22 of this code;

(6) Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

(7) Violation of any section of this article, or any rule of the board;

(8) Violation of the confidential nature of governmental records to which a licensee gained access through employment or engagement as an appraiser by a governmental agency;

(9) Acceptance of a fee that is or was contingent upon the appraiser reporting a predetermined analysis, opinion, or conclusion, or is or was contingent upon the analysis, opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;

(10) Failing to meet the minimum qualifications for state licensure or certification established by or pursuant to this article; or

(11) Failing or refusing without good cause to exercise reasonable diligence, or negligence or incompetence, in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

(b) Every person licensed or certified by the board has a duty to report to the board in a timely manner any known or observed violation of this article or the board's rules by any other person licensed or certified by the board.

ARTICLE 39. UNIFORM ATHLETE AGENTS ACT.

§30-39-6. Certificate of registration; issuance or denial; renewal.

(a) Except as otherwise provided in subsection (b) of this section, the Secretary of State shall issue a certificate of registration

to an individual who complies with §30-39-5 of this code or whose application has been accepted under §30-39-5 of this code.

(b) The Secretary of State may refuse to issue a certificate of registration if the Secretary of State determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the Secretary of State may consider whether the applicant has:

(1) Been convicted of a crime that, if committed in this state, would be a ~~crime involving moral turpitude~~ or a felony;

(2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(4) Engaged in conduct prohibited by §30-39-14 of this code;

(5) Had a registration or licensure as an athlete agent suspended, revoked, or denied, or been refused renewal of registration or licensure as an athlete agent in any state;

(6) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or

(7) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subsection (b) of this section, the Secretary of State shall consider:

(1) How recently the conduct occurred;

(2) The nature of the conduct and the context in which it occurred; and

(3) Any other relevant conduct of the applicant.

(d) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the Secretary of State. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

(e) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (d) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The Secretary of State shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:

(1) Was submitted in the other state within six months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;

(2) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and

(3) Was signed by the applicant under penalty of perjury.

(f) A certificate of registration or a renewal of a registration is valid for two years.

The bill (Eng. Com. Sub. for H. B. 2486), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2524, Permitting a pharmacist to convert prescriptions authorizing refills under certain circumstances.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Health and Human Resources, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section thirty-five, line eighteen, after the word “seq.,” by inserting the word “and”;

On page two, section thirty-five, line nineteen, by striking out all of subdivision (5);

And,

By renumbering the remaining subdivision.

The bill (Eng. Com. Sub. for H. B. 2524), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2541, Requiring certain safety measures be taken at public schools.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Education, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section ten, line eight, by striking out the word “teachers” and inserting in lieu thereof the words “all school personnel”;

On page one, section ten, line nine, by striking out the word “teachers” and inserting in lieu thereof the words “all school personnel”;

And,

On page one, section ten, line nine, after the word “at” by inserting the word “the”.

The bill (Eng. Com. Sub. for H. B. 2541), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2601, Relating to the review and approval of state property leases.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2661, Relating to natural gas utilities.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2662, Relating to certificates or employment of school personnel.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Education, were reported by the Clerk, considered simultaneously, and adopted:

On page three, section five, line forty-nine, by striking out the word “or”;

On page three, section five, line fifty, after the word “substance” by inserting a comma and the words “or upon a finding of abuse by the Department of Health and Human Resources under §49-1-1 *et seq.* of this code”;

On page seven, section eight-e, line eighty-four, by striking out the word “or”;

And,

On page seven, section eight-e, line eighty-five, after the word “substance” by inserting a comma and the words “or upon a finding of abuse by the Department of Health and Human Resources under §49-1-1 *et seq.* of this code”.

The bill (Eng. Com. Sub. for H. B. 2662), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2715, Relating to Class Q special hunting permit for disabled persons.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2716, Relating to vessel lighting and equipment requirements.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2739, Relating to contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2768, Reducing the use of certain prescription drugs.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 54. OPIOID REDUCTION ACT.

§16-54-1. Definitions.

As used in this section:

“Acute pain” means a time limited pain caused by a specific disease or injury.

“Chronic pain” means a noncancer, nonend of life pain lasting more than three months or longer than the duration of normal tissue healing.

“Health care practitioner” or “practitioner” means:

(1) A physician ~~licensed~~ authorized pursuant to the provisions of §30-3-1 *et seq.* and §30-14-1 *et seq.* of this code;

(2) A podiatrist licensed pursuant to the provisions of §30-3-1 *et seq.* of this code;

(3) A physician assistant with prescriptive authority as set forth in §30-3E-3 of this code;

(4) An advanced practice registered nurse with prescriptive authority as set forth in §30-7-15a of this code;

(5) A dentist licensed pursuant to the provisions of §30-4-1 *et seq.* of this code; ~~and~~

(6) An optometrist licensed pursuant to the provisions of §30-8-1 *et seq.* of this code;

(7) A physical therapist licensed pursuant to the provisions of §30-20-1 *et seq.* of this code;

(8) An occupational therapist licensed pursuant to the provisions of § 30-28-1 *et seq.* of this code;

(9) An osteopathic physician licensed pursuant to the provisions of §30-14-1 *et seq.* of this code; and

(10) A chiropractor licensed pursuant to the provisions of §30-16-1 *et seq.* of this code.

“Insurance provider” means an entity that is regulated under the provisions of §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.* §33-25-1 *et seq.* and §33-25A-1 *et seq.* of this code.

“Office” means the Office of Drug Control Policy.

“Pain clinic” means the same as that term is defined in §16-5H-2 of this code.

“Pain specialist” means a practitioner who is board certified in pain management or a related field.

“Prescribe” means the advisement of a physician or other licensed practitioner to a patient for a course of treatment. It can include but is not limited to medication, services, supplies, equipment, procedures, diagnostic tests, or screening as permitted by the physician or other licensed practitioner’s scope of practice.

“Referral” means the recommendation by a person to another person for the purpose of initiating care by a health care practitioner.

“Schedule II opioid drug” means an opioid drug listed in §60A-2-206 of this code.

“Surgical procedure” means a medical procedure involving an incision with instruments performed to repair damage or arrest disease in a living body.

§16-54-3. Opioid prescription notifications.

Prior to issuing a prescription for ~~an opioid~~ a Schedule II opioid drug, a practitioner shall:

(1) Advise the patient regarding the quantity of the ~~opioid~~ Schedule II opioid drug and a patient’s option to fill the prescription in a lesser quantity; and

(2) Inform the patient of the risks associated with the ~~opioid~~ Schedule II opioid drug prescribed.

§16-54-4. Opioid prescription limitations.

(a) When issuing a prescription for ~~an opioid~~ a Schedule II opioid drug to an adult patient seeking treatment in an emergency room for outpatient use, a health care practitioner may not issue a prescription for more than a four-day supply: *Provided, That a prescription for a Schedule II opioid drug issued to an adult patient in an emergency room for outpatient use is not considered to be an initial Schedule II opioid prescription.*

(b) When issuing a prescription for ~~an opioid~~ a Schedule II opioid drug to an adult patient seeking treatment in an urgent care facility setting for outpatient use, a health care practitioner may not issue a prescription for more than a four-day supply: *Provided*, That an additional dosing for up to no more than a seven-day supply may be permitted, but only if the medical rationale for more than a four-day supply is documented in the medical record.

(c) A health care practitioner may not issue ~~an opioid~~ an initial Schedule II opioid drug prescription to a minor for more than a three-day supply and shall discuss with the parent or guardian of the minor the risks associated with ~~opioid~~ Schedule II opioid drug use and the reasons why the prescription is necessary.

(d) A dentist or an optometrist may not issue ~~an opioid~~ a Schedule II opioid drug prescription for more than a three-day supply. ~~at any time.~~

(e) A practitioner, other than a dentist or an optometrist, may not issue an initial ~~opioid~~ Schedule II opioid drug prescription for more than a seven-day supply. The prescription shall be for the lowest effective dose which in the medical judgement of the practitioner would be the best course of treatment for this patient and his or her condition.

(f) Prior to issuing an initial ~~opioid~~ Schedule II opioid drug prescription, a practitioner shall:

(1) Take and document the results of a thorough medical history, including the patient's experience with nonopioid medication, nonpharmacological pain management approaches, and substance abuse history;

(2) Conduct, as appropriate, and document the results of a physical examination. The physical exam should be relevant to the specific diagnosis and course of treatment, and should assess whether the course of treatment would be safe and effective for the patient.

(3) Develop a treatment plan, with particular attention focused on determining the cause of the patient's pain; and

(4) Access relevant prescription monitoring information under the Controlled Substances Monitoring Program Database.

(g) Notwithstanding any provision of this code or legislative rule to the contrary, no medication listed as a Schedule II ~~controlled substance~~ opioid drug as set forth in §60A-2-206 of this code, may be prescribed by a practitioner for greater than a 30-day supply: *Provided*, That two additional prescriptions, each for a 30-day period for a total of a 90-day supply, may be prescribed if the practitioner accesses the West Virginia Controlled Substances Monitoring Program Database as set forth in §60A-9-1 *et seq.* of this code: *Provided, however*, That the limitations in this section do not apply to cancer patients, patients receiving hospice care from a licensed hospice provider, patients receiving palliative care, a patient who is a resident of a long-term care facility, or a patient receiving medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.

(h) A practitioner is required to conduct and document the results of a physical examination every 90 days for any patient for whom he or she continues to treat with any Schedule II ~~controlled substance~~ opioid drug as set forth in §60A-2-206 of this code. The physical examination should be relevant to the specific diagnosis and course of treatment, and should assess whether continuing the course of treatment would be safe and effective for the patient.

(i) A veterinarian licensed pursuant to the provisions of §30-10-1 *et seq.* of this code may not issue ~~more than~~ an initial ~~opioid~~ Schedule II opioid drug prescription for more than a seven-day supply. The prescription shall be for the lowest effective dose which in the medical judgment of the veterinarian would be the best course of treatment for the patient and his or her condition.

(j) ~~A prescription for any opioid drug listed on~~ In conjunction with the issuance of the third prescription for a Schedule II opioid drug, as set forth in §60A-2-206 of this code for greater than a seven-day period shall require the patient ~~to~~ shall execute a narcotics contract with the prescribing practitioner. The contract shall be made a part of the patient's medical record. The narcotics contract is required to provide at a minimum that:

(1) The patient agrees only to obtain scheduled medications from this particular prescribing practitioner;

(2) The patient agrees he or she will only fill those prescriptions at a single pharmacy which includes a pharmacy with more than one location;

(3) The patient agrees to notify the prescribing practitioner within 72 hours of any emergency where he or she is prescribed scheduled medication; ~~and~~

(4) If the patient fails to honor the provisions of the narcotics contract, the prescribing practitioner may either terminate the provider-patient relationship or continue to treat the patient without prescribing a Schedule II opioid drug for the patient. Should the practitioner decide to terminate the relationship, he or she is required to do so pursuant to the provisions of this code and any rules promulgated hereunder. Termination of the relationship for the patient's failure to honor the provisions of the contract is not subject to any disciplinary action by the practitioner's licensing board; and

(5) If another physician is approved to prescribe to the patient.

(k) A pharmacist is not responsible for enforcing the provisions of this section and the Board of Pharmacy may not discipline a licensee if he or she fills a prescription in violation of the provisions of this section.

§16-54-5. Subsequent prescriptions; limitations.

(a) ~~No fewer than six days~~ After issuing the initial Schedule II opioid drug prescription as set forth in §16-54-4 of this code, the practitioner, after consultation with the patient, may issue a subsequent prescription for ~~an opioid~~ a Schedule II opioid drug to the patient if:

(1) The subsequent prescription would not be deemed an initial prescription pursuant to §16-54-4 of this code;

(2) The practitioner determines the prescription is necessary and appropriate to the patient's treatment needs and documents the rationale for the issuance of the subsequent prescription; and

(3) The practitioner determines that issuance of the subsequent prescription does not present an undue risk of abuse, addiction, or diversion and documents that determination.

(b) Prior to issuing the subsequent Schedule II opioid drug prescription of the course of treatment, a practitioner shall discuss with the patient, or the patient's parent or guardian if the patient is under 18 years of age, the risks associated with the Schedule II opioid drugs being prescribed. This discussion shall include:

(1) The risks of addiction and overdose associated with Schedule II opioid drugs and the dangers of taking Schedule II opioid drugs with alcohol, benzodiazepines, and other central nervous system depressants;

(2) The reasons why the prescription is necessary;

(3) Alternative treatments that may be available; and

(4) Risks associated with the use of the Schedule II opioid drug being prescribed, specifically that ~~opioids~~ Schedule II opioid drugs are highly addictive, even when taken as prescribed, that there is a risk of developing a physical or psychological dependence on the ~~controlled substance~~ Schedule II opioid drug, and that the risks of taking more opioids than prescribed, or mixing sedatives, benzodiazepines, or alcohol with opioids, can result in fatal respiratory depression.

(c) The discussion as set forth in §16-54-5(b) of this code shall be included in a notation in the patient's medical record.

§16-54-6. Ongoing treatment; referral to pain clinic or pain specialist.

(a) At the time of the issuance of the third prescription for a ~~prescription opioid~~ Schedule II opioid drug the practitioner shall consider referring the patient to a pain clinic or a pain specialist.

The practitioner shall discuss the benefits of seeking treatment through a pain clinic or a pain specialist and provide him or her with an understanding of any risks associated by choosing not to pursue that as an option.

(b) If the patient declines to seek treatment from a pain clinic or a pain specialist and opts to remain a patient of the practitioner, and the practitioner continues to prescribe ~~an opioid for pain~~ a Schedule II opioid drug as provided in this code, the practitioner shall:

(1) Note in the patient's medical records that the patient knowingly declined treatment from a pain clinic or pain specialist;

(2) Review, at a minimum of every three months, the course of treatment, any new information about the etiology of the pain, and the patient's progress toward treatment objectives and document the results of that review;

(3) Assess the patient prior to every renewal to determine whether the patient is experiencing problems associated with physical and psychological dependence and document the results of that assessment; and

(4) Periodically make reasonable efforts, unless clinically contraindicated, to either stop the use of the controlled substance, decrease the dosage, try other drugs or treatment modalities in an effort to reduce the potential for abuse or the development of physical or psychological dependence, and document with specificity the efforts undertaken.

§16-54-7. Exceptions.

(a) This article does not apply to a ~~prescription for a~~ patient who is currently in active treatment for cancer, receiving hospice care from a licensed hospice provider or palliative care provider, or is a resident of a long-term care facility.

~~or to any medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.~~

(b) This article does not apply to a patient being prescribed, or ordered, any medication in an inpatient setting at a hospital.

~~(b)~~ (c) Notwithstanding the limitations on the prescribing of a Schedule II opioid drug contained in §16-54-4 of this code, a practitioner may prescribe an initial seven-day supply of an opioid a Schedule II opioid drug to a post-surgery patient immediately following a surgical procedure. Based upon the medical judgment of the practitioner, a subsequent prescription may be prescribed by the practitioner pursuant to the provisions of this code. Nothing in this section authorizes a practitioner to prescribe any medication which he or she is not permitted to prescribe pursuant to their practice act.

~~(c)~~ (d) A practitioner who acquires a patient after January 1, 2018, who is currently being prescribed an opioid a Schedule II opioid drug from another practitioner shall be is required to access the Controlled Substances Monitoring Program Database as set forth in §60A-9-1 et seq. of this code. Any prescription would not be deemed an initial prescription pursuant to the provisions of this section The practitioner shall otherwise treat the patient as set forth in this code.

~~(d)~~ (e) This article does not apply to an existing practitioner-patient relationship established before January 1, 2018, where there is an established and current opioid treatment plan which is reflected in the patient's medical records.

§16-54-8. Treatment of pain.

~~(a) When patients seek a patient seeks treatment, for any of the myriad conditions that cause pain,~~ a health care practitioner shall refer or prescribe to the patient any of the following treatment alternatives, as is appropriate based on the practitioner's clinical judgment and the availability of the treatment, before starting a patient on a Schedule II opioid drug: physical therapy, occupational therapy, acupuncture, massage therapy, osteopathic manipulation, chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code.

(b) Nothing in this section should be construed to require that all of the treatment alternatives set forth in §16-54-8(a) of this code are required to be exhausted prior to the patient's receiving a prescription for a Schedule II opioid drug.

(c) At a minimum, an insurance provider who offers an insurance product in this state, the Bureau for Medical Services, and the Public Employees Insurance Agency shall provide coverage for 20 visits per event of physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, when ordered or prescribed by a health care practitioner. ~~to treat conditions that cause chronic pain.~~

(d) A ~~patient~~ person may seek ~~treatment for~~ physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, prior to seeking treatment from any other health care practitioner. The licensed health care practitioner providing services pursuant to this section may prescribe within their scope of practice as defined in §16-54-1 of this code. ~~and~~ A health care practitioner referral although permitted is not required as a condition of coverage by the Bureau for Medical Services the Public Employees Insurance Agency, and any insurance provider who offers an insurance product in this state. Any deductible, coinsurance, or copay required for any of these services may not be greater than the deductible, coinsurance, or copay required for a primary care visit.

(e) Nothing in this section precludes a practitioner from simultaneously prescribing a Schedule II opioid drug and prescribing or recommending any of the procedures set forth in §16-54-8(a) of this code.

The bill (Eng. Com. Sub. for H. B. 2768), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2809, Relating to prohibited acts and penalties in the Hatfield-McCoy Recreation Area.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 2816, Removing the terms “hearing impaired,” “hearing impairment,” and “deaf mute” from the West Virginia Code and substituting terms.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2831, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Finance committee amendments pending and the right for further amendments to be considered on that reading.

Eng. House Bill 2846, Designating a “Back the Blue” plate in support of law-enforcement personnel.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION;
ISSUANCE OF CERTIFICATES OF TITLE.**

§17A-3-14. Registration plates generally; description of plates; issuance of special numbers and plates; registration fees; special application fees; exemptions; commissioner to promulgate forms; suspension and nonrenewal.

(a) The division, upon registering a vehicle, shall issue to the owner one registration plate for a motorcycle, trailer, semitrailer, or other motor vehicle.

(b) Registration plates issued by the division shall meet the following requirements:

(1) Every registration plate shall be of reflectorized material and have displayed upon it the registration number assigned to the vehicle for which it is issued; the name of this state, which may be abbreviated; and the year number for which it is issued or the date of expiration of the plate.

(2) Every registration plate and the required letters and numerals on the plate shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight: *Provided*, That the requirements of this subdivision shall not apply to the year number for which the plate is issued or the date of expiration.

(3) Registration numbering for registration plates shall begin with number two.

(c) The division may not issue, permit to be issued, or distribute any special registration plates except as follows:

(1) The Governor shall be issued two registration plates, on one of which shall be imprinted the numeral one and on the other the word one.

(2) State officials and judges may be issued special registration plates as follows:

(A) Upon appropriate application, the division shall issue to the Secretary of State, State Superintendent of Schools, Auditor, Treasurer, Commissioner of Agriculture, and the Attorney General, the members of both houses of the Legislature, including the elected officials of both houses of the Legislature, the justices of the Supreme Court of Appeals of West Virginia, the representatives and senators of the state in the Congress of the United States, the judges of the West Virginia circuit courts, active and retired on senior status, the judges of the United States district

courts for the State of West Virginia and the judges of the United States Court of Appeals for the fourth circuit, if any of the judges are residents of West Virginia, a special registration plate for a Class A motor vehicle and a special registration plate for a Class G motorcycle owned by the official or his or her spouse: *Provided*, That the division may issue a Class A special registration plate for each vehicle titled to the official and a Class G special registration plate for each motorcycle titled to the official.

(B) Each plate issued pursuant to this subdivision shall bear any combination of letters and numbers not to exceed an amount determined by the commissioner and a designation of the office. Each plate shall supersede the regular numbered plate assigned to the official or his or her spouse during the official's term of office and while the motor vehicle is owned by the official or his or her spouse.

(C) The division shall charge an annual fee of \$15 for every registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.

(3) The division may issue members of the National Guard forces special registration plates as follows:

(A) Upon receipt of an application on a form prescribed by the division and receipt of written evidence from the chief executive officer of the Army National Guard or Air National Guard, as appropriate, or the commanding officer of any United States armed forces reserve unit that the applicant is a member thereof, the division shall issue to any member of the National Guard of this state or a member of any reserve unit of the United States armed forces a special registration plate designed by the commissioner for any number of Class A motor vehicles owned by the member. Upon presentation of written evidence of retirement status, retired members of this state's Army or Air National Guard, or retired members of any reserve unit of the United States armed forces, are eligible to purchase the special registration plate issued pursuant to this subdivision.

(B) The division shall charge an initial application fee of \$10 for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter. Except as otherwise provided herein, effective July 1, 2007, all fees currently held in the special revolving fund used in the administration of this section and all fees collected by the division shall be deposited in the State Road Fund.

(C) A surviving spouse may continue to use his or her deceased spouse's National Guard forces license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(4) Specially arranged registration plates may be issued as follows:

(A) Upon appropriate application, any owner of a motor vehicle subject to Class A registration, or a motorcycle subject to Class G registration, as defined by this article, may request that the division issue a registration plate bearing specially arranged letters or numbers with the maximum number of letters or numbers to be determined by the commissioner. The division shall attempt to comply with the request wherever possible.

(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-1-1 *et seq.* of this code regarding the orderly distribution of the plates: *Provided*, That for purposes of this subdivision, the registration plates requested and issued shall include all plates bearing the numbers two through 2,000.

(C) An annual fee of \$15 shall be charged for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.

(5) The division may issue honorably discharged veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of vehicles titled in the name of the qualified applicant with

an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee is to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration. All fees collected by the division shall be deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(6) The division may issue disabled veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any disabled veteran who is exempt from the payment of registration fees under the provisions of this chapter a registration plate for a vehicle titled in the name of the qualified applicant which bears the letters "DV" in red and also the regular identification numerals in red.

(B) A surviving spouse may continue to use his or her deceased spouse's disabled veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(C) A qualified disabled veteran may obtain a second disabled veterans license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(7) The division may issue recipients of the distinguished Purple Heart medal special registration plates as follows:

(A) Upon appropriate application, there shall be issued to any armed service person holding the distinguished Purple Heart medal for persons wounded in combat a registration plate for a vehicle titled in the name of the qualified applicant bearing letters or numbers. The registration plate shall be designed by the Commissioner of the Division of Motor Vehicles and shall denote that those individuals who are granted this special registration plate are recipients of the Purple Heart. All letterings shall be in purple where practical.

(B) Registration plates issued pursuant to this subdivision are exempt from all registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's Purple Heart medal license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(D) A recipient of the Purple Heart medal may obtain a second Purple Heart medal license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(8) The division may issue survivors of the attack on Pearl Harbor special registration plates as follows:

(A) Upon appropriate application, the owner of a motor vehicle who was enlisted in any branch of the armed services that participated in and survived the attack on Pearl Harbor on December 7, 1941, the division shall issue a special registration plate for a vehicle titled in the name of the qualified applicant. The registration plate shall be designed by the Commissioner of the Division of Motor Vehicles.

(B) Registration plates issued pursuant to this subdivision are exempt from the payment of all registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's survivors of the attack on Pearl Harbor license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(D) A survivor of the attack on Pearl Harbor may obtain a second survivors of the attack on Pearl Harbor license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(9) The division may issue special registration plates to nonprofit charitable and educational organizations authorized under prior enactment of this subdivision as follows:

(A) Approved nonprofit charitable and educational organizations previously authorized under the prior enactment of this subdivision may accept and collect applications for special registration plates from owners of Class A motor vehicles together with a special annual fee of \$15, which is in addition to all other fees required by this chapter. The applications and fees shall be submitted to the Division of Motor Vehicles with the request that the division issue a registration plate bearing a combination of letters or numbers with the organization's logo or emblem, with the maximum number of letters or numbers to be determined by the commissioner.

(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code regarding the procedures for and approval of special registration plates issued pursuant to this subdivision.

(C) The commissioner shall set an appropriate fee to defray the administrative costs associated with designing and manufacturing special registration plates for a nonprofit charitable or educational organization. The nonprofit charitable or educational organization shall collect this fee and forward it to the division for deposit in the State Road Fund. The nonprofit charitable or educational

organization may also collect a fee for marketing the special registration plates.

(10) The division may issue specified emergency or volunteer registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified paramedic or emergency medical technician, a member of a paid fire department, a member of the State Fire Commission, the State Fire Marshal, the State Fire Marshal's assistants, the State Fire Administrator, and voluntary rescue squad members may apply for a special license plate for any number of Class A vehicles titled in the name of the qualified applicant which bears the insignia of the profession, group, or commission. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subdivision shall bear the requested insignia in addition to the registration number issued to the applicant pursuant to the provisions of this article.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the fire chief or department head of the applicant stating that the applicant is justified in having a registration with the requested insignia; proof of compliance with all laws of this state regarding registration and licensure of motor vehicles; and payment of all required fees.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(11) The division may issue specified certified firefighter registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified firefighter may apply for a special license plate which bears the insignia of the profession, for any number of Class A vehicles titled in the name of the qualified applicant. Any insignia shall be designed by the commissioner.

License plates issued pursuant to this subdivision shall bear the requested insignia pursuant to the provisions of this article. Upon presentation of written evidence of certification as a certified firefighter, certified firefighters are eligible to purchase the special registration plate issued pursuant to this subdivision.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit stating that the applicant is justified in having a registration with the requested insignia; proof of compliance with all laws of this state regarding registration and licensure of motor vehicles; and payment of all required fees. The firefighter certification department, section, or division of the West Virginia University fire service extension shall notify the commissioner in writing immediately when a firefighter loses his or her certification. If a firefighter loses his or her certification, the commissioner may not issue him or her a license plate under this subdivision.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(12) The division may issue special scenic registration plates as follows:

(A) Upon appropriate application, the commissioner shall issue a special registration plate displaying a scenic design of West Virginia which displays the words "Wild Wonderful" as a slogan.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund.

(13) The division may issue honorably discharged Marine Corps League members special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged Marine Corps League member a special

registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) The division may charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. This special fee is to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration and shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged Marine Corps League license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(14) The division may issue military organization registration plates as follows:

(A) The division may issue a special registration plate for the members of any military organization chartered by the United States Congress upon receipt of a guarantee from the organization of a minimum of 100 applicants. The insignia on the plate shall be designed by the commissioner.

(B) Upon appropriate application, the division may issue members of the chartered organization in good standing, as determined by the governing body of the chartered organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.

(C) The division shall charge a special one-time initial application fee of \$10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(D) A surviving spouse may continue to use his or her deceased spouse's military organization registration plate until the surviving spouse dies, remarries, or does not renew the special military organization registration plate.

(15) The division may issue special nongame wildlife registration plates and special wildlife registration plates as follows:

(A) Upon appropriate application, the division shall issue a special registration plate displaying a species of West Virginia wildlife which shall display a species of wildlife native to West Virginia as prescribed and designated by the commissioner and the Director of the Division of Natural Resources.

(B) The division shall charge an annual fee of \$15 for each special nongame wildlife registration plate and each special wildlife registration plate in addition to all other fees required by this chapter. All annual fees collected for nongame wildlife registration plates and wildlife registration plates shall be deposited in a special revenue account designated the Nongame Wildlife Fund and credited to the Division of Natural Resources.

(C) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited in the State Road Fund.

(16) The division may issue members of the Silver Haired Legislature special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any person who is a duly qualified member of the Silver Haired Legislature a specialized registration plate which bears recognition of the applicant as a member of the Silver Haired Legislature.

(B) A qualified member of the Silver Haired Legislature may obtain one registration plate described in this subdivision for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge an annual fee of \$15, in addition to all

other fees required by this chapter, for the plate. All annual fees collected by the division shall be deposited in the State Road Fund.

(17) Upon appropriate application, the commissioner shall issue to a classic motor vehicle or classic motorcycle, as defined in §17A-10-3a of this code, a special registration plate designed by the commissioner. An annual fee of \$15, in addition to all other fees required by this chapter, shall be charged for each classic registration plate.

(18) Honorably discharged veterans may be issued special registration plates for motorcycles subject to Class G registration as follows:

(A) Upon appropriate application, there shall be issued to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of motorcycles subject to Class G registration titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee is to be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(19) Racing theme special registration plates:

(A) The division may issue a series of special registration plates displaying National Association for Stock Car Auto Racing themes.

(B) An annual fee of \$25 shall be charged for each special racing theme registration plate in addition to all other fees required by this chapter. All annual fees collected for each special racing theme registration plate shall be deposited into the State Road Fund.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(20) The division may issue recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star, or Air Medal special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any recipient of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal, a registration plate for any number of vehicles titled in the name of the qualified applicant bearing letters or numbers. A separate registration plate shall be designed by the Commissioner of the Division of Motor Vehicles for each award that denotes that those individuals who are granted this special registration plate are recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal as applicable.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section exempts the applicant for a special registration plate under this subdivision from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal special registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.

(21) The division may issue honorably discharged veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States with verifiable service during World War II, the Korean War, the Vietnam War, the Persian Gulf War, or the War Against Terrorism a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the commissioner denoting service in the applicable conflict.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing contained in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans' registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.

(22) The division may issue special volunteer firefighter registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of West Virginia and who is a volunteer firefighter may apply for a special license plate for any Class A vehicle titled in the name of the qualified applicant which bears the insignia of the profession in white letters on a red background. The insignia shall be designed by the commissioner and shall contain a fireman's helmet insignia on the left side of the license plate.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the applicant's fire chief, stating that the applicant is a volunteer firefighter and justified in having a registration plate with the requested insignia. The applicant must comply with all other laws of this state regarding registration and licensure of motor vehicles and must pay all required fees.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special one-time initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All application fees shall be deposited into the State Road Fund.

(23) The division may issue special registration plates which reflect patriotic themes, including the display of any United States symbol, icon, phrase, or expression which evokes patriotic pride or recognition. The division shall also issue registration plates with the words “In God We Trust”:

(A) Upon appropriate application, the division shall issue to an applicant a registration plate of the applicant’s choice, displaying a patriotic theme as provided in this subdivision, for a vehicle titled in the name of the applicant. A series of registration plates displaying patriotic themes shall be designed by the Commissioner of the Division of Motor Vehicles for distribution to applicants.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of the license plates designated by this subdivision.

(24) Special license plates bearing the American flag and the logo “9/11/01”:

(A) Upon appropriate application, the division shall issue special registration plates which shall display the American flag and the logo “9/11/01”.

(B) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees

required by this chapter. All application fees shall be deposited into the State Road Fund.

(25) The division may issue a special registration plate celebrating the centennial of the 4-H youth development movement and honoring the Future Farmers of America organization as follows:

(A) Upon appropriate application, the division may issue a special registration plate depicting the symbol of the 4-H organization which represents the head, heart, hands, and health as well as the symbol of the Future Farmers of America organization which represents a cross section of an ear of corn for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special 4-H Future Farmers of America registration plate in addition to all other fees required by this chapter.

(26) The division may issue special registration plates to educators in the state's elementary and secondary schools and in the state's institutions of higher education as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special educator registration plate in addition to all other fees required by this chapter.

(27) The division may issue special registration plates to members of the Nemesis Shrine as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in Nemesis Shrine.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the Nemesis Shrine to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2005.

(28) The division may issue volunteers and employees of the American Red Cross special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any person who is a duly qualified volunteer or employee of the American Red Cross a specialized registration plate which bears recognition of the applicant as a volunteer or employee of the American Red Cross for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(29) The division shall issue special registration plates to individuals who have received either the Combat Infantry Badge or the Combat Medic Badge as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof that they have received either the Combat Infantry Badge or the Combat Medic Badge.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(30) The division may issue special registration plates to members of the Knights of Columbus as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Columbus.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the Knights of Columbus to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2007.

(31) The division may issue special registration plates to former members of the Legislature as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of former service as an elected or appointed member of the West Virginia House of Delegates or the West Virginia Senate.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund. The design of the plate shall indicate total years of service in the Legislature.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(32) Democratic state or county executive committee member special registration plates:

(A) The division shall design and issue special registration plates for use by democratic state or county executive committee members. The design of the plates shall include an insignia of a donkey and shall differentiate by wording on the plate between state and county executive committee members.

(B) An annual fee of \$25 shall be charged for each democratic state or county executive committee member registration plate in addition to all other fees required by this chapter. All annual fees collected for each special plate issued under this subdivision shall be deposited into the State Road Fund.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(D) The division shall not begin production of a plate authorized under the provisions of this subdivision until the division receives at least 100 completed applications from the state

or county executive committee members, including all fees required pursuant to this subdivision.

(E) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the democratic executive committee to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2005.

(33) The division may issue honorably discharged female veterans' special registration plates as follows:

(A) Upon appropriate application, there shall be issued to any female honorably discharged veteran, of any branch of the armed services of the United States, a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a woman veteran.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(34) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with West Liberty State College to any resident owner of a motor vehicle. Resident owners may apply for the special license plate for any number of Class A vehicles titled in the name of the applicant. The special registration plates shall be designed by the commissioner. Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$15, which is in addition to any other registration or license fee required by this chapter. The division shall charge an annual fee of \$15 for each special registration plate in addition to

all other fees required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(35) The division may issue special registration plates to members of the Harley Owners Group as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Harley Owners Group.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(36) The division may issue special registration plates for persons retired from any branch of the armed services of the United States as follows:

(A) Upon appropriate application, there shall be issued to any person who has retired after service in any branch of the armed services of the United States, a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as retired from the armed services of the United States.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any registrants from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's retired military license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(37) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with or support for Fairmont State College as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(38) The division may issue special registration plates honoring the farmers of West Virginia, and the division may issue special beekeeper pollinator registration plates as follows:

~~(A) Any owner of a motor vehicle who is a resident of West Virginia may apply for a special license plate~~ Upon appropriate application, the division shall issue a special registration plate depicting a farming scene or other apt reference to farming, whether in pictures or words, at the discretion of the commissioner. Upon appropriate application, the division shall issue a special registration plate displaying a pollinator species or advocating its protection as prescribed and designated by the commissioner.

(B) The division shall charge a special initial application fee of \$10 for each plate in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(39) The division shall issue special registration plates promoting education as follows:

(A) Upon appropriate application, the division shall issue a special registration plate displaying a children's education-related theme as prescribed and designated by the commissioner and the State Superintendent of Schools.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(40) The division may issue members of the 82nd Airborne Division Association special registration plates as follows:

(A) The division may issue a special registration plate for members of the 82nd Airborne Division Association upon receipt of a guarantee from the organization of a minimum of 100 applicants. The insignia on the plate shall be designed by the commissioner.

(B) Upon appropriate application, the division may issue members of the 82nd Airborne Division Association in good standing, as determined by the governing body of the organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.

(C) The division shall charge a special one-time initial application fee of \$10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund: *Provided*, That nothing in this section may be construed to exempt the applicant from any other provision of this chapter.

(D) A surviving spouse may continue to use his or her deceased spouse's special 82nd Airborne Division Association registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.

(41) The division may issue special registration plates supporting law-enforcement officers, and the division may issue special registration plates to survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner which recognizes, supports, and honors the men and women of law-enforcement and includes the words "Back the Blue". Upon appropriate application, the division shall issue to any member of a municipal police department, sheriff's department, the State Police, or the law-enforcement division of the Division of Natural Resources who has been wounded in the line of duty and awarded a Purple Heart in recognition thereof by the West Virginia Chiefs of Police Association, the West Virginia Sheriffs' Association, the West Virginia Troopers Association, or the Division of Natural Resources a special registration plate for one vehicle titled in the name of the qualified applicant with an insignia appropriately designed by the commissioner.

(B) For special registration plates supporting law-enforcement officers, the division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund. An annual fee of \$15 shall be charged for each plate supporting law-enforcement officers in addition to all other fees required by this chapter.

(C) Registration plates issued pursuant to this subdivision to survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency are exempt from the registration fees otherwise required by the provisions of this chapter. (C) A surviving spouse may continue to use his or her deceased spouse's special registration plate until the surviving spouse dies, remarries, or does not renew the plate. (D) Survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency may obtain a license plate as described in this subdivision for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a

one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(42) The division may issue a special registration plate for persons who are Native-Americans and residents of this state:

(A) Upon appropriate application, the division shall issue to an applicant who is a Native-American resident of West Virginia a registration plate for a vehicle titled in the name of the applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a Native-American.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(43) The division may issue special registration plates commemorating the centennial anniversary of the creation of Davis and Elkins College as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to commemorate the centennial anniversary of Davis and Elkins College for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(44) The division may issue special registration plates recognizing and honoring breast cancer survivors. The division

may also issue special registration plates to support a cure for childhood cancer:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and honor breast cancer survivors, such plate to incorporate somewhere in the design the “pink ribbon emblem”, for any number of vehicles titled in the name of the applicant. Upon appropriate application, the division may also issue a special registration plate designed by the commissioner to support a cure for childhood cancer, such plate to incorporate somewhere in the design the gold ribbon emblem with “WV Kids Cancer Crusaders” below or next to the emblem and “Cure Childhood Cancer” at the bottom of the plate, for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(45) The division may issue special registration plates to members of the Knights of Pythias or Pythian Sisters as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Pythias or Pythian Sisters.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(46) The commissioner may issue special registration plates for whitewater rafting enthusiasts as follows: