

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2017
FIFTY-SIXTH DAY

Charleston, West Virginia, Tuesday, April 4, 2017

The Senate met at 11 a.m.

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

Prayer was offered by Pastor Mike House, Ambassador Baptist Church and Ambassador Christian Academy, Elkins, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert D. Beach, a senator from the thirteenth district.

Pending the reading of the Journal of Monday, April 3, 2017,

At the request of Senator Cline, 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, 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 125, Authorizing DHHR promulgate legislative rules.

On motion of Senator Ferns, 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 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES
TO PROMULGATE LEGISLATIVE RULES.**

§64-5-1. Health Care Authority.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section eight, article twenty-nine-b, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2016, relating to the Health Care Authority (Hospital Assistance Grant Program, 65 CSR 31), is authorized.

(b) The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section four, article two-d, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 6, 2017, relating to the Health Care Authority (exemption from certificate of need, 65 CSR 29), is authorized.

(c) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section four, article two-d, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2016, relating to the Health Care Authority (Rural Health Systems Grant Program, 65 CSR 30), is authorized.

(d) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section four, article two-d, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the Health Care Authority (certificate of need, 65 CSR 32), is authorized.

§64-5-2. Department of Health and Human Resources.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section five, article four-f, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 6, 2016, relating to the Department of Health and Human Resources (expedited partner therapy, 64 CSR 103), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section ten, article five-j, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 6, 2016, relating to the Department of Health and Human Resources (clinical laboratory technician and technologist licensure and certification, 64 CSR 57), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article eleven, chapter sixty-a of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on October 11, 2016, relating to the Department of Health and Human Resources (clandestine drug laboratory remediation, 64 CSR 92), is authorized with the following amendments:

On page five, section 6.1.c., by striking out subdivision 6.1.c. in its entirety and inserting in lieu thereof a new subdivision 6.1.c. to read as follows:

6.1.c. In the case of a hotel, motel, or apartment building, all units or areas immediately adjacent to a unit or area within the hotel, motel, or apartment unit that contained a clandestine drug laboratory and that is under the control of the residential property owner must be secured, vacated and tested in accordance with this rule.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section thirteen, article five-y, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Department of Health and Human Resources (medication-assisted treatment—opioid treatment programs, 69 CSR 11), is authorized with the following amendments:

On page sixteen, section 8.4.e., after the word “shall” by striking out the words “practice 90 percent of the hours in which the opioid treatment program is dispensing or administering medications each week in order to”;

And,

On page seventeen, section 8.5.d., after the word “operation” by inserting the words “when medication is dispensed or administered”.

(e) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article five-y, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Department of Health and Human Resources (medication-assisted treatment—office-based medication assisted treatment, 69 CSR 12), is authorized with the following amendments:

On page two, after section 2.8. by inserting a new section 2.9. to read as follows:

2.9. Coordination of Care Agreement – An agreement signed by the physician, counsel and patient allowing open communication and the exchange of health information between the indicated providers to ensure the patient is provided comprehensive and holistic treatment for substance use disorder, when medical treatment and counselling services are not being treated within the same program.;

And by renumbering the remaining sections;

On page four, after section 2.24. by inserting a new section 2.25. to read as follows:

2.25. Maintenance Treatment – treatment following induction and stabilization phases of treatment, and means the ~~dispensing of an opioid agonist or~~ prescribing of a partial agonist treatment medication at stable dosage levels for a period ~~not~~ in excess of twenty-one days in the treatment of an individual for opioid use disorder.;

And by renumbering the remaining sections;

On page fourteen, section 7.5.b., after the words “primary counselor” by inserting the words “or counseling service”;

On page twenty-one, section 13.3.b.3., after the word “patient” by inserting the words “related to the treatment being provided”;

On page twenty-five, section 19.5., after the words “program staff” by inserting a period and striking out the remainder of the sentence;

On page forty-seven, section 29.6., after the period by inserting the words “Refer to section 32.5 of this rule for administrative withdrawal for female patients with a positive pregnancy screen.”;

On page forty-eight, section 30.6., after the period by inserting the words “Refer to section 32.5 of this rule for administrative withdrawal for female patients with a positive pregnancy screen.”;

And,

On page fifty-two, section 32.5.f., by striking out the section and inserting in lieu thereof a new section to read as follows:

32.5.f. If a pregnant patient is discharged, the OBMAT program shall identify the physician to whom the patient is being discharged. If a provider is not available, a referral shall be made to a Comprehensive Behavioral Health Center. This information shall be retained in the clinical record.;

And,

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

Eng. Com. Sub. for Senate Bill 125—A Bill to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, all relating generally to promulgation of administrative rules by the Department of Health and Human Resources; legislative mandate or authorization for promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing the Health Care Authority to promulgate a legislative rule relating to the Hospital Assistance Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to exemption from certificate of need; authorizing the Health Care Authority to promulgate a legislative rule relating to Rural Health Systems Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to certificate of need; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to expedited partner therapy; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clinical laboratory technician and technologist licensure and certification; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clandestine drug laboratory remediation; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—opioid treatment programs; and authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—office-based, medication-assisted treatment.

On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 125) was reported by the Clerk and adopted:

Eng. Com. Sub. for Senate Bill 125—A Bill to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, all relating generally to promulgation of legislative rules by the Department of Health and Human Resources and the Health Care Authority;

authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with amendments recommended by the Legislature; authorizing the Health Care Authority to promulgate a legislative rule relating to the Hospital Assistance Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to exemption from certificate of need; authorizing the Health Care Authority to promulgate a legislative rule relating to Rural Health Systems Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to certificate of need; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to expedited partner therapy; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clinical laboratory technician and technologist licensure and certification; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clandestine drug laboratory remediation; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—opioid treatment programs; and authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment—office-based, medication-assisted treatment.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 125, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 125) passed with its Senate amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 125) takes effect from passage.

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

A message from The Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect July 1, 2017, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 172, Eliminating salary for Water Development Authority board members.

On motion of Senator Ferns, 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, lines thirty-two and thirty-three, by striking out the words “may not receive an annual salary or any compensation beyond” and inserting in lieu thereof the words “shall receive the same compensation for attending official meetings or engaging in official duties not to exceed the amount paid to members of the legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law. Appointed members may receive”.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendment to the bill (Eng. S. B. 172) 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, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 173, Relating generally to autocycles.

On motion of Senator Ferns, 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:

That §17B-1-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §17B-2-7b of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §17C-1-69; and that §17C-15-44 of said code be amended and reenacted, all to read as follows:

CHAPTER 17B. MOTOR VEHICLE DRIVER’S LICENSES.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17B-1-1. Definitions.

~~The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this article:~~

~~(a) *Vehicle*. — Every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks;~~

~~(b) *Motor vehicle*. — Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;~~

~~(c) *Motorcycle*. — Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor as defined herein, a moped as defined in section five-a, article one, chapter seventeen-c of this code, a snowmobile as defined in section one-mm, article one, chapter seventeen-a of this code and an all-terrain vehicle as defined in section one-ii, article one, chapter seventeen-a of this code;~~

~~(d) *Farm tractor*. — Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry;~~

~~(e) *School bus*. — Every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school;~~

~~(f) *Person*. — Every natural person, firm, copartnership, association or corporation;~~

~~(g) *Operator*. — Every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle;~~

~~(h) *Chauffeur*. — Every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation;~~

~~(i) *Driver*. — Means any person who drives, operates or is in physical control of a motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a driver's license;~~

~~(j) *Driver's License*. — Means any permit or license issued by this state to a person which authorizes the person to drive a motor vehicle of a specific class or classes subject to any restriction or endorsement contained thereon;~~

~~(k) *Owner*. — A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter;~~

~~(l) *Nonresident*. — Every person who is not a resident of this state;~~

~~(m) *Street or highway*. — The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;~~

~~(n) *Commissioner.* — The Commissioner of Motor Vehicles of this state;~~

~~(o) *Division.* — The Division of Motor Vehicles of this state acting directly or through its duly authorized officers or agents;~~

~~(p) *Suspension.* — Suspension means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of such suspension;~~

~~(q) *Revocation.* — Revocation means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the division after the expiration of at least one year after the date of revocation, except as otherwise provided in section two, article five-a, chapter seventeen-c of this code;~~

~~(r) *Cancellation.* — Cancellation means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to such license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation;~~

~~(s) *9-1-1 system* means an emergency telephone system or enhanced emergency telephone system as defined in section two, article six, chapter twenty-four of this code;~~

~~(t) *Wireless communication device* means a handheld device used to access a wireless telephone service or a text messaging device.~~

The following words and phrases when used in this chapter, for the purpose of this chapter, have the meanings respectively ascribed to them in this article:

Autocycle. — Every fully or partially enclosed motorcycle that is equipped with safety belts, rollover protection, a rearview mirror, automotive seating, a steering wheel and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time;

Cancellation. — Means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to that license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation;

Chauffeur. — Every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation;

Commissioner. — The Commissioner of Motor Vehicles of this state;

Division. — The Division of Motor Vehicles of this state acting directly or through its duly authorized officers or agents;

Driver. — Means any person who drives, operates or is in physical control of a motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a driver's license;

Driver's License. — Means any permit or license issued by this state to a person which authorizes the person to drive a motor vehicle of a specific class or classes subject to any restriction or endorsement contained thereon;

Farm tractor. — Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

Motorcycle. — Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor as defined herein, a moped as defined in section five-a, article one, chapter seventeen-c of this code, a snowmobile as defined in subsection (mm), section one, article one, chapter seventeen-a of this code and an all-terrain vehicle as defined in subsection (ii), section one of this article;

Motor vehicle. — Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;

9-1-1 system. — Means an emergency telephone system or enhanced emergency telephone system as defined in section two, article six, chapter twenty-four of this code;

Nonresident. — Every person who is not a resident of this state;

Operator. — Every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle;

Owner. — A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor is the owner for the purpose of this chapter;

Person. — Every natural person, firm, copartnership, association or corporation;

Revocation. — Means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the division after the expiration of at least one year after the date of revocation, except as otherwise provided in section two, article five-a, chapter seventeen-c of this code;

School bus. — Every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school;

Street or highway. — The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

Suspension. — Suspension means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of the suspension;

Vehicle. — Every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks;

Wireless communication device. — Means a handheld device used to access a wireless telephone service or a text messaging device.

ARTICLE 2. ISSUANCE OF LICENSE; EXPIRATION AND RENEWAL.

§17B-2-7b. Separate examination and endorsement for a license valid for operation of motorcycle.

(a) The State Police shall administer a separate motorcycle examination for applicants for a license valid for operation of a motorcycle. On and after July 1, 2000, the Division of Motor Vehicles shall administer the examination provided for in this section. Any applicant for a license valid for operation of a motorcycle shall be required to successfully complete the motorcycle examination, which is in addition to the examination administered pursuant to section seven of this article and, if under the age of eighteen, shall be required to complete the requirements for a level two intermediate driver's license set forth in paragraphs (B), (C) and (D), subdivision (1), subsection (j), section three-a of this article: *Provided*, That the commissioner may exempt an applicant for a motorcycle driver's license or endorsement from all or part of the motorcycle license examination as provided in section six, article one-d of this chapter. The motorcycle examination shall test the applicant's knowledge of the operation of a motorcycle and of any traffic laws specifically relating to the operation of a motorcycle and shall include an actual demonstration of the ability to exercise ordinary and reasonable control in the operation of a motorcycle. An applicant for a license valid for the operation of only a motorcycle shall be tested as provided in this section and in section seven of this article, but need not demonstrate actual driving ability in any vehicle other than a motorcycle. The examination provided in this section ~~shall~~ may not be made a condition upon the renewal of the license of any person under this section. For an applicant who successfully completes the motorcycle examination, upon payment of the required fee, the division shall issue a motorcycle endorsement on the driver's license of the applicant, or shall issue a special motorcycle-only license if the applicant does not possess a driver's license: *Provided, however*, That any holder of a motorcycle-only license under the age of eighteen ~~shall~~ be is subject to the provisions of paragraphs (A), (B), (E), (F), (G) and (H), subdivision (2), subsection (j), section three-a of this article.

Every person, including those holding a valid driver's license, is required to take the examination specified in this section to obtain a motorcycle license or endorsement, unless exempted under subsection (b) of this section.

(b) Notwithstanding any provision of this code to the contrary, a person with a valid driver's license who is operating an autocycle is exempt from the motorcycle examination, licensing and endorsement requirements set forth in this article.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-69. Autocycle.

“Autocycle” means a fully or partially enclosed motorcycle that is equipped with safety belts, rollover protection, a rearview mirror, automotive seating, a steering wheel and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time;

ARTICLE 15. EQUIPMENT.

§17C-15-44. Safety equipment and requirements for motorcyclists, motorcycles, motor-driven cycles and mopeds; motorcycle safety standards and education committee.

(a) No person ~~shall~~ may operate or be a passenger on any motorcycle or motor-driven cycle unless the person is wearing securely fastened on his or her head by either a neck or chin strap a protective helmet designed to deflect blows, resist penetration and spread impact forces. Any helmet worn by an operator or passenger shall meet the current performance specifications established by the American National Standards Institute Standard, Z 90.1, the United States Department of Transportation Federal Motor Vehicle Safety Standard No. 218 or Snell Safety Standards for Protective Headgear for Vehicle Users.

(b) No person ~~shall~~ may operate or be a passenger on any motorcycle or motor-driven cycle unless the person is wearing safety, shatter-resistant eyeglasses, excluding contact lenses, or ~~eyeegoggles~~ eye goggles or face shield that complies with the performance specifications established by the American National Standards Institute for Head, Eye and Respiratory Protection, Z 2.1. In addition, if any motorcycle, motor-driven cycle or moped is equipped with a windshield or windscreen, the windshield or windscreen shall be constructed of safety, shatter-resistant material that complies with the performance specifications established by Department of Transportation Federal Motor Vehicle Safety Standard No. 205 and American National Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Standard Z 26.1.

(c) No person ~~shall~~ may operate a motorcycle, motor-driven cycle or moped on which the handlebars or grips are more than fifteen inches higher than the uppermost part of the operator's seat when the seat is not depressed in any manner.

(d) A person operating a motorcycle, motor-driven cycle or moped shall ride in a seated position facing forward and only upon a permanent operator's seat attached to the vehicle. No operator ~~shall~~ may carry any other person nor ~~shall~~ may any other person ride on the vehicle unless the vehicle is designed to carry more than one person, in which event a passenger may ride behind the operator upon the permanent operator's seat if it is designed for two persons, or upon another seat firmly attached to the vehicle to the rear of the operator's seat and equipped with footrests designed and located for use by the passenger or in a sidecar firmly attached to the vehicle. No person ~~shall~~ may ride side saddle on a seat. An operator may carry as many passengers as there are seats and footrests to accommodate those passengers. Additional passengers may be carried in a factory-produced sidecar provided that there is one passenger per seat. Passengers riding in a sidecar shall be restrained by safety belts.

(e) Every motorcycle, motor-driven cycle and moped shall be equipped with a rearview mirror affixed to the handlebars or fairings and adjusted so that the operator ~~shall have~~ has a clear view of the road and condition of traffic behind him or her for a distance of at least two hundred feet.

(f) ~~There is hereby created a six member motorcycle safety and education committee consisting of: The superintendent of the State Police or a designee; the Commissioner of Motor~~

~~Vehicles or a designee; the director of the West Virginia safety council or a designee; a licensed motorcycle operator; an owner of a motorcycle dealership; and a supplier of aftermarket nonfranchised motorcycle supplies. The nongovernmental representatives shall be appointed by the Governor with the advice and consent of the Senate, shall serve without compensation, and the terms shall be for three years, except that as to the members first appointed, one shall be appointed for a term of one year, one shall be appointed for a term of two years and one shall be appointed for a term of three years. Members may be reappointed to the committee.~~

~~The committee shall continue to exist pursuant to the provisions of article ten, chapter four of this code until July 1, 1999, to allow for the completion of a preliminary performance review by the joint committee on government operations.~~

~~The committee is hereby authorized to recommend to the superintendent of public safety types and makes of protective helmets, eye protection devices and equipment offered for sale, purchased or used by any person. The committee is authorized to make recommendations to the Commissioner of Motor Vehicles regarding the use of the moneys in the motorcycle safety fund created under section seven, article one-d, chapter seventeen-b of this code Notwithstanding any provision of this code to the contrary, a person with a valid driver's license who is operating a fully enclosed autocycle, as defined in section sixty-nine, article one of this chapter, is exempt from the provisions of this section.~~;

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 173—A Bill to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section, designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; creating an autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with a valid driver's license to operate an autocycle; creating an autocycle exemption from helmet and certain other motorcycle or motor-driven cycle safety requirements; defining terms; deleting obsolete language regarding the motorcycle safety and education committee; and making technical corrections.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 173, 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, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 173) 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, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 204, Requiring persons appointed to fill vacancy by Governor have same qualifications for vacated office and receive same compensation and expenses.

On motion of Senator Ferns, 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:

That §5-1-22 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. THE GOVERNOR.

§5-1-22. Vacancies in offices filled by appointment of Governor; Senate action; bond requirements; filling vacancies in other appointive offices.

(a) In case of a vacancy, during the recess of the Senate, in any office, which vacancy the Governor is authorized to fill by and with the advice and consent of the Senate, the Governor shall, by appointment within ninety days, fill such vacancy until the next meeting of the Senate, when the Governor shall submit to the Senate a nomination to fill such vacancy and, upon confirmation of such nomination by the Senate, by a vote of a majority of all the members elected to the Senate, taken by yeas and nays, the person so nominated and confirmed shall hold said office during the remainder of the term for which his or her predecessor in office was appointed, and until his or her successor shall be appointed and qualified. No person whose nomination for office has been rejected by the Senate shall again be nominated for the same office during the session in which his or her nomination was so rejected, unless at the request of the Senate, nor shall ~~he~~ the person be appointed to the same office during the recess of the Senate. No appointee who resigns from any such office prior to confirmation, or whose name has not been submitted for confirmation while the Senate is in session, shall be eligible, during the recess of the Senate, to hold any office the nomination for which must be confirmed by the Senate.

(b) Any person appointed to temporarily fill a vacancy shall possess the qualifications required by law for that vacant position.

(c) If an employee of a state agency is temporarily appointed to fill a vacancy, the employee may fill such vacancy without resigning from the position he or she ordinarily holds: *Provided*, that the employee's compensation shall be the greater of

(1) the employee's regular salary in his or her usual position; or

(2) the salary for the office the employee temporarily fills.

(d) If a vacancy is temporarily filled by a person not otherwise employed by any agency of the State of West Virginia, then that person shall be compensated at a rate no greater than that of the salary for the office that person temporarily fills.

(e) The bond, if any, required by law to be given by any officer so temporarily appointed by the Governor, shall be in such penalty as is required by law of the incumbent of such office.

(f) Any vacancy in any other office filled by appointment, or in any office hereafter created to be filled by appointment, shall be filled by the same person, court or body authorized to make appointment to such office for the full term thereof.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendment to the bill (Eng. Com. Sub. for S. B. 204) 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, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 224, Repealing requirement for employer's bond for wages and benefits.

On motion of Senator Ferns, 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:

That §21-5-14 and §21-5-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-14. Employer's bond for wages and benefits.

(a) Bond required. — With the exception of those who have been doing business in this state actively and actually engaged in construction work, or the severance, production or transportation of minerals for at least ~~five consecutive years~~ one year next preceding the posting of the bond required by this section, every employer, person, firm or corporation engaged in or about to engage in construction work, or the severance, production or transportation (excluding railroads and water transporters) of minerals, shall, prior to engaging in any construction work, or the severance, production or transportation of minerals, furnish a bond on a form prescribed by the commissioner, payable to the State of West Virginia, with the condition that the person, firm or corporation pay the wages and fringe benefits of his or her or its employees when due. The amount of the bond shall be equal to the total of the employer's gross payroll for four weeks at full capacity or production, plus fifteen percent of the said total of employer's gross payroll for four

weeks at full capacity or production. The amount of the bond shall increase or decrease as the employer's payroll increases or decreases: *Provided*, That the amount of the bond shall not be decreased, except with the commissioner's approval and determination that there are not outstanding claims against the bond: *Provided, however*, That if the employer, person, firm or corporation meets one of the following, then such employer, person, firm or corporation shall be exempt from the requirements of this subsection:

(1) Has been in business in another State for at least five years and has at least \$1 million in assets; or

(2) Is a subsidiary of a parent company in business for at least five years.

(b) Waiver. — The commissioner shall waive the posting of any bond required by subsection (a) of this section upon his or her determination that an employer is of sufficient financial responsibility to pay wages and fringe benefits. The commissioner shall promulgate rules and regulations according to the provisions of chapter twenty-nine-a of this code which prescribe standards for the granting of such waivers.

(c) Form of bond; filing in office of circuit clerk. — The bond may include, with the approval of the commissioner, surety bonding, collateral bonding (including cash and securities), letters of credit, establishment of an escrow account or a combination of these methods. The commissioner shall accept an irrevocable letter of credit in lieu of any other bonding requirement. If collateral bonding is used, the employer may deposit cash, or collateral securities or certificates as follows: Bonds of the United States or its possessions, or of the federal land bank, or of the homeowner's loan corporation; full faith and credit general obligation bonds of the State of West Virginia or other states, and of any county, district or municipality of the State of West Virginia or other states; or certificates of deposit in a bank in this state, which certificates shall be in favor of the state. The cash deposit or market value of such securities or certificates shall be equal to or greater than the sum of the bond. The commissioner shall, upon receipt of any such deposit of cash, securities or certificates, promptly place the same with the State Treasurer whose duty it shall be to receive and hold the same in the name of the state in trust for the purpose for which such deposit is made. The employer making the deposit shall be entitled from time to time to receive from the State Treasurer, upon the written approval of the commissioner, the whole or any portion of any cash, securities or certificates so deposited, upon depositing with him or her in lieu thereof, cash or other securities or certificates of the classes herein specified having value equal to or greater than the sum of the bond. The commissioner shall cause a copy of the bond to be filed in the office of the clerk of the county commission of the county wherein the person, firm or corporation is doing business to be available for public inspection.

(d) Employee cause of action. — Notwithstanding any other provision in this article, any employee, whose wages and fringe benefits are secured by the bond, as specified in subsection (c) of this section, has a direct cause of action against the bond for wages and fringe benefits that are due and unpaid.

(e) Action of commissioner. — Any employee having wages and fringe benefits unpaid may inform the commissioner of the claim for unpaid wages and fringe benefits and request certification thereof. If the commissioner, upon notice to the employer and investigation, finds that such wages and fringe benefits or a portion thereof are unpaid, he or she shall make demand of such employer for the payment of such wages and fringe benefits. If payment for such wages and fringe benefits is not forthcoming within the time specified by the commissioner, not to exceed thirty days, the commissioner shall certify such claim or portion thereof, and forward the

certification to the bonding company or the State Treasurer, who shall provide payment to the affected employee within fourteen days of receipt of such certification. The bonding company, or any person, firm or corporation posting a bond, thereafter shall have the right to proceed against a defaulting employer for that part of the claim the employee paid. The procedure specified herein shall not be construed to preclude other actions by the commissioner or employee to seek enforcement of the provisions of this article by any civil proceedings for the payment of wages and fringe benefits or by criminal proceedings as may be determined appropriate.

(f) Posting and reporting by employer. — With the exception of those exempt under subsection (a) of this section, any employer who is engaged in construction work or the severance, production or transportation (excluding railroad and water transporters) of minerals shall post the following in a place accessible to his or her or its employees:

(1) A copy of the bond or other evidence of surety specifying the number of employees covered as provided under subsection (a) of this section, or notification that the posting of a bond has been waived by the commissioner; and

(2) A copy of the notice in the form prescribed by the commissioner regarding the duties of employers under this section. During the first year that any person, firm or corporation is doing business in this state in construction work, or in the severance, production or transportation of minerals, such person, firm or corporation shall on or before February 1, May, August and November of each calendar year file with the department a verified statement of the number of employees, or a copy of the quarterly report filed with the Bureau of Employment Programs showing the accurate number of employees, unless the commissioner waives the filing of the report upon his or her determination that the person, firm or corporation is of sufficient stability that the reporting is unnecessary.

(g) Termination of bond. — The bond may be terminated, with the approval of the commissioner, after an employer submits a statement, under oath or affirmation lawfully administered, to the commissioner that the following has occurred: The employer has ceased doing business and all wages and fringe benefits have been paid, or the employer has been doing business in this state for at least one year and has paid all wages and fringe benefits. The approval of the commissioner will be granted only after the commissioner has determined that the wages and fringe benefits of all employees have been paid. The bond may also be terminated upon a determination by the commissioner that an employer is of sufficient financial responsibility to pay wages and fringe benefits.

§21-5-15. Violations; cease and desist orders and appeals therefrom; criminal penalties.

(a) Any person, firm or corporation who knowingly and willfully fails to provide and maintain an adequate bond as required by section fourteen of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$200 nor more than \$5,000, or imprisoned in the county jail not more than one month, or both fined and imprisoned.

(b) Any person, firm or corporation who knowingly, willfully and fraudulently disposes of or relocates assets with intent to deprive employees of their wages and fringe benefits is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than ~~\$30,000~~ \$60,000, or imprisoned in the ~~penitentiary~~ state correctional facility not less than one nor more than three years, or both fined and imprisoned.

(c) (1) At any time the commissioner determines that a person, firm or corporation has not provided or maintained an adequate bond, as required by section fourteen of this article, the commissioner shall issue a cease and desist order which is to be issued and posted requiring that said person, firm or corporation either post an adequate bond or cease further operations in this state within a period specified by the commissioner; which period shall be not less than five nor more than fourteen days. The cease and desist order may be issued by the commissioner at his or her own instance or at his or her direction, with or without application to or the approval of any other officer, agent, department or employee of the state or application to any court for approval thereof. Any person, firm or corporation who continues to engage in construction work or the severance, production or transportation of minerals without an approved bond after such specified period shall be guilty of a felony, and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$30,000, or imprisoned in the penitentiary not less than one nor more than three years, or both fined and imprisoned. Any cease and desist order issued by the commissioner pursuant to this subsection may be directed by the commissioner to the sheriff of the county wherein the business activity of which the order is the subject, or to any officer or employee of the department, commanding such sheriff, officer or employee to serve such order upon the business in question within seventy-two hours and to make proper return thereof.

(2) Any other provision of law to the contrary notwithstanding, any person against whom a cease and desist order has been directed shall be entitled to judicial review thereof by filing a verified petition taking an appeal therefrom within fifteen days from the date of service of such order. Such verified petition shall be filed in the circuit court of the county wherein service of the order was completed, at the option of the petitioner, or, in the circuit court of Kanawha County, West Virginia. If the appeal is not perfected within such fifteen day period, the cease and desist order shall be final and shall not thereafter be subject to judicial review. No appeal shall be deemed to have been perfected except upon the filing with the clerk of the circuit court of the county wherein the appeal is taken, of a bond or other security to be approved by the court, in an amount of not less than the amount of the bond otherwise required to be posted under the provisions of section fourteen of this article. The person so filing a petition of appeal shall cause a copy of the petition and bond or other posted security to be served upon the commissioner by certified mail, return receipt requested, within seven days after the date upon which the petition for appeal is filed.

(d) Any person who threatens any officer, agent or employee of the department or other person authorized to assist the commissioner in the performance of his or her duties under any provision of section fourteen of this article or of this section or who shall interfere with or attempt to prevent any such officer, agent, employee or other person in the performance of such duties shall be guilty of a felony, and, upon conviction thereof, shall be fined in an amount of not less than \$1,000 nor more than \$3,000 or imprisoned in the penitentiary not less than one nor more than three years, or both such fine and imprisonment.;

And,

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

Eng. Com. Sub. for Senate Bill 224—A Bill to amend and reenact §21-5-14 and §21-5-15 of the Code of West Virginia, 1931, as amended, relating to the requirement of a bond for wages and benefits for certain designated employers, persons, firms, or corporations; lowering period of time for the requirement that certain designated employers, persons, firms, or corporations shall furnish a bond for wages and benefits to at least one year and providing exemptions; lowering period of time in which a person, firm or corporation is required to file a statement or copy with

the Bureau of Employment Programs; lowering period of time employer must have been doing business in order to terminate bond; and increasing the maximum criminal fine for any person, firm, or corporation who knowingly, willfully, and fraudulently disposes of or relocates assets with the intent to deprive employees of their wages and fringe benefits.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 224) 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 amendment, as to

Eng. Com. Sub. for Senate Bill 230, Relating to certain WV officials carrying concealed firearm nationwide.

On motion of Senator Ferns, 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 one, lines seventeen through nineteen, by striking out the words “the county courthouse and other buildings where court proceedings are held and in which the prosecutor or assistant prosecutor is appearing before the court in a criminal matter” and inserting in lieu thereof the words “within the office of the Prosecuting Attorney”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 230, 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, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 230) 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. Senate Bill 349, Repealing outdated code related to Division of Corrections.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 400, Regarding appointments to WV Infrastructure and Jobs Development Council.

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 522, Relating to pharmacy audits.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page nine, section seven, lines twenty-five through twenty-seven, by striking out all of subdivision (1) and inserting in lieu thereof a new subdivision, designated subdivision (1), to read as follows:

(1) A licensed insurer or other entity licensed by the Commissioner pursuant to this chapter shall comply with the standards and procedures of this article but shall not be required to separately register as either a pharmacy benefits manager or auditing entity.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 522, 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, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 522) 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, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 554, Relating to false swearing in legislative proceeding.

On motion of Senator Ferns, 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 six-a, lines seven and eight, by striking out all of subsection (c).

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendment to the bill (Eng. S. B. 554) 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 amendment, as to

Eng. Com. Sub. for Senate Bill 575, Limiting nuisance actions against shooting ranges for noise.

On motion of Senator Ferns, 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:

That §61-6-23 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-23. Shooting range; limitations on nuisance actions; noise ordinances.

(a) As used in this section:

(1) "Person" means an individual, proprietorship, partnership, corporation, club or other legal entity; and

(2) "Shooting range" or "~~range~~" means an area, whether indoor or outdoor, designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar shooting.

(b) Except as provided in this section, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person's property if the shooting range was established as of the date of the person acquiring the property. If there is a substantial change in use of the shooting range or there is a period of shooting inactivity at a shooting range for a period exceeding one year after the person acquires the property, then the person may maintain a nuisance action if the action is brought within two years from the beginning of the substantial change in use of the shooting range, or the resumption of shooting activity: Provided, that if a municipal or county ordinance regulating noise exists, subsection (e) of this section controls.

(c) A person who owned property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that shooting range only if the action is brought within two years after the establishment of the shooting range or two years after a substantial change in use of the shooting range or from the time shooting

activity is resumed: Provided, that if a municipal or county ordinance regulating noise exists, subsection (e) of this section controls.

(d) Actions authorized by the provisions of this section are not applicable to any indoor shooting ranges, the owner or operator of which holds all necessary and required licenses and the shooting range ~~is~~ being in compliance with all applicable state, county and municipal laws, rules or ordinances regulating the design and operation of such facilities.

(e) (1) No municipal or county ordinance regulating noise may subject a shooting range to noise control standards more stringent than those standards in effect at the time construction or operation of the shooting range began, whichever occurred earlier in time. The operation or use of a shooting range may not be enjoined based on noise, nor may any person be subject to an action for nuisance or criminal prosecution in any matter relating to noise resulting from the operation of a shooting range, if the shooting range is operating in compliance with all ordinances relating to noise in effect at the time the construction or operation of the shooting range began, whichever occurred earlier in time.

(2) No shooting range operating or approved for operation within this state which has been condemned through an eminent domain proceeding, and which relocates to another site within the same political subdivision within two years of the final condemnation order, may be subject to any noise control standard more stringent than that in effect at the time construction or operation of the shooting range which was condemned began, whichever occurred earlier in time.

(f) It is the intent of the Legislature in enacting the amendments to this section during the 2017 regular session of the Legislature that the amendments be applied retroactively.

Senator Ferns moved that the Senate concur in the House of Delegates amendment to the bill.

Following discussion,

The question being on the adoption of Senator Ferns' aforesaid motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 575, 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, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: Palumbo—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. 575) 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 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 2801—A Bill expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2017, in the amount of \$2,000,000 from the Legislative, Senate, fund 0165, fiscal year 2012, organization 2100, appropriation 02100; in the amount of \$1,000,000 from the Legislative, Senate, fund 0165, fiscal year 2012, organization 2100, appropriation 06400; in the amount of \$500,000 from the Legislative, House of Delegates, fund 0170, fiscal year 2015, organization 2200, appropriation 00500; in the amount of \$1,500,000 from the Legislative, House of Delegates, fund 0170, fiscal year 2015, organization 2200, appropriation 02100; in the amount of \$500,000 from the Legislative, Joint Expenses, fund 0175, fiscal year 2015, organization 2300, appropriation 10400; in the amount of \$2,000,000 from the Executive, Governor's Office, fund 0101, fiscal year 2005, organization 0100, appropriation 66500; in the amount of \$800,000 from the Executive, Governor's Office – Civil Contingent Fund, fund 0105, fiscal year 2005, organization 0100, appropriation 08400; in the amount of \$200,000 from the Executive, Governor's Office – Civil Contingent Fund, fund 0105, fiscal year 2008, organization 0100, appropriation 11400; in the amount of \$400,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2009, organization 0307, appropriation 13100; in the amount of \$400,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2011, organization 0307, appropriation 13100; in the amount of \$200,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2012, organization 0307, appropriation 13100; in the amount of \$500,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2007, organization 0307, appropriation 81900; in the amount of \$500,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2008, organization 0307, appropriation 81900; in the amount of \$500,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2009, organization 0307, appropriation 81900; in the amount of \$650,000 from the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2012, organization 0307, appropriation 94100; in the amount of \$150,000 from the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2011, organization 0402, appropriation 16100; in the amount of \$400,000 from the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2012, organization 0402, appropriation 16100; in the amount of \$400,000 from the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2013, organization 0402, appropriation 16100; in the amount of \$150,000 from the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2014, organization 0402, appropriation 16100; in the amount of \$500,000 from the Department of Education, State Board of Education – State Department of Education, fund 0313, fiscal year 2014, organization 0402, appropriation 88600; in the amount of \$40,000 from the Department of Health and Human Resources – Office of the Secretary, fund 0400, fiscal year 2015, organization 0501, appropriation 19100; in the amount of \$60,000 from the Department of Health and Human Resources – Office of the Secretary, fund 0400, fiscal year 2016, organization 0501, appropriation 19100; in the amount of \$2,000,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2011, organization 0506, appropriation 75500; in the amount of \$2,000,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2012, organization 0506, appropriation 75500; in the amount of \$50,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2008, organization 0506, appropriation 82200; in the amount of \$50,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2009, organization 0506, appropriation 82200; in the amount of

\$400,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2007, organization 0506, appropriation 84500; in the amount of \$800,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2008, organization 0506, appropriation 84500; in the amount of \$1,000,000 from the Department of Health and Human Resources, Consolidated Medical Services Fund, fund 0525, fiscal year 2014, organization 0506, appropriation 21900; in the amount of \$200,000 from the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2011, organization 0608, appropriation 09700; in the amount of \$200,000 from the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 09700; in the amount of \$480,000 from the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 66100; in the amount of \$1,000,000 from the Department of Military Affairs and Public Safety, Division of Corrections – Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 67700; in the amount of \$500,000 from the Department of Military Affairs and Public Safety, Division of Justice and Community Services, fund 0546, fiscal year 2014, organization 0620, appropriation 56100; in the amount of \$100,000 from the Department of Military Affairs and Public Safety, Division of Juvenile Services, fund 0570, fiscal year 2011, organization 0621, appropriation 75500; in the amount of \$80,000 from the Department of Revenue, State Budget Office, fund 0595, fiscal year 2009, organization 0703, appropriation 09900; in the amount of \$300,000 from the Department of Transportation, Aeronautics Commission, fund 0582, fiscal year 2013, organization 0807, appropriation 13000; in the amount of \$200,000 from the Department of Veterans' Assistance, fund 0456, fiscal year 2013, organization 0613, appropriation 28600; in the amount of \$100,000 from the Department of Veterans' Assistance, fund 0456, fiscal year 2014, organization 0613, appropriation 28600; in the amount of \$500,000 from the West Virginia Council for Community and Technical College Education – Control Account, fund 0596, fiscal year 2012, organization 0420, appropriation 66100; in the amount of \$200,000 from the Higher Education Policy Commission – Administration – Control Account, fund 0589, fiscal year 2012, organization 0441, appropriation 09700; in the amount of \$1,000,000 from the Higher Education Policy Commission – Administration – Control Account, fund 0589, fiscal year 2012, organization 0441, appropriation 66100; in the amount of \$20,000,000 from the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2017, organization 0704; in the amount of \$100,000 from the State Board of Education, fund 3951, fiscal year 2007, organization 0402, appropriation 09900; in the amount of \$300,000 from the State Board of Education, fund 3951, fiscal year 2008, organization 0402, appropriation 09900; in the amount of \$500,000 from the State Board of Education, fund 3951, fiscal year 2012, organization 0402, appropriation 09900; in the amount of \$500,000 from the State Board of Education, fund 3951, fiscal year 2013, organization 0402, appropriation 39600; in the amount of \$500,000 from the State Board of Education, fund 3951, fiscal year 2014, organization 0402, appropriation 39600; in the amount of \$1,000,000 from the State Board of Education, fund 3951, fiscal year 2014, organization 0402, appropriation 93300; in the amount of \$150,000 from the Division of Culture and History – Lottery Education Fund, fund 3534, fiscal year 2003, organization 0432, appropriation 86500; in the amount of \$40,000 from the Division of Culture and History – Lottery Education Fund, fund 3534, fiscal year 2012, organization 0432, appropriation 62400; in the amount of \$150,000 from the Library Commission – Lottery Education Fund, fund 3559, fiscal year 2011, organization 0433, appropriation 62500; in the amount of \$250,000 from the Library Commission – Lottery Education Fund, fund 3559, fiscal year 2012, organization 0433, appropriation 62500; in the amount of \$150,000 from the Bureau of Senior Services- Lottery Senior Citizens Fund, fund 5405, fiscal year 2011, organization 0508, appropriation 46200; in the amount of \$350,000 from the Bureau of Senior Services- Lottery Senior Citizens Fund, fund 5405, fiscal year 2012, organization 0508, appropriation 46200; in the

amount of \$550,000 from the Bureau of Senior Services- Lottery Senior Citizens Fund, fund 5405, fiscal year 2013, organization 0508, appropriation 46200; in the amount of \$50,000 from the West Virginia Development Office, fund 3170, fiscal year 2007, organization 0307, appropriation 92300; in the amount of \$2,500,000 from the West Virginia Development Office, fund 3170, fiscal year 2008, organization 0307, appropriation 25300; in the amount of \$400,000 from the West Virginia Development Office, fund 3170, fiscal year 2013, organization 0307, appropriation 09600; in the amount of \$1,000,000 from the Division of Corrections – Correctional Units, fund 6283, fiscal year 2010, organization 0608, appropriation 75500; in the amount of \$1,000,000 from the Attorney General, Consumer Protection Recovery Fund, fund 1509, fiscal year 2017, organization 1500; in the amount of \$2,000,000 from the Department of Administration, Board of Risk and Insurance Management, Premium Tax Savings Fund, fund 2367, fiscal year 2017, organization 0218; in the amount of \$500,000 from the Office of the Treasurer, Financial Electronic Communication Fund, fund 1345, fiscal year 2017, organization 1300; in the amount of \$110,468 from the Department of Administration, Capitol Complex Parking Garage Fund, fund 2461, fiscal year 2017, organization 0211; in the amount of \$4,000,000 from the Public Services Commission, Public Services Commission Fund, fund 8623, fiscal year 2017, organization 0926; in the amount of \$184,848 from the Department of Environmental Protection, Dam Safety Rehabilitation Fund, fund 3025, fiscal year 2017, organization 0313; in the amount of \$500,000 from the Department of Health and Human Resources, Health Care Authority Fund, fund 5375, fiscal year 2017, organization 0507; and in the amount of \$40,404,684 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701.

At the request of Senator Ferns, and by unanimous consent, the bill was taken up for immediate consideration and reference of the bill to a committee dispensed with.

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 3103—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2017 in the amount of \$2,700,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701, and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2017, organization 0506, and to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2017, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2017.

Referred to the Committee on Finance.

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 9—Requesting the Division of Highways to name the bridge number 14-50/9-0.25 (14A130), (latitude, 39.31542, longitude, -78.65703), locally known as Baptism Bridge, carrying County Route 50/9 over the Little Cacapon River in Hampshire county located in the location of the now non-existent community of Frenchburg, the “Frenchburg 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 41—Requesting the Division of Highways to name the bridge on West Virginia Route 9 over the Shenandoah River in Jefferson County, near Millville, latitude 39.2728592, longitude - 77.7843137, the “Major Martin Robison Delany 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

Com. Sub. for House Concurrent Resolution 50—Requesting the Division of Highways to name an approximate nine-mile section of WV Route 14 beginning at the Lowe Family Cemetery (37.801837, -81.799640) and ending at the intersection of WV Route 14 and WV Route 10 (37.812939, -81.934589) in Logan County the “Lowe Mountain Memorial Highway”.

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 105—Requesting that the Division of Highways name bridge number 322-10-28.14 (22A038) (38.28695, -82.19690), currently known as the West Hamlin Bridge, carrying West Virginia Route 10 over the Guyandotte River in Lincoln County, West Virginia, the “Army SSG Arthur N. McMellon Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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 3rd day of April, 2017, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for Com. Sub. for S. B. 222), Relating to disqualification for unemployment benefits.

And,

(Com. Sub. for S. B. 437), Discontinuing WV Greyhound Breeding Development Fund.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Steve Westfall,
Vice Chair, House Committee.

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 April, 2017, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2459), Relating to regulation of health care and the certificate of need process.

(Com. Sub. for H. B. 2486), Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order.

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

And,

(H. B. 3106), Relating to increasing the number of limited video lottery terminals.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Steve Westfall,
Vice Chair, House Committee.

Senator Hall, 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 2552, Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund.

With amendments from the Committee on Agriculture and Rural Development pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on Agriculture and Rural Development to which the bill was first referred.

Respectfully submitted,

Mike Hall,
Chair.

Senator Hall, 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 2601, Relating to municipal policemen's or municipal firemen's pension and relief funds.

With an amendment from the Committee on Pensions pending;

And has also amended the same.

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

Respectfully submitted,

Mike Hall,
Chair.

Senator Hall, 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 2720, Allowing the School Building Authority to transfer funds allocated into the School Construction Fund.

With amendments from the Committee on Education pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on Education to which the bill was first referred.

Respectfully submitted,

Mike Hall,
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 3030, Relating to appeals as a matter of right in the West Virginia Supreme Court of Appeals.

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 Maynard and Cline offered the following resolution:

Senate Concurrent Resolution 54—Requesting the Joint Committee on Government and Finance study the feasibility and benefits of schools maintaining websites that allow teachers to post a required calendar of activities scheduled for their classes.

Whereas, Calendars would allow parents to know what activities are occurring in their children's classrooms so that they may better ensure that their children are performing the required activities in a timely manner; and

Whereas, Posted activities' schedules could include dates when homework assignments are due, when tests are to be held, what chapters of the textbooks should be studied, and when and what parental participation and support would be appropriate. The schedule could be updated as necessary; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the feasibility and benefits of schools maintaining websites that allow teachers to post a required calendar of activities scheduled for their classes; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of the State Superintendent of Schools in conducting the study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senators Maynard, Stollings, Cline, Plymale and Swope offered the following resolution:

Senate Concurrent Resolution 55—Requesting the Joint Committee on Government and Finance study ways and methods to generate revenue to pay for the cost of completion of construction of Interstate 73 and Interstate 74 within the boundaries of West Virginia.

Whereas, Interstate 73 is planned to continue next to U. S. Route 60 (Corridor Q) from the Virginia state line west to Bluefield. There, it will join Interstate 74, which splits from Interstate 77 across the border from Virginia; and

Whereas, For the rest of its path through this state, from Bluefield to Huntington and Ohio, Interstate 73 will follow U. S. Route 52 which is in the process of being upgraded to a four-lane divided highway, known as the King Coal Highway, to Williamson and the Tolsia Highway the rest of the way to Huntington. This section of highway has been designated as the future Interstate 73 and Interstate 74 Corridor, but it is not being built to interstate standards; and

Whereas, Interstate 73, when completed, will provide much needed interstate access in this state, opening economic development opportunities that do not currently exist; and

Whereas, Currently, Interstate 73 is an important road project for the West Virginia Department of Transportation, but is not fully funded; and

Whereas, Possible funding mechanisms to contribute to the cost of completing the construction of Interstates 73 and 74 through the borders of this state in accordance with interstate standards include: Issuing special obligation notes and where available, to secure federal matching funds and the installation of automated toll booths capable of obtaining payment from credit and debit cards; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study ways and methods to generate revenue to pay for the cost of completion of construction of Interstate 73 and Interstate 74 within the boundaries of West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of the Commissioner of Highways in conducting the study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senators Maynard and Cline offered the following resolution:

Senate Concurrent Resolution 56—Requesting the Joint Committee on Government and Finance study the creation and role of the West Virginia Motorsports Commission and the economic benefits arising from its efforts to promote motorsports within the state.

Whereas, Motor sports have played a significant role in the culture and entertainment of West Virginians; and

Whereas, Many West Virginians travel out of state to participate in and watch many motor-sporting events; and

Whereas, Other states have seen motorsports create manufacturing jobs and economic growth; and

Whereas, The promotion of motorsports within the state could lead to the creation of jobs and help stimulate the economy through tourism, both by bringing in out-of-state visitors as well as keeping many West Virginians home where their entertainment dollar would go further; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the creation and role of the West Virginia Motorsports Commission and the economic benefits arising from its efforts to promote motorsports within the state; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of the Commissioner of Tourism and the Director of the West Virginia Development Office in conducting the study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senators Maynard and Cline offered the following resolution:

Senate Concurrent Resolution 57—Requesting the Joint Committee on Government and Finance study the feasibility and development of standards for repurposing, renovating or disposing of vacated school buildings and the risks and legal liabilities associated with the vacated properties.

Whereas, There are numerous vacant school buildings that are being unused yet requiring a certain amount of maintenance and upkeep; and

Whereas, Many communities where these vacated school buildings are located may have a substantial need for economic renewal and development; and

Whereas, The responsibility or liability for such issues as asbestos, lead paint or other hazards associated with the acquired vacated school buildings or state-owned buildings remaining with the previous owner should also be investigated; and

Whereas, It would seem to be in everyone's best interest if vacant buildings could be used for the betterment of a community, if that goal could be accomplished; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the feasibility and development of standards for repurposing, renovating or disposing of vacated school buildings and the risks and legal liabilities associated with the vacated properties; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of the Public Land Corporation and the Real Estate Division in conducting the study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senators Maynard and Cline offered the following resolution:

Senate Concurrent Resolution 58—Requesting the Joint Committee on Government and Finance study improvements that would benefit any state parks or forests and whether the improvements could be accomplished using nonemployees without a necessary expertise in park or forest management with an emphasis on using persons who are unemployed as opposed to permanent employees or contractors.

Whereas, Identification of possible sources of funding such an operation, especially from federal funds or private sources, how to identify persons eligible to participate in the program and any administrative activities that might be necessary should be developed; and

Whereas, The feasibility of the creation of a Civilian Conservation Corps should be also explored; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study improvements that would benefit any state parks or forests and whether the improvements could be accomplished using nonemployees without a necessary expertise in park or forest management with an emphasis on using persons who are unemployed as opposed to permanent employees or contractors; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of the Natural Resources Commission in conducting the study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senators Maynard, Gaunch, Rucker and Cline offered the following resolution:

Senate Concurrent Resolution 59—Requesting the Joint Committee on Government and Finance study the feasibility of permitting the West Virginia Disaster Recovery Board to restore access to private property following a natural disaster.

Whereas, In situations that involve losses resulting from damage from flooding or other natural or man-made causes on private property, real estate or other premises, persons can be prevented from engaging in employment, private enterprise, providing essential business or personal activities and community facilities or essential goods or services, including being denied access to private property; and

Whereas, It should be determined when and under what circumstances the West Virginia Disaster Recovery Board may intervene to restore access, when to delay action obtaining access would increase potential losses when the owner of the private property, real estate or other premises is unable to, or refuses to restore that access; and

Whereas, It should be determined when and under what circumstances the West Virginia Disaster Recovery Board may provide for the construction of any temporary or permanent structure that is used to gain access to private property, real estate or other premises; and

Whereas, It should be determined when and under what circumstances the West Virginia Disaster Recovery Board may take any action against the owner of private property, real estate or other premises to recover the costs of construction including perfecting a lien against the owner, according to law, for these costs; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the feasibility of permitting the West Virginia Disaster Recovery Board to restore access to private property following a natural disaster; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of the West Virginia Disaster Recovery Board in conducting the study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2018, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senators Romano, Facemire, Stollings and Plymale offered the following resolution:

Senate Resolution 67—Recognizing the outstanding athletic achievements of Danny Heater and declaring January 26 of each year Danny Heater Day in West Virginia.

Whereas, Danny Heater was born in Braxton County, West Virginia, the son of John and Beulah Heater; and

Whereas, Danny Heater graduated from Burnsville High School in 1960, and later attended college at the University of Richmond; and

Whereas, On January 26, 1960, Danny Heater set the national high school basketball scoring record by scoring 135 points for Burnsville High School in a basketball game against Widen High School, a record which still stands fifty-seven years later; and

Whereas, Danny Heater's scoring record was once the world record for points scored in a high school basketball game, as was recorded in the *Guinness Book of World Records*; and

Whereas, After his playing days, Danny Heater continued to demonstrate excellence in his professional life, serving in the Federal Bureau of Investigation, and later working for National Airlines, Pan Am Airlines and Delta; and

Whereas, Danny Heater has retired in West Virginia, where he enjoys his greatest accomplishment with this beloved wife, Carol: being a proud parent to Tonya, Kevin and Traci, who have given Danny five grandchildren; and

Whereas, Danny Heater epitomizes the mountaineer spirit through his humility, work ethic and determination; and

Whereas, It is fitting that we honor Danny Heater annually on January 26 as an everlasting tribute to his character; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the outstanding athletic achievements of Danny Heater and declares January 26 of each year Danny Heater Day in West Virginia; and, be it

Further Resolved, That the Senate expresses its most sincere gratitude and appreciation to Danny Heater for his outstanding representation of West Virginia and its values; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Danny Heater.

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.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 53, US Army SGT Benny Fleming 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 304, Appropriating expiring funds from State Fund, General Revenue to DHHR.

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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda,

Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 304) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 304) 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 476, Expiring funds from Revenue Shortfall Reserve Fund to General Revenue.

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

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

Eng. Senate Bill 694, Expiring funds to unappropriated surplus balance in General Revenue fund to Department of 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, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 694) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 694) 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 2188, Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2188) 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 2364, Prohibiting electioneering within or near early voting locations during early voting periods.

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 2364 pass?”

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2364) 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 2364—A Bill to amend and reenact §3-1-37 of the Code of West Virginia, 1931, as amended and to amend and reenact §3-9-9 of said Code, all relating to restrictions on presence and conduct at or within one hundred feet of polls; prohibiting persons other than voters and election officials from being or remaining within one hundred feet of entrance of polling place while polls open; permitting person delivering voter to polling place to discharge voter within one hundred feet of entrance of polling place; requiring person delivering voter to remove vehicle one hundred feet until the voter is to be transported from polling place or another voter delivered; permitting vehicles delivering voters who require assistance to remain within one hundred feet of entrance until voter is to be transported from polling place; defining electioneering; prohibiting electioneering in or within one hundred feet of polling place on election day; prohibiting electioneering in or within one hundred feet of early voting polling places during early voting periods; providing exceptions to electioneering prohibitions for persons upon his or her private property; clarifying that electioneering on private property near polling places must conform to other existing laws and ordinances; and making stylistic changes to outdated language.

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 2404, Barring persons who are convicted of certain criminal offenses from acquiring property from their victims.

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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2404) 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 2479, Uniform Deployed Parents Custody and Visitation 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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2479) 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 2479—A Bill to repeal §48-1-233.3, §48-1-233.4 and §48-9-404 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §48-31-101, §48-31-102, §48-31-103, §48-31-104, §48-31-105, §48-31-106, §48-31-107, §48-31-201, §48-31-202, §48-31-203, §48-31-204, §48-31-205, §48-31-301, §48-31-302, §48-31-303, §48-31-304, §48-31-305, §48-31-306, §48-31-307, §48-31-308, §48-31-309, §48-31-310, §48-31-401, §48-31-402, §48-31-403, §48-31-404, §48-31-501, §48-31-502 and §48-31-503, all relating to adoption of the Uniform Deployed Parents Custody and Visitation Act; providing a short title; defining terms; providing for enforcement through assessment of attorney fees and costs; defining jurisdiction; providing that the residence of deploying parent is not changed by reason of deployment for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act; providing for emergency jurisdiction; providing notification requirements; providing notification requirements for change of address; establishing procedures to determine matters of child custody and visitation when parents are deployed in military or other national service; requiring notices from deployed parent; providing for out-of-court agreements and establishing minimum requirements therefor; providing that an agreement under this article is temporary and terminates after the deploying parent returns from deployment, unless terminated prior to by court order; a deploying parent, by power of attorney, may delegate all or part of custodial responsibilities to an certain persons under certain circumstances; providing that the power of attorney may be revoked; prohibiting consideration of past or future deployments in determining the best interest of the child; authorizing orders for payment of child support during deployment; providing that a court may issue a temporary order granting custodial responsibilities under certain circumstances; providing that parents may file a motion regarding custodial responsibility of a child during deployment; providing for expediting hearings; providing that testimony and evidence may be accepted by electronic means; providing effect to prior judicial orders or agreements; providing that a court may grant caretaking authority to certain nonparent individuals; providing for a court's grant of limited contact upon motion of a deploying parent; providing requirements for an order granting custodial responsibility; providing that the court may enter a temporary order for child support under certain circumstances; providing for modification and termination of orders and agreements and the procedures thereof; providing that the court shall issue a temporary order granting the deploying parent reasonable contact with the child under certain circumstances; and giving guidance for interpretation and construction in conjunction with other laws and orders.

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 2509, Relating to the practice of telemedicine.

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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 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. Com. Sub. for House Bill 2509—A Bill to amend and reenact §30-3-13a of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-12d of said code, all relating to the practice of telemedicine generally; prohibiting the prescribing of a drug with the intent of causing an abortion; and allowing a physician to prescribe controlled substances on Schedule II of the Uniform Controlled Substances Act in certain circumstances.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2509) 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 2518, Creating a legislative rule to permit a pharmacist or pharmacy intern to administer certain immunizations.

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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2518) 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 2519, Medicaid program 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, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2519) passed.

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

Eng. Com. Sub. for House Bill 2519—A Bill to amend the Code of West Virginia 1931, as amended, by adding thereto a new section, designated §9-5-25, relating to requiring Secretary of the Department of Health and Human Resources contact surrounding states to establish a Medicaid compact; required reporting; and setting forth purpose of the compact.

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

Eng. House Bill 2522, Nurse licensure 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, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2522) passed.

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

Eng. House Bill 2522—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-7F-1, §30-7F-2, §30-7F-3, §30-7F-4, §30-7F-5, §30-7F-6, §30-7F-7, §30-7F-8, §30-7F-9, §30-7F-10 and §30-7F-11, all relating to the establishment and operation of an interstate compact for licensure of nurses; setting forth findings; setting forth the purposes for the compact; defining terms; establishing jurisdiction of the compact; providing eligibility requirements; requiring a nurse to designate a state of principal license; providing licensure requirements; establishing a licensure process; establishing application process; providing for fees; providing requirements for renewal of a license; providing for joint investigation of nurses by member boards; establishing the effect of disciplinary actions; creating the commission to administer the compact; setting forth commission composition; establishing the authority of the commission; providing immunity; establishing commission rule making authority; establishing licensure information system; providing for compact administrators; providing for judicial review; providing for state enforcement; providing the commission may intervene in proceedings; providing for legal enforcement of compact rules and provisions; providing for termination or withdrawal of a member state; providing for compact oversight and dispute resolution; setting forth provisions for resolution of disputes; establishing provisions for state eligibility; setting forth the circumstances under which the compact will become effective; providing for amending the compact; setting forth procedures for states to withdraw from the compact; providing process to amend the compact; and establishing provisions related to severability.

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 2526, Classifying additional drugs to Schedules I, II, IV and V of controlled substances.

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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2526) 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 2586, Relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board.

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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2586) passed with its title.

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

Eng. House Bill 2653, Extending the Multi State Real-Time Tracking System.

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

On the passage of the bill, the yeas were: Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2653) passed with its title.

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

Eng. House Bill 2706, Authorizing legislative rules regarding higher education.

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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2706) 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 2731, Clarifying civil actions heard in circuit court.

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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. 2731) 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 2731—A Bill to amend and reenact §51-2-2 of the code of West Virginia, 1931, as amended, relating to clarifying that only civil actions with controversial amounts exceeding \$5,000 must be heard in circuit court, except in actions relating to real estate installment sales contracts or actions confined exclusively by the Constitution to some other tribunal.

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

Eng. Com. Sub. for House Bill 2739, Relating to supplemental Medicaid provider reimbursement.

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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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 H. B. 2739) 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 2796, Relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical 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, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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. H. B. 2796) 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 2796—A Bill to amend and reenact §15-1J-2 and §15-1J-4 of the Code of West Virginia, 1931, as amended, all relating to authorizing the West Virginia Military Authority to contract on behalf of the West Virginia National Guard with the federal government, certain other entities and individuals for specialized technical services to support specific activities related to national security, homeland security and other military-related programs.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—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. 2796) 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 2856, Declaring public policy and legislative intent for improving the marketing, quality and frequency of passenger rail service of the Cardinal Passenger Train.

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

On the passage of the bill, the yeas were: Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel and Carmichael (Mr. President)—32.

The nays were: Azinger—1.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2856) 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 2856—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-9a, relating to declaring it the public policy of the State and the Legislature's intent to improve the marketing, quality and frequency of passenger rail service of the Cardinal Passenger Train operated by the National Railroad Passenger Corporation, doing business as AMTRAK, along the route crossing the south-central region of the state from Huntington eastward to White Sulphur Springs; establishing the powers and duties of the Commissioner of the Division of Tourism and the Tourism Commission to achieve such policy; directing the West Virginia Department of Transportation and the West Virginia State Rail Authority to cooperate with the Tourism Commission to achieve such policy; authorizing the Commissioner of Tourism to cooperate with other states and the National Railroad Passenger Corporation to achieve such policy; authorizing the Commissioner of Tourism to participate in an interstate body to achieve such policy; and creating a special revenue account, the Cardinal Passenger Train Enhancement Fund, for receipt of certain gifts, grants, bequests, transfers, appropriations or other donations which may be received.

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

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, Ferns, Gaunch, Hall, Jeffries, Karnes, Mann, Maroney, Maynard, Miller, Mullins, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, 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 H. B. 2948) 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 2948—A Bill to amend and reenact §17C-17A-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-1A-3a of said code; to amend and reenact §19-2A-4 of said code; to amend and reenact §19-9A-3 of said code; to amend and reenact §19-12D-7 of said code; to amend and reenact §19-15-2 of said code; to amend and reenact §19-34-6 of said code; to amend and reenact §19-35-3 of said code; to amend and reenact §20-3-5 of said code; to amend and reenact §20-7A-5 of said code; to amend and reenact §21-10-7 of said code; to amend and reenact §21-12-7 of said code; to amend and reenact §21-

15-10 of said code; to amend and reenact §24A-3-3 of said code; to amend and reenact §29-3-12 of said code; to amend and reenact §29-29-4 of said code; to amend and reenact §47-1A-10 of said code, all relating generally to the issuance of permits; establishing timelines for taking final action on certain permits; modifying procedures for the issuance of permits by the Public Service Commission for activities related to the commercial transportation of coal; modifying procedures for the issuance of permits by the Division of Forestry for activities related to growing or dealing ginseng; modifying procedures for the issuance of permits by the Commissioner of Agriculture to operate a public market; modifying procedures for the issuance of permits by the Commissioner of Agriculture to feed garbage to swine; modifying procedures for the issuance of permits by the Commissioner of Agriculture for activities related to noxious weeds; modifying procedures for the issuance of permits by the Commissioner of Agriculture for activities related to the manufacture or distribution of fertilizer; modifying procedures for the issuance of permits by the Dangerous Wild Animals Board; modifying procedures for the issuance of uniform farmers market vendor permits by local health departments; modifying procedures for the issuance of burning permits by the Director of the Division of Natural Resources; modifying procedures for the issuance of permits by the Director of the Division of Natural Resources for the excavation or removal of archaeological, paleontological, prehistoric and historic features; modifying procedures for the issuance of permits by the Division of Labor to operate an amusement ride or attraction, a commercial bungee jumping site, or a zipline or canopy tour; modifying procedures for the issuance of permits by the Public Service Commission to operate as a contract carrier by motor vehicle; modifying procedures for the issuance of permits by the State Fire Marshal; modifying procedures for the issuance of permits by a nonprofit youth organization; and modifying permit fees and procedures for the issuance of permits by the Commissioner of the Division of Labor for activities related to the regulation and control of bedding and upholstery businesses.

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 199, Budget Bill.

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

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

Eng. Com. Sub. for House Bill 2083, Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing.

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 section and inserting in lieu thereof the following:

ARTICLE 10. METHAMPHETAMINE LABORATORY ERADICATION ACT.

§60A-10-12. Exposure of children to methamphetamine manufacturing; penalties.

(a) Any person eighteen years of age or older who knowingly causes or permits a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than ~~one~~ two nor more than ~~five~~ ten years, fined not more than ten thousand dollars, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, ~~the penalty for a violation of said subsection when the child suffers serious bodily injury as such is defined in the provisions of section one, chapter eight-b of this code shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than twenty-five thousand dollars, or both~~ any person eighteen years of age or older who knowingly causes or permits a minor to be present in a location where methamphetamine is manufactured or attempted to be manufactured and the child thereby suffers serious bodily injury is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not less than three, nor more than fifteen, years, fined not more than \$25,000, or both imprisoned and fined.

(c) As used in subsection (b) of this section, "serious bodily injury" shall have the same meaning as this term is defined in section one, article eight-b, chapter sixty-one of this code.

Following discussion,

The question being on the adoption the Judiciary committee amendment to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2083), as amended, was then ordered to third reading.

Eng. House Bill 2119, Repealing West Virginia Health Benefit Exchange Act.

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

Eng. Com. Sub. for House Bill 2219, Authorizing miscellaneous boards and agencies to promulgate legislative rules.

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 section and inserting in lieu thereof the following:

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Commissioner of Agriculture.

(a) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section two, article nine, chapter nineteen of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled

in the State Register on September 23, 2016, relating to the Commissioner of Agriculture (animal disease control, 61 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section three, article thirty-four, chapter nineteen of this code relating to the Commissioner of Agriculture (dangerous wild animals, 61 CSR 30), is authorized.

(c) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section four, article one-c, chapter nineteen of this code, relating to the Commissioner of Agriculture (livestock care standards, 61 CSR 31), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article two-h, chapter nineteen of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2016, relating to the Commissioner of Agriculture (captive cervid, 61 CSR 34), is authorized with the following amendments:

On page two, subsection 2.10, by striking out “Class II” and inserting in lieu thereof “Class I”;

On page two, by striking out subsection 2.17 and inserting in lieu thereof a new subsection 2.17 to read as follows:

“2.17. Slaughter facility” means a slaughter facility with a valid captive cervid license operating under state or federal inspection that may hold cervids for up to seventy-two (72) hours prior to slaughtering, or a slaughter facility with no captive cervid facility license operating under state or federal inspection that must slaughter all cervids within the operating day of receipt of the animal(s).”;

On page four, by striking out subsection 5.1 and inserting in lieu thereof a new subsection 5.1 to read as follows:

“5.1. An updated inventory record containing birth and death records, and testing results shall be provided biannually: at license renewal on June 30 and by December 31.”;

On page five, paragraph 8.1.a.2, by striking out “white-tailed deer” and inserting in lieu thereof “cervids”;

On page five, paragraph 8.1.a.5, by striking out “white-tailed deer” and inserting in lieu thereof “cervids”;

On page five, subparagraph 8.1.b.3.d., by striking out “Flooring” and inserting in lieu thereof “Flooding”;

On page eight, by striking out all of subsection 10.2 and inserting in lieu thereof a new subsection 10.2 to read as follows:

“10.2. A licensee shall forward a copy of the records of all acquisitions, mortalities by unknown cause, sales or possession transfers to the state veterinarian’s office within fifteen (15) days. Applications to receive or transfer captive cervids shall be made on forms provided by the Department.”;

On page eight, subsection 11.6, after the word “months”, by inserting a comma and the following words: or from an out-of-state captive cervid facility which is located within a fifteen (15) mile radius of a confirmed CWD or TB positive cervid in the last sixty (60) months.”;

On page ten, by striking out subsection 12.2 and inserting in lieu thereof a new subsection 12.2 to read as follows:

“12.2 Any captive cervid that escapes from a captive cervid facility shall be dispatched by the Department or DNR personnel, unless after review by the Commissioner of Agriculture and the West Virginia State Veterinarian it is determined that the escaped captive cervid, after being secured and returned to the premise from which it escaped, does not present a health risk to the public, other captive cervids or wildlife: *Provided*, That all escaped cervids that are sourced from a known, confirmed TB and CWD containment area will be dispatched.”;

On page eleven, subsection 13.6, by striking out the words “if from a captive cervid facility” and inserting in lieu thereof the word “number”;

On page eleven, by un-striking subsection 3.7;

And,

By renumbering the remaining subsection.

§64-9-2. Board of Architects.

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article twelve, chapter thirty of this code, modified by the Board of Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2016, relating to the Board of Architects (registration of architects, 2 CSR 01), is authorized with the following amendments:

On page one, subsection 1.5, by striking out the phrase “fifteen (15)” and inserting in lieu thereof the phrase “ten (10)”.

§64-9-3. Athletic Commission.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section twenty-four, article five-a, chapter twenty-nine of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2016, relating to the Athletic Commission (administrative rules of the West Virginia State Athletic Commission, 177 CSR 01), is authorized with the following amendments:

On page four, after subdivision “4.5.g.” by striking out the words “No fee for amateurs. —” and inserting in lieu thereof “4.6”;

On page four, in the paragraph beginning with the words “No fee for amateurs” after the words “amateur contestant or a” by striking out the word “managers” and inserting in lieu thereof the word “manager”;

On page eight, in the section heading "11a. Testing for Older Fighters", by striking out 11.a and inserting in lieu thereof "12";

On page eight, by striking out 11a.1 and inserting in lieu thereof "12.1";

On page nine, by striking out 11a.2 and inserting in lieu thereof "12.2";

On page nine, by striking out 11a.3 and inserting in lieu thereof "12.3";

On page nine, by striking out 11a.3.a and inserting in lieu thereof "12.3.a";

On page nine, by striking out 11a.3.b and inserting in lieu thereof "12.3.b";

On page nine, by striking out 11a.3.c and inserting in lieu thereof "12.3.c";

On page nine, by striking out 11a.4 and inserting in lieu thereof "12.4";

On page nine, after subsection 11a.4 by adding a new subsection to read as follows:

"12.5 The applicant, or by contract, the promoter, shall pay for any medical testing required in this section: *Provided*, That the applicant is responsible to be tested timely pursuant to the applicable rules of the Commission." and by renumbering the remaining sections;

On page eleven, subsection 25.1, by striking out the words "shall neither" and inserting in lieu thereof the words "may not";

On page thirteen, subsection 30.2, by striking out the word "provision" and inserting in lieu thereof the word "section";

On page twenty-one, in the section heading, by striking out "45a" and inserting in lieu thereof "47";

On page twenty-one, by striking out "45a.1" and inserting in lieu thereof "47.1";

On page twenty-one, by striking out "45a.2" and inserting in lieu thereof "47.2";

On page twenty-one, by striking out "45a.2.a" and inserting in lieu thereof "47.2.a";

On page twenty-one, by striking out "45a.2.a.1" and inserting in lieu thereof "47.2.a.1";

On page twenty-one, by striking out "45a.2.a.2" and inserting in lieu thereof "47.2.a.2";

On page twenty-one, by striking out "45a.2.a.3" and inserting in lieu thereof "47.2.a.3";

On page twenty-one, by striking out "45a.2.a.4" and inserting in lieu thereof "47.2.a.4";

On page twenty-one, by striking out "45a.2.a.5" and inserting in lieu thereof "47.2.a.5";

On page twenty-one, by striking out "45a.2.b" and inserting in lieu thereof "47.2.b";

On page twenty-one, by striking out "45a.2.b.1" and inserting in lieu thereof "47.2.b.1";

On page twenty-one, by striking out “45a.2.b.2” and inserting in lieu thereof “47.2.b.2”;

On page twenty-one, in paragraph 45a.2.a.2, after the words “wear foot pads” by adding the words “or shin guard instep pads”;

On page twenty-one, in paragraph 45a.2.a.2, after the word “Footpads” by adding the words “or shin guard instep pads”;

On page twenty-one, by striking out “45a.2.b.3” and inserting in lieu thereof “47.2.b.3”;

On page twenty-one, by striking out “45a.2.b.4” and inserting in lieu thereof “47.2.b.4”;

On page twenty-two, by striking out “45a.2.c” and inserting in lieu thereof “47.2.c”;

On page twenty-two, by striking out “45a.2.c.1” and inserting in lieu thereof “47.2.c.1”;

On page twenty-two, by striking out “45a.2.c.2” and inserting in lieu thereof “47.2.c.2”;

On page twenty-two, by striking out “45a.2.c.3” and inserting in lieu thereof “47.2.c.3”;

On page twenty-two, by striking out “45a.2.c.4” and inserting in lieu thereof “47.2.c.4”;

On page twenty-two, by striking out “45a.2.c.5” and inserting in lieu thereof “47.2.c.5”;

On page twenty two, paragraph 45a.2.c.5., after the sentence ending with the words “two (2) minutes’ duration.” by striking out the remainder of the paragraph;

On page twenty-two, after 45a.2.c.5., by adding a new paragraph to read as follows:

“47.2.c.6. An amateur contestant’s fourth and each subsequent amateur bout shall consist of three (3) rounds and three (3) minutes duration.”;

On page twenty-two, by striking out “45a.3” and inserting in lieu thereof “47.3”;

On page twenty-two, by striking out “45a.3.a” and inserting in lieu thereof “47.3.a”;

On page twenty-two, by striking out “45a.3.a.1” and inserting in lieu thereof “47.3.a.1”;

On page twenty-two, by striking out “45a.3.a.2” and inserting in lieu thereof “47.3.a.2”;

On page twenty-two, by striking out “45a.3.a.3” and inserting in lieu thereof “47.3.a.3”;

On page twenty-two, by striking out “45a.3.b” and inserting in lieu thereof “47.3.b”;

On page twenty-two, by striking out “45a.3.b.1” and inserting in lieu thereof “47.3.b.1”;

On page twenty-two, by striking out “45a.3.b.2” and inserting in lieu thereof “47.3.b.2”;

On page twenty-two, by striking out “45a.3.b.3” and inserting in lieu thereof “47.3.b.3”;

On page twenty-two, by striking out “45a.3.b.4” and inserting in lieu thereof “47.3.b.4”;

On page twenty-two, by striking out “45a.3.b.5” and inserting in lieu thereof “47.3.b.5”;

On page twenty-two, by striking out “45a.3.b.6” and inserting in lieu thereof “47.3.b.6”;

On page twenty-two, by striking out “45a.3.b.7” and inserting in lieu thereof “47.3.b.7”;

On page twenty-three, by striking out “45a.3.c” and inserting in lieu thereof “47.3.c”;

On page twenty-three, by striking out “45a.3.c.1” and inserting in lieu thereof “47.3.c.1”;

On page twenty-three, by striking out “45a.3.c.2” and inserting in lieu thereof “47.3.c.2”;

On page twenty-three, by striking out “45a.3.c.3” and inserting in lieu thereof “47.3.c.3” and by renumbering the remaining sections;

On page twenty three, paragraph 45a.3.c.3., after the sentence ending with the words “two (2) minutes duration.” by striking out the remainder of the paragraph;

And,

On page twenty-three, after 45a.3.c.3., by adding a new paragraph to read as follows:

“47.3.c.4. An amateur contestant’s fourth and each subsequent amateur bout shall consist of three (3) rounds and three (3) minutes’ duration.”.

(b) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section twenty-four, article five-a, chapter twenty-nine of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2016, relating to the Athletic Commission (regulation of mixed martial arts, 177 CSR 02), is authorized.

§64-9-4. Auditor’s Office.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section ten, article three, chapter twelve of this code, modified by the Auditor’s Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2016, relating to the Auditor’s Office (standards for requisitions for payment issued by state officers on the Auditor, 155 CSR 01), is authorized with the following amendment:

On page eleven, by striking subdivision 10.1.e in its entirety.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section nine, article eight, chapter eleven of this code, modified by the Auditor’s Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2016, relating to the Auditor’s Office (procedure for local levying bodies to apply for permission to extend time to meet as levying body, 155 CSR 08), is authorized.

§64-9-5. Board of Barbers and Cosmetologists.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of

Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Barbers and Cosmetologists (qualifications, training, examination and certification of instructors in barbering and cosmetology, 3 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on August 19, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, relating to the Board of Barbers and Cosmetologists (licensing schools of barbering, cosmetology, nail technology and aesthetics, 3 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 26, 2017, relating to the Board of Barbers and Cosmetologists (operational standards for schools of barbering, cosmetology, hair styling, nail technology and aesthetics, 3 CSR 04), is authorized with the following amendment:

On page three, by striking out all of subdivision 3.1.r. in its entirety;

On page three, subdivision 3.2.d. by striking out the sentence "Theory classes shall be taught at least 12 hours per week.";

And,

On page three, by striking out all of subdivision 3.2.s. in its entirety.

(d) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (operation of barber, beauty, nail and aesthetic shops/salons and schools of barbering and beauty culture, 3 CSR 05), is authorized.

(e) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (schedule of fees, 3 CSR 06), is authorized.

(f) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (continuing education, 3 CSR 11), is authorized with the following amendments:

On page one, subsection 1.1 to read as follows:

Scope. – The legislative rule establishes requirements for continuing education to practice hair styling, barbering, cosmetology, manicuring/nail technology, and aesthetics. All persons licensed by the Board to practice beauty culture must earn a minimum of four (4) hours of

continuing education credits annually. Licensees who have been licensed for twenty (20) years or more are exempt from the continuing education requirements but must take a three (3) hour sanitation class every other year.

And;

On page three, subsection 4.4 to read as follows:

4.4 Licensees who have been licensed for twenty (20) years or more are exempt from the continuing education requirements but must take a three (3) hour sanitation class every other year.

(g) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section eight-a, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (barber apprenticeship, 3 CSR 13), is authorized.

(h) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, relating to the Board of Barbers and Cosmetologists (waxing specialist, 3 CSR 14), is authorized.

§64-9-6. Board of Examiners in Counseling.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (licensed professional counselor fees, 27 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (licensed professional counselor license renewal and continuing professional education requirements, 27 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (marriage and family therapist fees, 27 CSR 09), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (marriage and family therapist license renewal and continuing professional education requirements, 27 CSR 10), is authorized with the following amendment:

On page four, subdivision 4.1.b. after the words “continuing education” by unstriking the stricken words “on a biennium basis beginning”;

And,

On page four, subdivision 4.1.b. after the words “~~license renewal~~’ by unstriking the words “on or after”.

§64-9-7. Dangerous Wild Animal Board.

The legislative rule filed in the State Register on February 11, 2016, authorized under the authority of section three, article thirty-four, chapter nineteen of this code, modified by the Dangerous Wild Animal Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 31, 2016, relating to the Dangerous Wild Animal Board (dangerous wild animals, 74 CSR 01), is authorized.

§64-9-8. Board of Dentistry.

The legislative rule filed in the State Register on July 26, 2016, authorized under the authority of section six, article four, chapter thirty of this code, modified by the Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 2, 2016, relating to the Board of Dentistry (rule for the West Virginia Board of Dentistry, 5 CSR 01), is authorized with the following amendments:

On page one, by striking out subsection 1.5 and inserting in lieu thereof a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.”

And,

On page four, after subsection 4.2, by inserting a new subsection 4.3, to read as follows:

“4.3 Teaching Permits with U.S. Specialty Training. The Board of Dentistry may issue a teaching permit to an applicant trained in foreign dental schools, who possess a certificate of completed dental specialty training from a U. S. or Canadian dental school and who has received U. S. Board certification. The permit shall be issued only upon certification of the dean of a dental school located in this state, that the applicant is a member of the staff at that school. The permits are valid for one year and may be reissued by the Board with a written recommendation of the dental school dean. The holder of the permit may perform all operations which a person licensed to practice dentistry in this state may perform, but only within the confines of the primary location of the dental school, or teaching hospital adjacent to a dental school located within the state and as an adjunct to his or her teaching functions in the dental school.”

§64-9-9. Board of Medicine.

(a) The legislative rule filed in the State Register on July 12, 2016, authorized under the authority of section seven, article three, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Medicine (licensing and

disciplinary procedures: physicians; podiatrists, 11 CSR 1A), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”

(b) The legislative rule filed in the State Register on July 12, 2016, authorized under the authority of section three, article three-e, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Medicine (licensure, disciplinary and complaint procedures, continuing education, physician assistants, 11 CSR 1B), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”

(c) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section seven, article three, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 26, 2016, relating to the Board of Medicine (dispensing of legend drugs by practitioners, 11 CSR 5), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”

§64-9-10. Board of Optometry.

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article eight, chapter thirty of this code, modified by the Board of Optometry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2016, relating to the Board of Optometry (continuing education, 14 CSR 10), is authorized.

§64-9-11. Board of Osteopathic Medicine.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article three-e, chapter thirty of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2016, relating to the Board of Osteopathic Medicine (licensing procedures for osteopathic physicians, 24 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 29, 2016, authorized under the authority of section three, article three-e, chapter thirty of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2016, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 02), is authorized.

§64-9-12. Board of Pharmacy.

(a) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section seven, article five, chapter thirty of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section seven, article five, chapter thirty of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the Board of Pharmacy (mail-order and non-resident pharmacies, 15 CSR 06), is authorized.

(c) The legislative rule effective on May 17, 2015, authorized under the authority of section seven, article five, chapter thirty of this code, relating to the West Virginia Board of Pharmacy (registration of pharmacy technicians, 15 CSR 7), is authorized, with the following amendment:

On page one, by inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.”

On page three, subsection 4.1, by striking the phrase “The training program shall, at a minimum contain the following.” and inserting in lieu thereof the phrase “A competency based pharmacy technician education and training program shall, at a minimum contain the following.”

And,

On page five, subsection 4.3, by striking out subdivision (a), and inserting in lieu thereof a new subdivision (a), to read as follows:

“(a) has graduated from a high school or obtained a Certificate of General Educational Development (GED) or its equivalent, or is currently enrolled in a high school competency based pharmacy technician education and training program;”.

(d) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section six, article nine, chapter sixty-a of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the Board of Pharmacy (controlled substances monitoring program, 15 CSR 08), is authorized.

§64-9-13. Board of Physical Therapy.

The legislative rule filed in the State Register on April 22, 2016, authorized under the authority of section six, article twenty, chapter thirty of this code, relating to the Board of Physical Therapy (fees for physical therapist and physical therapist assistant, 16 CSR 04), is authorized.

§64-9-14. Public Service Commission.

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article two-e, chapter twenty-four of this code, modified by the Public Service Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2016, relating to the Public Service Commission (telephone conduit occupancy, 150 CSR 37), is authorized.

§64-9-15. Board of Examiners for Registered Professional Nurses.

(a) The legislative rule filed in the State Register on July 29, 2016, authorized under the authority of section four, article seven, chapter thirty of this code, modified by the Board of Examiners for Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Examiners for Registered Professional Nurses (requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized with the following amendments:

On page one, by striking out subsection 1.5 and inserting in lieu thereof a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.”

And,

On page sixteen, subsection 14.4, after the words “or other action.” by adding “A licensee whose license has been summarily suspended is entitled to a hearing not less than twenty (20) days after the license was summarily suspended. The licensee may waive his or her right to a hearing on the summary suspension within the twenty (20) day period.”

(b) The legislative rule filed in the State Register on August 2, 2016, authorized under the authority of section four, article seven, chapter thirty of this code, modified by the Board of Examiners for Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Examiners for Registered Professional Nurses (limited prescriptive authority for nurses in advanced practice, 19 CSR 08), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”

§64-9-16. State Board of Sanitarians.

The legislative rule filed in the State Register on August 11, 2016, authorized under the authority of section six, article seventeen, chapter thirty of this code, modified by the State Board of Sanitarians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2016, relating to the State Board of Sanitarians (practice of public health sanitation, 20 CSR 04), is authorized.

§64-9-17. Secretary of State.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section eleven, article two, chapter three of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 17, 2017, relating to the Secretary of State (voter registration at the Division of Motor Vehicles, 153 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section twenty-three-a, article two, chapter three of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 17, 2017, relating to the Secretary of State (voter registration list maintenance by the Secretary of State, 153 CSR 05), is authorized.

§64-9-18. Board of Social Work Examiners.

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty, chapter thirty of this code, modified by the Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 27, 2016, relating to the Board of Social Work Examiners (continuing education for social workers and providers, 25 CSR 05), is authorized.

§64-9-19. Board of Speech-Language Pathology and Audiology.

The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section seven, article thirty-two, chapter thirty of this code, modified by the Board of Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 23, 2017, relating to the Board of Speech-Language Pathology and Audiology (licensure of speech-pathology and audiology, 29 CSR 01), is authorized.

§64-9-20. Treasurer's Office.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section two, article two, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (procedures for deposit of moneys with the State Treasurer's Office by state agencies, 112 CSR 04), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section two, article one, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State

Register on October 21, 2016, relating to the Treasurer's Office (selection of state depositories for disbursement accounts through competitive bidding, 112 CSR 06), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section two, article one, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (selection of state depositories for receipt accounts, 112 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article three, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (procedures for processing payments from the state treasury, 112 CSR 08), is authorized.

(e) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article three-a, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (procedure for fees in collections by charge, credit or debit card or by electronic payment, 112 CSR 12), is authorized.

(f) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article three-a, chapter twelve of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer's Office (procedures for providing services to political subdivisions, 112 CSR 13), is authorized.

§64-9-21. Board of Veterinary Medicine.

The legislative rule filed in the State Register on June 15, 2016, authorized under the authority of section five, article ten, chapter thirty of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2016, relating to the Board of Veterinary Medicine (standards of practice, 26 CSR 04), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5 to read as follows:

"1.5 Sunset Date – This rule shall terminate and have no further force or affect upon the expiration of 10 years from its effective date."

The bill (Eng. Com. Sub. for H. B. 2219), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2303, Increasing criminal penalties for littering.

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 section and inserting in lieu thereof the following:

ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.

§22-15A-4. Unlawful disposal of litter; civil and criminal penalty; litter control fund; evidence; notice violations; litter receptacle placement; penalty; duty to enforce violations.

(a) (1) No person ~~shall~~ may place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter as defined in section two of this article, in or upon any public or private highway, road, street or alley; any private property; any public property; or the waters of the state or within one hundred feet of the waters of this state, except in a proper litter or other solid waste receptacle.

(2) It is unlawful for any person to place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter from a motor vehicle or other conveyance or to perform any act which constitutes a violation of the motor vehicle laws contained in section fourteen, article fourteen, chapter seventeen-c of this code.

(3) If any litter is placed, deposited, dumped, discharged, thrown or caused to be placed, deposited, dumped or thrown from a motor vehicle, boat, airplane or other conveyance, it is prima facie evidence that the owner or the operator of the motor vehicle, boat, airplane or other conveyance intended to violate the provisions of this section.

(4) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter on his or her private property in an amount not exceeding fifty pounds in weight is not subject to the criminal provisions of this section.

~~(4)~~(5) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter, not collected for commercial purposes, in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, is guilty of a misdemeanor. Upon conviction, he or she is subject to a fine of not less than \$100 nor more than ~~\$1,000~~ \$2,500, or in the discretion of the court, sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property, or waters of the state, as designated by the court, for not less than eight nor more than ~~sixteen hours~~ one hundred hours, or both.

~~(5)~~(6) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter, not collected for commercial purposes, in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size is guilty of a misdemeanor. Upon conviction he or she is subject to a fine of not less than ~~\$1,000~~ \$2,500 nor more than ~~\$2,000~~ \$5,000, or in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property, or waters of the state, as designated by the court, for not less than sixteen nor more than ~~thirty-two hours~~ two hundred hours, or both.

~~(6)~~(7) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter in an amount greater than five hundred pounds in weight or two hundred sixteen cubic feet in size or any amount which had been collected for commercial purposes is guilty of a misdemeanor. Upon conviction, the

person ~~is subject to a fine~~ shall be fined not less than \$2,500 or not more than \$25,000 or confinement in jail for not more than one year or both. In addition, the violator may be guilty of creating or contributing to an open dump as defined in section two, article fifteen, chapter twenty-two of this code and subject to the enforcement provisions of section fifteen of ~~said~~ that article.

~~(7)~~(8) Any person convicted of a second or subsequent violation of this section is subject to double the authorized range of fines and community service for the subsection violated.

~~(8)~~(9) The sentence of litter clean up shall be verified by environmental inspectors from the Department of Environmental Protection. Any defendant receiving the sentence of litter clean up shall provide, within a time to be set by the court, written acknowledgment from an environmental inspector that the sentence has been completed and the litter has been disposed of lawfully.

~~(9)~~(10) Any person who has been found by the court to have willfully failed to comply with the terms of a litter clean up sentence imposed by the court pursuant to this section is subject to, at the discretion of the court, double the amount of the original fines and community service penalties originally ordered by the court.

~~(10)~~(11) All law-enforcement agencies, officers and environmental inspectors shall enforce compliance with this section within the limits of each agency's statutory authority.

~~(14)~~(12) No portion of this section restricts an owner, renter or lessee in the lawful use of his or her own private property or rented or leased property or to prohibit the disposal of any industrial and other wastes into waters of this state in a manner consistent with the provisions of article eleven, chapter twenty-two of this code. But if any owner, renter or lessee, private or otherwise, knowingly permits any such of these materials or substances to be placed, deposited, dumped or thrown in such a location that high water or normal drainage conditions will cause ~~any such~~ these materials or substances to wash into any waters of the state, it is prima facie evidence that the owner, renter or lessee intended to violate the provisions of this section: *Provided*, That if a landowner, renter or lessee, private or otherwise, reports any placing, depositing, dumping or throwing of these substances or materials upon his or her property to the prosecuting attorney, county commission, the Division of Natural Resources or the Department of Environmental Protection, the landowner, renter or lessee will be presumed to not have knowingly permitted the placing, depositing, dumping or throwing of the materials or substances.

(b) Any indication of ownership found in litter ~~shall be~~ is prima facie evidence that the person identified violated the provisions of this section: *Provided*, That no inference may be drawn solely from the presence of any logo, trademark, trade name or other similar mass reproduced things of identifying character appearing on the found litter.

(c) Every person who is convicted of or pleads guilty to disposing of litter in violation of subsection (a) of this section shall pay a civil penalty ~~in the sum of not less than \$200 nor more than \$1,000~~ of \$2,000 as costs for clean-up, investigation and prosecution of the case, in addition to any other court costs that the court is otherwise required by law to impose upon a convicted person.

The clerk of the circuit court, magistrate court or municipal court in which these additional costs are imposed shall, on or before the last day of each month, transmit fifty percent of a civil penalty received pursuant to this section to the State Treasurer for deposit in the State Treasury to the credit of a special revenue fund ~~to be~~ known as the Litter Control Fund which ~~is hereby continued and~~ was transferred to the Department of Environmental Protection. Expenditures for

purposes set forth in this section are not authorized from collections but are to be made only in accordance with appropriation and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions set forth in article two, chapter five-a of this code. Amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this article may be transferred to other accounts or funds and designated for other purposes by appropriation of the Legislature.

(d) The remaining fifty percent of each civil penalty collected pursuant to this section shall be transmitted to the county or regional solid waste authority in the county where the litter violation occurred. Moneys shall be expended by the county or regional solid waste authority for the purpose of litter prevention, clean up and enforcement. The county commission shall cooperate with the county or regional solid waste authority serving the respective county to develop a coordinated litter control program pursuant to section eight, article four, chapter twenty-two-c of this code.

(e) The Commissioner of the Division of Motor Vehicles, upon registering a motor vehicle or issuing an operator's or chauffeur's license, shall issue to the owner or licensee, as the case may be, a summary of this section and section fourteen, article fourteen, chapter seventeen-c of the code.

(f) The Commissioner of the Division of Highways shall cause appropriate signs to be placed at the state boundary on each primary and secondary road, and at other locations throughout the state, informing those entering the state of the maximum penalty provided for disposing of litter in violation of subsection (a) of this section.

(g) Any state agency or political subdivision that owns, operates or otherwise controls any public area ~~as may be~~ designated by the secretary by rule promulgated pursuant to subdivision (8), subsection (a), section three of this article shall procure and place litter receptacles at its own expense upon its premises and shall remove and dispose of litter collected in the litter receptacles. After receiving two written warnings from any law-enforcement officer or officers to comply with this subsection or the rules of the secretary, any state agency or political subdivision that fails to place and maintain the litter receptacles upon its premises in violation of this subsection or the rules of the secretary shall be fined \$30 per day of the violation.

On motion of Senator Smith, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2303) were reported by the Clerk, considered simultaneously, and adopted:

On page two, section four, subsection (a), subdivision (5), line twenty-five, after the words "or both." by adding the following: "If any person is convicted of the misdemeanor by placing, depositing, dumping or throwing litter in the waters of the state, that person shall be fined \$500 to no more than \$3,000, or in the discretion of the court sentenced to perform community service by cleaning up litter from any waters of the state, as designated by the court, for not less than twenty to no more than one hundred twenty hours, or both.";

On page two, section four, subsection (a), subdivision (6), line thirty-four, after the words "or both." by adding the following: "If any person is convicted of the misdemeanor by placing, depositing, dumping or throwing litter in the waters of the state, that person shall be fined \$3,000 to no more than \$5,500, or in the discretion of the court sentenced to perform community service by cleaning up litter from any waters of the state, as designated by the court, for not less than twenty to no more than two hundred twenty hours, or both.";

On page two, section four, subsection (a), subdivision (7), line forty, after the word “or both.” by adding the following: “If any person is convicted of the misdemeanor by placing, depositing, dumping or throwing litter in the waters of the state, that person shall be fined \$3,000 to no more than \$30,000, or confinement in jail for not more than one year or both.”;

On page three, section four, after line fifty-five, by inserting a new subdivision, designated subdivision (12), to read as follows:

(12) No magistrate or municipal court judge may dismiss an action brought under the provisions of this section without notification to the prosecuting attorney of that county of his or her intention to do so and affording the prosecuting attorney an opportunity to be heard.;

And,

By renumbering the remaining subdivision.

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. 2303), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2319, Relating to candidates or candidate committees for legislative office disclosing contributions.

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

On motion of Senator Prezioso, 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:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §3-8-15; and that said code be amended by adding thereto a new section, designated §6B-3-4a, all to read as follows:

CHAPTER 3. ELECTIONS.

ARTICLE 8. REGULATIONS AND CONTROL OF ELECTIONS.

§3-8-15. Disclosure of contributions during legislative session.

(a) In addition to other reporting required under this article, any member, or any candidate committee for a member of the Legislature who is a candidate for legislative office, who has a fund-raising event while the Legislature is in session, shall disclose the existence of the event and the receipt of all contributions, including the source and amounts, within five business days after the fund-raising event.

(b) The reporting requirements under this section also apply to former candidates or candidate committees for legislative office who are still holding any legislative office and who use a fund-raising event to retire or pay-off debt of a campaign account while the Legislature is in session.

(c) The reporting requirements of this section do not relieve a candidate or candidate's committee from reporting contributions received and disclosed in conformity with this section from

reporting them as required by the regular reporting requirements as contained in section five of this article.

(d) The Secretary of State shall prepare a form for disclosure of these contributions and publish the information on the Secretary of State's website within forty-eight hours of the Secretary of State receiving the completed form: *Provided*, That as an alternative, the Secretary of State is authorized to establish a means for electronic filing and disclosure.

(e) Pursuant to article three, chapter twenty-nine-a of this code, the Secretary of State may propose rules and emergency rules for legislative approval relating to procedures and policies consistent with this section.

CHAPTER 6B. PUBLIC OFFICERS AND EMPLOYEES; ETHICS; CONFLICTS OF INTEREST; FINANCIAL DISCLOSURE.

ARTICLE 3. LOBBYISTS.

§6B-3-4a. Disclosure of expenditures during legislative session.

(a) In addition to other reporting required under this article, a lobbyist who makes an expenditure while the Legislature is in session that is otherwise required to be disclosed under section four of this article and is in excess of \$50, shall disclose the expenditure, within five business days of making the expenditure.

(b) The reporting requirements of this section do not relieve a lobbyist from reporting expenditures as required by the regular reporting requirements as contained in section four of this article.

(c) The Commission shall prepare a form for disclosure of these expenditures and publish the information on the Commission's website within forty-eight hours of the Commission receiving the completed form: *Provided*, That as an alternative, the Commission is authorized to establish a means for electronic filing and disclosure.

(d) Pursuant to article three, chapter twenty-nine-a of this code, the Commission may propose rules and emergency rules for legislative approval relating to procedures and policies consistent with this section.

Senator Trump arose to a point of order that Senator Prezioso's amendment to the bill was not germane to the bill.

Which point of order, the President ruled well taken.

The bill (Eng. Com. Sub. for H. B. 2319) was then ordered to third reading.

Eng. Com. Sub. for House Bill 2367, Establishing a criminal offense of organized retail crime.

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:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-3A-7, to read as follows:

ARTICLE 3A. SHOPLIFTING.

§61-3A-7. Organized retail theft; offenses; penalties; cumulation; venue; forfeiture.

(a) Any person who enters into a common scheme or plan with two or more other persons to violate the provisions of section one of this article involving merchandise of a cumulative value of \$2,000 or more with the intent to sell, trade or otherwise distribute the merchandise shall be guilty of a felony, and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than one nor more than ten years or be fined not less than \$1,000 nor more than \$10,000, or both imprisoned and fined.

(b) Notwithstanding the provisions of subsection (a) of this section any person who enters into a common scheme or plan with two or more other persons to violate the provisions of section one of this article involving merchandise of a cumulative value of \$10,000 or more with the intent to sell, trade or otherwise distribute the merchandise shall be guilty of a felony, and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than two nor more than twenty years fined not less than \$2,000 nor more than \$25,000, or both imprisoned and fined.

(c) Any person who purchases, trades or barter for, or otherwise obtains with any form of consideration, merchandise from persons he knows or has reason to believe was obtained by three or more persons engaged in a common scheme or plan to violate the provisions of section one of this article shall be guilty of a felony.

(d) Any person who violates the provisions of subsection (c) of this section by purchasing, trading or bartering for merchandise with a cumulative value of \$2,000 or more shall, upon conviction, be imprisoned in a state correctional facility for a determinate term of not less than one year, nor more than ten years or fined not less than \$1,000 nor more than \$10,000, or both imprisoned and fined.

(e) Notwithstanding the provisions of subsection (d) of this section, any person who violates the provisions of subsection (c) of this section by purchasing, trading or bartering for merchandise with a cumulative value of \$10,000 or more shall, upon conviction, be imprisoned in a state correctional facility for a determinate term of not less than two years, nor more than twenty years or fined not less than \$2,000 nor more than \$25,000, or both imprisoned and fined.

(f) In determining the value of merchandise in a prosecution under this section, it is permissible to cumulate the value of merchandise obtained as part of a common scheme or plan.

(g) Violations of subsections (a), (b) and (c) of this section occurring in one or more counties of this state may be prosecuted in any county wherein any part of the offense was committed and the provisions of subsection (f) of this section are applicable to offenses so occurring.

(h)(1) Any interest a person has acquired or maintained in any cash, asset or other property of value in any form, derived in part or total from any proceeds obtained from participating in a

violation of this section, may be seized and forfeited consistent with the procedures in the West Virginia Contraband Forfeiture Act, as provided in article seven, chapter sixty-a of this code.

(2) Notwithstanding subdivision (1) of this subsection, at sentencing for a violation of this section, the court may direct disgorgement to the victim or victims of any cash, asset or other property of value in any form, derived in part or total from any proceeds obtained from such violation.

The bill (Eng. Com. Sub. for H. B. 2367), as amended, was then ordered to third reading.

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

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 section and inserting in lieu thereof the following:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

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

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

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

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

(d) Nonmedical school personnel who have been trained in the administration of an epinephrine auto-injector and who have been designated and authorized by the school or county board to administer the epinephrine auto-injector are authorized to administer an epinephrine auto-injector to a student or school personnel during regular school hours or at a school function when the authorized and designated nonmedical school personnel reasonably believes, based

upon their training, that the individual is experiencing an anaphylactic reaction. Nonmedical school personnel may use the school supply of epinephrine auto-injectors for a student or school personnel authorized to self-administer that meet the requirements of a prescription on file with the school.

(e) School transportation employees, including bus drivers, who have been trained in the administration of an epinephrine auto-injector and who have been designated and authorized by the school or county board to administer an epinephrine auto-injector may administer an epinephrine auto-injector to a student or school personnel during transportation to or from a school function when the school transportation employee reasonably believes, based upon his or her training, that the individual is experiencing an anaphylactic reaction. A school transportation employee may use the individual's personal supply of epinephrine auto-injectors or the school's supply of epinephrine auto-injectors for a student or school personnel authorized to self-administer that meet the requirements of a prescription on file with the school: *Provided*, That a school transportation employee shall defer to an individual possessing a higher degree of medical training or the parent of the child experiencing an anaphylactic reaction, if either are present at the time of the reaction; *Provided, however*, That the school transportation employee, trained and authorized to administer epinephrine auto-injectors, is not subject to the terms of section twenty-two of this article.

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

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

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

~~(h)~~ (i) All county boards of education are required to collect and compile aggregate data on incidents of anaphylactic reactions resulting in the administration of school maintained epinephrine auto-injectors in their county during a school year and forward the data to the state superintendent of schools. The state superintendent of schools shall prepare an annual report to be presented to the Joint Committee on Government and Finance as set forth in article three, chapter four of this code, by December 31 of each year.

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

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

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

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

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

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

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

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

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

The bill (Eng. Com. Sub. for H. B. 2373), as amended, was then ordered to third reading.

Eng. House Bill 2427, Requiring agencies listed in the online state phone directory to update certain employee information.

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

Eng. House Bill 2446, Relating to the requirement that all executive branch agencies maintain a website that contains specific information.

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

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

On page one, section five, line two, after the word "information" by inserting a comma and the words "if applicable".

The bill (Eng. H. B. 2446), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2453, Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp.

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

Eng. Com. Sub. for House Bill 2475, Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents.

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

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

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

Eng. Com. Sub. for House Bill 2555, Relating to tax credits for apprenticeship training in construction trades.

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

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

Eng. Com. Sub. for House Bill 2619, Risk Management and Own Risk and Solvency Assessment Act.

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

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

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated 33-40B-1, §33-40B-2, §33-40B-3, §33-40B-4, §33-40B-5, §33-40B-6, §33-40B-7, §33-40B-8, §33-40B-9, §33-40B-10 and §33-40B-11, all to read as follows:

ARTICLE 40B. RISK MANAGEMENT AND OWN RISK AND SOLVENCY ASSESSMENT ACT.

§33-40B-1. Purpose and Scope.

(a) The purpose of this article is to provide requirements for maintaining a risk management framework and completing an own risk and solvency assessment (ORSA) and provide guidance and instructions for filing an ORSA summary report with the Insurance Commissioner of this state.

(b) The requirements of this article apply to all insurers domiciled in this state unless exempt pursuant to section six of this article.

(c) The Legislature finds and declares that the ORSA summary report shall contain confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or insurance group filing the report. This information shall include proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. It is the intent of this Legislature that the ORSA summary report shall be a confidential document filed with the commissioner, that the ORSA summary report may be shared only as stated herein and to assist the commissioner in the performance of his or her duties, and that in no event shall the ORSA summary report be subject to public disclosure.

§33-40B-2. Definitions.

(a) “Commissioner” means the Insurance Commissioner of the State of West Virginia, his or her deputies or the insurance department, as appropriate.

(b) “Insurance group” means, for the purpose of conducting an ORSA, those insurers and affiliates included within an insurance holding company system as defined in article twenty-seven of this chapter.

(c) “Insurer” has the same meaning as set forth in section two, article one of this chapter, except that it does not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia or a state or political subdivision of a state.

(d) “NAIC” means the National Association of Insurance Commissioners.

(e) “Own risk and solvency assessment” or “ORSA” means a confidential internal assessment, appropriate to the nature, scale and complexity of an insurer or insurance group, conducted by that insurer or insurance group of the material and relevant risks associated with the insurer or insurance group’s current business plan and the sufficiency of capital resources to support those risks.

(f) “ORSA Guidance Manual” means the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the NAIC and as amended from time to time. A change in the ORSA Guidance Manual shall be effective on the January 1 following the calendar year in which the changes have been adopted by the NAIC.

(g) “ORSA summary report” means a confidential high-level summary of an insurer or insurance group’s ORSA.

§33-40B-3. Risk Management Framework.

An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing and reporting on its material and relevant risks. This requirement may be satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

§33-40B-4. ORSA Requirement.

Subject to section six of this article, an insurer, or the insurance group of which the insurer is a member, shall regularly conduct an ORSA consistent with a process comparable to the ORSA Guidance Manual. The ORSA shall be conducted no less than annually but also at any time when there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

§33-40B-5. ORSA Summary Report.

(a) Upon the commissioner’s request, and no more than once each year, an insurer shall submit to the commissioner an ORSA summary report or any combination of reports that together contain the information described in the ORSA Guidance Manual, applicable to the insurer and/or, the insurance group of which it is a member. Notwithstanding any request from the commissioner,

if the insurer is a member of an insurance group, the insurer shall submit the report(s) required by this subsection if the commissioner is the lead state commissioner of the insurance group as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.

(b) The report(s) shall include a signature of the insurer or insurance group's chief risk officer or other executive having responsibility for the oversight of the insurer's enterprise risk management process attesting to the best of his or her belief and knowledge that the insurer applies the enterprise risk management process described in the ORSA summary report and that a copy of the report has been provided to the insurer's board of directors or the appropriate committee thereof.

(c) An insurer may comply with subsection (a) of this section by providing the most recent and substantially similar report(s) provided by the insurer or another member of an insurance group of which the insurer is a member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the ORSA Guidance Manual. Any report in a language other than English must be accompanied by a translation of that report into the English language.

§33-40B-6. Exemption.

(a) An insurer is exempt from the requirements of this article, if

(1) The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500 million; and

(2) The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$1 billion.

(b) If an insurer qualifies for exemption pursuant to subdivision (1), subsection (a) of this section, but the insurance group of which the insurer is a member does not qualify for exemption pursuant to subdivision (2), subsection (a) of this section, then the ORSA summary report that may be required pursuant to section five shall include every insurer within the insurance group. This requirement may be satisfied by the submission of more than one ORSA summary report for any combination of insurers provided any combination of reports includes every insurer within the insurance group.

(c) If an insurer does not qualify for exemption pursuant to subdivision (1), subsection (a) of this section, but the insurance group of which it is a member qualifies for exemption pursuant to subdivision (2), subsection (a) of this section, then the only ORSA summary report that may be required pursuant section five of this article is the report applicable to that insurer.

(d) An insurer that does not qualify for exemption pursuant to subsection (a) of this section may apply to the commissioner for a waiver from the requirements of this article based upon unique circumstances. In deciding whether to grant the insurer's request for waiver, the commissioner may consider the type and volume of business written, ownership and organizational structure, and any other factor the commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the lead

state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

(e) Notwithstanding the exemptions stated in this section:

(1) The commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA summary report based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests; and

(2) The commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA summary report if the insurer has risk-based capital for company action level event as set forth in section three, article forty of this chapter, meets one or more of the standards of an insurer considered to be in hazardous financial condition as defined in section three-a, article thirty-four of this chapter, or otherwise exhibits qualities of a troubled insurer as determined by the commissioner.

(f) If an insurer that qualifies for an exemption pursuant to subsection (a) of this section subsequently no longer qualifies for that exemption due to changes in premium as reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer has one year following the year the threshold is exceeded to comply with the requirements of this article.

§33-40B-7. Contents of ORSA Summary Report.

(a) The ORSA summary report shall be prepared consistent with the ORSA Guidance Manual, subject to the requirements of subsection (b) of this section. Documentation and supporting information shall be maintained and made available upon examination or upon request of the commissioner.

(b) The review of the ORSA summary report, and any additional requests for information, shall be made using similar procedures currently used in the analysis and examination of multistate or global insurers and insurance groups.

§33-40B-8. Confidentiality.

(a) Documents, materials or other information, including the ORSA summary report, in the possession of or control of the Insurance Commissioner that are obtained by, created by or disclosed to the commissioner or any other person under this article, is recognized by this state as being proprietary and to contain trade secrets. All such documents, materials or other information shall be confidential by law and privileged, shall not be subject to article one, chapter twenty-nine-b of this code, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer.

(b) Neither the commissioner nor any person who received documents, materials or other ORSA-related information, through examination or otherwise, while acting under the authority of the commissioner or with whom the documents, materials or other information are shared

pursuant to this article shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

(c) In order to assist in the performance of the commissioner's regulatory duties, the commissioner:

(1) May, upon request, share documents, materials or other ORSA-related information, including the confidential and privileged documents, materials or information subject to subsection (a) of this section, including proprietary and trade secret documents and materials with other state, federal and international financial regulatory agencies, including members of any supervisory college as defined in section six-a, article twenty-seven of this chapter, with the NAIC and with any third-party consultants designated by the commissioner: *Provided*, That the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;

(2) May receive documents, materials or other ORSA-related information, including otherwise confidential and privileged documents, materials or information, including proprietary and trade-secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college as defined in section six-a, article twenty-seven of this chapter, and from the NAIC, and shall maintain as confidential or privileged any documents, materials or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information;

(3) Shall enter into a written agreement with the NAIC or a third-party consultant governing sharing and use of information provided pursuant to this article, consistent with this subsection that shall:

(A) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC or a third-party consultant pursuant to this article, including procedures and protocols for sharing by the NAIC with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;

(B) Specify that ownership of information shared with the NAIC or a third-party consultant pursuant to this article remains with the commissioner and the NAIC's or a third-party consultant's use of the information is subject to the direction of the commissioner;

(C) Prohibit the NAIC or third-party consultant from storing the information shared pursuant to this article in a permanent database after the underlying analysis is completed;

(D) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or a third-party consultant pursuant to this article is subject to a request or subpoena to the NAIC or a third-party consultant for disclosure or production;

(E) Require the NAIC or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this article; and

(F) If there is an agreement involving a third-party consultant, provide for the insurer's written consent.

(d) The sharing of information and documents by the commissioner pursuant to this article shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution and enforcement of the provisions of this article.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade-secret materials or other ORSA-related information shall occur as a result of disclosure of such ORSA-related information or documents to the commissioner under this section or as a result of sharing as authorized in this article.

(f) Documents, materials or other information in the possession or control of the NAIC or a third-party consultant pursuant to this article shall be confidential by law and privileged, shall not be subject to article one, chapter twenty-nine-b of this code, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action.

§33-40B-9. Sanctions.

Any insurer failing, without just cause, to timely file the ORSA summary report as required in this article shall, after notice and hearing, pay a penalty of \$2,500 for each day's delay, to be recovered by the commissioner and the penalty so recovered shall be paid into the General Revenue Fund of this state. The maximum penalty under this section is \$75,000. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

§33-40B-10. Severability.

The provisions of this article are severable and accordingly, if any part of this article is adjudged to be unconstitutional or invalid, that determination does not affect the continuing validity of the remaining provisions of this article.

§33-40B-11. Effective Date.

The requirements of this article shall become effective on January 1, 2018. The first filing of the ORSA summary report shall be in 2018 pursuant to section five of this article.

The bill (Eng. Com. Sub. for H. B. 2619), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2676, Transferring the Security office under the Division of Culture and History to the Division of Protective Services.

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

Eng. Com. Sub. for House Bill 2683, Relating to West Virginia Insurance Guaranty Association Act.

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

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

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

Eng. Com. Sub. for House Bill 2734, Authorizing a method for the collection and remittance of property taxes related to dealers' heavy equipment inventory.

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

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

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

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

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

And,

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

On motion of Senator Hall, the following amendment to the bill (Eng. Com. Sub. for H. B. 2734) was next reported by the Clerk and adopted:

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-5-15, to read as follows:

The bill (Eng. Com. Sub. for H. B. 2734), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2767, Authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks.

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 section and inserting in lieu thereof the following:

CHAPTER 31B. UNIFORM LIMITED LIABILITY COMPANY ACT.**ARTICLE 1. GENERAL PROVISIONS.****§31B-1-111. Service of process.**

(a) An agent for service of process appointed by a limited liability company or a foreign limited liability company is an agent of the company for service of any process, notice or demand required or permitted by law to be served upon the company.

(b) If a limited liability company or foreign limited liability company fails to appoint or maintain an agent for service of process in this state or the agent for service of process cannot with reasonable diligence be found at the agent's address, the Secretary of State is an agent of the company upon whom process, notice or demand may be served.

(c) Service of any process, notice or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State, the assistant Secretary of State or clerk having charge of the limited liability company department of the Secretary of State, the original process, notice or demand and two copies thereof for each defendant, along with the fee required by section two, article one, chapter fifty-nine of this code. No process, notice or demand may be served on or accepted by the Secretary of State less than ten days before the return day thereof. The Secretary of State, upon being served with or accepting any process, notice or demand, shall: (1) File in his or her office a copy of the process, notice or demand, endorsed as of the time of service or acceptance; and (2) transmit one copy of the process, notice or demand by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to the limited liability company's registered agent: *Provided*, That if there is no registered agent, then to the individual whose name and address was last given to the Secretary of State's office as the person designated to receive process, notice or demand. If no person has been named, then to the principal office of the limited liability company at the address last given to the Secretary of State's office and if no address is available on record with the Secretary of State then to the address provided on the original process, notice or demand, if available; and (3) transmit the original process, notice or demand to the clerk's office of the court from which the process, notice or demand was issued. Such service or acceptance of process, notice or demand is sufficient if the return receipt is signed by an agent or employee of such company, or the registered or certified mail so sent by the Secretary of State is refused by the addressee and the registered or certified mail is returned to the Secretary of State, showing the stamp of the United States Postal Service that delivery thereof has been refused, and such return receipt or registered or certified mail is received by the Secretary of State by a means which may include electronic issuance and acceptance of electronic return receipts. After receiving verification from the United States Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States Postal Service the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State shall be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. No process, notice or demand may be served on the Secretary of State or accepted by him or her less than ten days

before the return day of the process or notice. The court may order continuances as may be reasonable to afford each defendant opportunity to defend the action or proceedings.

(d) The Secretary of State shall keep a record of all processes, notices and demands served pursuant to this section and record the time of and the action taken regarding the service.

(e) This section does not affect the right to serve process, notice or demand in any manner otherwise provided by law.

CHAPTER 31D. WEST VIRGINIA BUSINESS CORPORATION ACT.

ARTICLE 5. OFFICE AND AGENT.

§31D-5-504. Service on corporation.

(a) A corporation's registered agent is the corporation's agent for service of process, notice or demand required or permitted by law to be served on the corporation.

(b) If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office. Service is perfected under this subsection at the earliest of:

(1) The date the corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the corporation; or

(3) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(c) In addition to the methods of service on a corporation provided in subsections (a) and (b) of this section, the Secretary of State is hereby constituted the attorney-in-fact for and on behalf of each corporation created pursuant to the provisions of this chapter. The Secretary of State has the authority to accept service of notice and process on behalf of each corporation and is an agent of the corporation upon whom service of notice and process may be made in this state for and upon each corporation. No act of a corporation appointing the Secretary of State as attorney-in-fact is necessary. Service of any process, notice or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State the original process, notice or demand and two copies of the process, notice or demand for each defendant, along with the fee required by section two, article one, chapter fifty-nine of this code: *Provided*, That with regard to a class action suit in which all defendants are to be served with the same process, notice or demand, service may be made by filing with the Secretary of State the original process, notice or demand and one copy for each named defendant. Immediately after being served with or accepting any process or notice, the Secretary of State shall: (1) File in his or her office a copy of the process or notice, endorsed as of the time of service or acceptance; (2) transmit one copy of the process or notice by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to: (A) The corporation's registered agent; or (B) if there is no registered agent, to the individual whose name and address was last given to the Secretary of State's office as the person to whom notice and process are to be sent and if no person has been named, to the principal office of the corporation as that address was last given to the Secretary of State's office. If no address is available on

record with the Secretary of State, then to the address provided on the original process, notice or demand, if available; and (3) transmit the original process, notice or demand to the clerk's office of the court from which the process, notice or demand was issued. Service or acceptance of process or notice is sufficient if return receipt is signed by an agent or employee of the corporation, or the registered or certified mail sent by the Secretary of State is refused by the addressee and the registered or certified mail is returned to the Secretary of State, or to his or her office, showing the stamp of the United States ~~postal service~~ Postal Service that delivery has been refused, and the return receipt or registered or certified mail is received by the Secretary of State by a means which may include electronic issuance and acceptance of electronic return receipts. After receiving verification from the United States ~~postal service~~ Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States ~~postal service~~ Postal Service the Secretary of State shall ~~return the refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. No process or notice may be served on the Secretary of State or accepted by him or her less than ten days before the return day of the process or notice. The court may order continuances as may be reasonable to afford each defendant opportunity to defend the action or proceedings.

(d) This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

CHAPTER 31E. WEST VIRGINIA NONPROFIT CORPORATION ACT.

ARTICLE 5. OFFICE AND AGENT.

§31E-5-504. Service on corporation.

(a) A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

(b) If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office. Service is perfected under this subsection at the earliest of:

(1) The date the corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the corporation; or

(3) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(c) In addition to the methods of service on a corporation provided in subsections (a) and (b) of this section, the Secretary of State is hereby constituted the attorney-in-fact for and on behalf

of each corporation created pursuant to the provisions of this chapter. The Secretary of State has the authority to accept service of notice and process on behalf of each corporation and is an agent of the corporation upon whom service of notice and process may be made in this state for and upon each corporation. No act of a corporation appointing the Secretary of State as attorney-in-fact is necessary. Service of any process, notice or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State the original process, notice or demand and two copies of the process, notice or demand for each defendant, along with the fee required by section two, article one, chapter fifty-nine of this code. Immediately after being served with or accepting any process or notice, the Secretary of State shall: (1) File in his or her office a copy of the process or notice, endorsed as of the time of service, or acceptance; (2) transmit one copy of the process or notice by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to: (A) The corporation's registered agent; or (B) if there is no registered agent, to the individual whose name and address was last given to the Secretary of State's office as the person to whom notice and process are to be sent, and if no person has been named, to the principal office of the corporation as that address was last given to the Secretary of State's office; and if no address is available on record with the Secretary of State, then to the address provided on the original process, notice or demand, if available; and (3) transmit the original process, notice or demand to the clerk's office of the court from which the process, notice or demand was issued. Service or acceptance of process or notice is sufficient if return receipt is signed by an agent or employee of the corporation, or the registered or certified mail sent by the Secretary of State is refused by the addressee and the registered or certified mail is returned to the Secretary of State, or to his or her office, showing the stamp of the United States ~~postal service~~ Postal Service that delivery has been refused, and the return receipt or registered or certified mail is received by the Secretary of State by a means which may include electronic issuance and acceptance of electronic return receipts. After receiving verification from the United States ~~postal service~~ Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States ~~postal service~~ Postal Service, the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State shall be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. No process or notice may be served on the Secretary of State or accepted by him or her less than ten days before the return day of the process or notice. The court may order continuances as may be reasonable to afford each defendant opportunity to defend the action or proceedings.

(d) This section does not prescribe the only means, or necessarily the required means of serving a corporation.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 9. UNIFORM LIMITED PARTNERSHIP ACT.

§47-9-4. Secretary of State constituted attorney-in-fact for all limited partnerships; manner of acceptance or service of notice and process upon Secretary of State; what

constitutes conducting affairs or doing or transacting business in this state for purposes of this section.

The Secretary of State is hereby constituted the attorney-in-fact for and on behalf of every limited partnership created by virtue of the laws of this state and every foreign limited partnership authorized to conduct affairs or do or transact business herein pursuant to the provisions of this article, with authority to accept service of notice and process on behalf of every such limited partnership and upon whom service of notice and process may be made in this state for and upon every such limited partnership. No act of such limited partnership appointing the Secretary of State such attorney-in-fact shall be necessary. Immediately after being served with or accepting any such process or notice, of which process or notice two copies for each defendant shall be furnished the Secretary of State with the original notice or process, together with the fee required by section two, article one, chapter fifty-nine of this code, the Secretary of State shall file in his office a copy of such process or notice, with a note thereon endorsed of the time of service or acceptance, as the case may be, and transmit one copy of such process or notice by registered or certified mail, return receipt requested, to the person to whom notice and process shall be sent, whose name and address were last furnished to the state officer at the time authorized by statute to accept service of notice and process and upon whom notice and process may be served; and if no such person has been named, to the principal office of the limited partnership at the address last furnished to the state officer at the time authorized by statute to accept service of process and upon whom process may be served, as required by law, or if no address is available on record with the Secretary of State then to the address provided on the original process or process, if available. No process or notice shall be served on the Secretary of State or accepted by him less than ten days before the return day thereof. Such limited partnership shall pay the annual fee prescribed by article twelve, chapter eleven of this code for the services of the Secretary of State as its attorney-in-fact.

Any foreign limited partnership which shall conduct affairs or do or transact business in this state without having been authorized so to do pursuant to the provisions of this article shall be conclusively presumed to have appointed the Secretary of State as its attorney-in-fact with authority to accept service of notice and process on behalf of such limited partnership and upon whom service of notice and process may be made in this state for and upon every such limited partnership in any action or proceeding described in the next following paragraph of this section. No act of such limited partnership appointing the Secretary of State as such attorney-in-fact shall be necessary. Immediately after being served with or accepting any such process or notice, of which process or notice two copies for each defendant shall be furnished the Secretary of State with the original notice or process, together with the fee required by section two, article one, chapter fifty-nine of this code, the Secretary of State shall file in his office a copy of such process or notice, with a note thereon endorsed of the time of service or acceptance, as the case may be, and transmit one copy of such process or notice by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to such limited partnership at the address of its principal office, which address shall be stated in such process or notice. Such service or acceptance of such process or notice shall be sufficient if such return receipt shall be signed by an agent or employee of such limited partnership. After receiving verification from the United States ~~postal service~~ Postal Service that acceptance of process or notice has been signed, the Secretary of State shall notify the clerk's office of the court from which the process or notice was issued by a means which may include electronic notification. If the process or notice was refused or undeliverable by the United States ~~postal service~~ Postal Service the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly

and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State shall be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. No process or notice shall be served on the Secretary of State or accepted by him or her less than ten days before the return date thereof. The court may order such continuances as may be reasonable to afford each defendant opportunity to defend the action or proceedings.

For the purpose of this section, a foreign limited partnership not authorized to conduct affairs or do or transact business in this state pursuant to the provisions of this article shall nevertheless be deemed to be conducting affairs or doing or transacting business herein: (a) If such limited partnership makes a contract to be performed, in whole or in part, by any party thereto in this state; (b) if such limited partnership commits a tort, in whole or in part, in this state; or (c) if such limited partnership manufactures, sells, offers for sale or supplies any product in a defective condition and such product causes injury to any person or property within this state notwithstanding the fact that such limited partnership had no agents, servants or employees or contacts within this state at the time of said injury. The making of such contract, the committing of such tort or the manufacture or sale, offer of sale or supply of such defective product as herein above described shall be deemed to be the agreement of such limited partnership that any notice or process served upon, or accepted by, the Secretary of State pursuant to the next preceding paragraph of this section in any action or proceeding against such limited partnership arising from or growing out of such contract, tort or manufacture or sale, offer of sale or supply of such defective product shall be of the same legal force and validity as process duly served on such limited partnership in this state.

CHAPTER 56. PLEADING AND PRACTICE.

ARTICLE 3. WRITS, PROCESS AND ORDER OF PUBLICATION.

§56-3-31. Actions by or against nonresident operators of motor vehicles involved in highway accidents; appointment of Secretary of State, insurance company, as agents; service of process.

(a) Every nonresident, for the privilege of operating a motor vehicle on a public street, road or highway of this state, either personally or through an agent, appoints the Secretary of State, or his or her successor in office, to be his or her agent or attorney-in-fact upon whom may be served all lawful process in any action or proceeding against him or her in any court of record in this state arising out of any accident or collision occurring in the State of West Virginia in which the nonresident was involved: *Provided*, That in the event process against a nonresident defendant cannot be effected through the Secretary of State, as provided by this section, for the purpose only of service of process, the nonresident motorist shall be considered to have appointed as his or her agent or attorney-in-fact any insurance company which has a contract of automobile or liability insurance with the nonresident defendant.

(b) For purposes of service of process as provided in this section, every insurance company shall be considered the agent or attorney-in-fact of every nonresident motorist insured by that company if the insured nonresident motorist is involved in any accident or collision in this state and service of process cannot be effected upon the nonresident through the office of the Secretary of State. Upon receipt of process as provided in this section, the insurance company may, within thirty days, file an answer or other pleading or take any action allowed by law on behalf of the defendant.

(c) A nonresident operating a motor vehicle in this state, either personally or through an agent, is considered to acknowledge the appointment of the Secretary of State, or, as the case may be, his or her automobile insurance company, as his or her agent or attorney-in-fact, or the agent or attorney-in-fact of his or her administrator, administratrix, executor or executrix in the event the nonresident dies, and furthermore is considered to agree that any process against him or her or against his or her administrator, administratrix, executor or executrix, which is served in the manner provided in this section, shall be of the same legal force and validity as though the nonresident or his or her administrator, administratrix, executor or executrix were personally served with a summons and complaint within this state.

Any action or proceeding may be instituted, continued or maintained on behalf of or against the administrator, administratrix, executor or executrix of any nonresident who dies during or subsequent to an accident or collision resulting from the operation of a motor vehicle in this state by the nonresident or his or her duly authorized agent.

(d) Service of process upon a nonresident defendant shall be made by leaving the original and two copies of both the summons and complaint, together with the bond certificate of the clerk, and the fee required by section two, article one, chapter fifty-nine of this code with the Secretary of State, or in his or her office, and the service shall be sufficient upon the nonresident defendant or, if a natural person, his or her administrator, administratrix, executor or executrix: *Provided*, That notice of service and a copy of the summons and complaint shall be sent by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, by the Secretary of State to the nonresident defendant. After receiving verification from the ~~United States postal service~~ Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States ~~postal service~~ Postal Service the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. The court may order any reasonable continuances to afford the defendant opportunity to defend the action.

(e) The fee remitted to the Secretary of State at the time of service shall be taxed in the costs of the proceeding. The Secretary of State shall keep a record in his or her office of all service of process and the day and hour of service of process.

(f) In the event service of process upon a nonresident defendant cannot be effected through the Secretary of State as provided by this section, service may be made upon the defendant's insurance company. The plaintiff shall file with the clerk of the circuit court an affidavit alleging that the defendant is not a resident of this state; that process directed to the Secretary of State was sent by registered or certified mail, return receipt requested; that the registered or certified mail was returned to the office of the Secretary of State showing the stamp of the post office department that delivery was refused or that the notice was unclaimed or that the defendant addressee moved without any forwarding address; and that the Secretary of State has complied with the provisions of subsection (d) of this section. Upon receipt of process the insurance

company may, within thirty days, file an answer or other pleading and take any action allowed by law in the name of the defendant.

(g) The following words and phrases, when used in this article, for the purpose of this article and unless a different intent on the part of the Legislature is apparent from the context, have the following meanings:

(1) "Duly authorized agent" means and includes, among others, a person who operates a motor vehicle in this state for a nonresident as defined in this section and chapter, in pursuit of business, pleasure or otherwise, or who comes into this state and operates a motor vehicle for, or with the knowledge or acquiescence of, a nonresident; and includes, among others, a member of the family of the nonresident or a person who, at the residence, place of business or post office of the nonresident, usually receives and acknowledges receipt for mail addressed to the nonresident.

(2) "Motor vehicle" means and includes any self-propelled vehicle, including a motorcycle, tractor and trailer, not operated exclusively upon stationary tracks.

(3) "Nonresident" means any person who is not a resident of this state or a resident who has moved from the state subsequent to an accident or collision and among others includes a nonresident firm, partnership, corporation or voluntary association, or a firm, partnership, corporation or voluntary association that has moved from the state subsequent to an accident or collision.

(4) "Nonresident plaintiff or plaintiffs" means a nonresident who institutes an action in a court in this state having jurisdiction against a nonresident in pursuance of the provisions of this article.

(5) "Nonresident defendant or defendants" means a nonresident motorist who, either personally or through his or her agent, operated a motor vehicle on a public street, highway or road in this state and was involved in an accident or collision which has given rise to a civil action filed in any court in this state.

(6) "Street", "road" or "highway" means the entire width between property lines of every way or place of whatever nature when any part of the street, road or highway is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

(7) "Insurance company" means any firm, corporation, partnership or other organization which issues automobile insurance.

(h) The provision for service of process in this section is cumulative and nothing contained in this section shall be construed as a bar to the plaintiff in any action from having process in the action served in any other mode and manner provided by law.

§56-3-33. Actions by or against nonresident persons having certain contacts with this state; authorizing Secretary of State to receive process; bond and fees; service of process; definitions; retroactive application.

(a) The engaging by a nonresident, or by his or her duly authorized agent, in any one or more of the acts specified in subdivisions (1) through (7) of this subsection shall be deemed equivalent to an appointment by such nonresident of the Secretary of State, or his or her successor in office, to be his or her true and lawful attorney upon whom may be served all lawful process in any action

or proceeding against him or her, in any circuit court in this state, including an action or proceeding brought by a nonresident plaintiff or plaintiffs, for a cause of action arising from or growing out of such act or acts, and the engaging in such act or acts shall be a signification of such nonresident's agreement that any such process against him or her, which is served in the manner hereinafter provided, shall be of the same legal force and validity as though such nonresident were personally served with a summons and complaint within this state:

- (1) Transacting any business in this state;
- (2) Contracting to supply services or things in this state;
- (3) Causing tortious injury by an act or omission in this state;

(4) Causing tortious injury in this state by an act or omission outside this state if he or she regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;

(5) Causing injury in this state to any person by breach of warranty expressly or impliedly made in the sale of goods outside this state when he or she might reasonably have expected such person to use, consume or be affected by the goods in this state: *Provided*, That he or she also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;

(6) Having an interest in, using or possessing real property in this state; or

(7) Contracting to insure any person, property or risk located within this state at the time of contracting.

(b) When jurisdiction over a nonresident is based solely upon the provisions of this section, only a cause of action arising from or growing out of one or more of the acts specified in subdivisions (1) through (7), subsection (a) of this section may be asserted against him or her.

(c) Service shall be made by leaving the original and two copies of both the summons and the complaint, and the fee required by section two, article one, chapter fifty-nine of this code with the Secretary of State, or in his or her office, and such service shall be sufficient upon such nonresident: *Provided*, That notice of such service and a copy of the summons and complaint shall forthwith be sent by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, by the Secretary of State to the defendant at his or her nonresident address and the defendant's return receipt signed by himself or herself or his or her duly authorized agent or the registered or certified mail so sent by the Secretary of State which is refused by the addressee and which registered or certified mail is returned to the Secretary of State, or to his or her office, showing thereon the stamp of the post-office department that delivery has been refused. After receiving verification from the United States ~~postal service~~ Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States ~~postal service~~ Postal Service the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original

returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. If any defendant served with summons and complaint fails to appear and defend within thirty days of service, judgment by default may be rendered against him or her at any time thereafter. The court may order such continuances as may be reasonable to afford the defendant opportunity to defend the action or proceeding.

(d) The fee remitted to the Secretary of State at the time of service shall be taxed in the costs of the action or proceeding. The Secretary of State shall keep a record in his or her office of all such process and the day and hour of service thereof.

(e) The following words and phrases, when used in this section, shall for the purpose of this section and unless a different intent be apparent from the context, have the following meanings:

(1) "Duly authorized agent" means and includes among others a person who, at the direction of or with the knowledge or acquiescence of a nonresident, engages in such act or acts and includes among others a member of the family of such nonresident or a person who, at the residence, place of business or post office of such nonresident, usually receives and receipts for mail addressed to such nonresident.

(2) "Nonresident" means any person, other than voluntary unincorporated associations, who is not a resident of this state or a resident who has moved from this state subsequent to engaging in such act or acts, and among others includes a nonresident firm, partnership or corporation or a firm, partnership or corporation which has moved from this state subsequent to any of said such act or acts.

(3) "Nonresident plaintiff or plaintiffs" means a nonresident of this state who institutes an action or proceeding in a circuit court in this state having jurisdiction against a nonresident of this state pursuant to the provisions of this section.

(f) The provision for service of process herein is cumulative and nothing herein contained shall be construed as a bar to the plaintiff in any action or proceeding from having process in such action served in any other mode or manner provided by the law of this state or by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction.

(g) This section shall not be retroactive and the provisions hereof shall not be available to a plaintiff in a cause of action arising from or growing out of any of said acts occurring prior to the effective date of this section.

§56-3-33a. Actions against nonresident persons by petitioners seeking domestic violence or personal safety relief; service of process; authorizing Secretary of State to receive process against nonresidents.

(a) Any person who is:

(1) Not a resident of this state; or

(2) A resident of this state who has left this state; or

(3) A person whose residence is unknown shall be considered to have submitted to the jurisdiction of the courts of this state as to any action arising from the conduct specified in subsection (b) of this section, if such conduct was:

(A) Committed in this state; or

(B) If such conduct was not committed in this state if the conduct was purposely directed at a resident and has an effect within this state.

(b) Conduct compelling application of this section consists of:

(1) Any act constituting domestic violence or abuse as defined in section two hundred two, article twenty-seven, chapter forty-eight of this code; or

(2) Any act constituting a basis for seeking personal safety relief as defined in section four, article eight, chapter fifty-three of this code; or

(3) Any act or omission violating the provisions of a duly authorized protective or restraining order, whether issued by this state or another jurisdiction, for the protection of any person within this state.

(c) Any person subject to or considered to have submitted to the jurisdiction of the courts of this state who is made a respondent in an action may be served with the petition and order initiating such action either:

(1) By law-enforcement officers, wherever the respondent may be found, whether inside or outside the boundaries of this state; or

(2) If the respondent is alleged to have committed conduct specified in subsection (b) of this section, this shall be considered equivalent to an appointment by such nonresident of the Secretary of State, or his or her successor in office, to be his or her true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him or her, in any court in this state, for a cause of action arising from or growing out of such conduct, and the engaging in such conduct is a signification of such nonresident's agreement that any such process against him or her, which is served in the manner hereinafter provided, is of the same legal force and validity as though such nonresident were personally served within this state.

(A) Such service shall be made by leaving two copies of both the petition and order, with the Secretary of State, or in his or her office, and such service shall be sufficient upon such nonresident: *Provided*, That notice of such service and a copy of the petition and order shall forthwith be sent by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, by the Secretary of State to the respondent at his or her nonresident address and the respondent's return receipt signed by himself or herself or his or her duly authorized agent or the registered or certified mail so sent by the Secretary of State which is refused by the addressee and which registered or certified mail is returned to the Secretary of State, or to his or her office, showing thereon the stamp of the post-office department that delivery has been refused. After receiving verification from the United States Postal Service that acceptance of the notice, petition and order has been signed, the Secretary of State shall notify the clerk's office of the court from which the petition and order were issued by a means which may include electronic notification. If the notice, petition and order were refused or undeliverable by the United States Postal Service, the Secretary of State shall return

~~refused or undeliverable mail to the clerk's office of the court from which the petition and order were issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. If any respondent served with a petition and order fails to appear and defend at the time and place set forth in the order, judgment may be rendered against him or her at any time thereafter. The court may order such continuances as may be reasonable to afford the respondent an opportunity to defend the action or proceeding.

(B) As provided in section three hundred eight, article twenty-seven, chapter forty-eight of this code regarding domestic violence proceedings and in section thirteen, article eight, chapter fifty-three of this code regarding personal safety proceedings, no fees may be charged for service of petitions or orders until the matter is brought before the appropriate court for final resolution. Any fees ordinarily remitted to the Secretary of State or to a law-enforcement agency at the time of service shall be deferred and taxed in the costs of the action or proceeding.

(C) Data and records regarding service maintained by law-enforcement agencies and by the office of the Secretary of State for purposes of fulfilling the obligations of this section are not public records subject to disclosure under the provisions of article one, chapter twenty-nine-b of this code.

(d) The following words and phrases, when used in this section, shall for the purpose of this section and unless a different intent be apparent from the context, have the following meanings:

(1) "Duly authorized agent" means and includes among others a person who, at the direction of or with the knowledge or acquiescence of a nonresident, engages in such act or acts and includes among others a member of the family of such nonresident or a person who, at the residence, place of business or post office of such nonresident, usually receives and receipts for mail addressed to such nonresident.

(2) "Nonresident" means any person who is not a resident of this state or a resident who has moved from this state subsequent to engaging in such acts or acts covered by this section.

§56-3-34. Actions by or against nonresident bail bond enforcement agents or bail bondsmen; appointment of Secretary of State as agents; service of process.

(a) Every nonresident bail bond enforcer or bail bondsman, for the privilege of entering this state to act in the capacity of a bail bond enforcer, either personally or through an agent, appoints the Secretary of State, or his or her successor in office, to be his or her agent or attorney-in-fact upon whom may be served all lawful process in any action or proceeding against him or her in any court of record in this state for any act occurring within this state resulting in injury arising out of any breach of the applicable standard of care with respect to any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure, or with respect to the property of any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure; or for enforcement of any civil penalty for breach of a duty imposed by this code with respect to bail bondsmen employing or contracting with bail bond enforcers: *Provided*, That in the event process against a nonresident defendant cannot be effected through the Secretary of State, as provided by this section, for the purpose only of service of process, the nonresident bail bond enforcer or bondsman shall be deemed to have appointed

as his or her agent or attorney-in-fact any insurance company which has a contract of liability insurance for his or her activities.

(b) For purposes of service of process as provided in this section, every insurance company shall be deemed the agent or attorney-in-fact of every nonresident bail bond enforcer or bondsman insured by the company if the insured nonresident bail bond enforcer or bondsman is involved in any bail bond enforcement activity occurring within this state resulting in injury arising out of any breach of the applicable standard of care with respect to any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure, or with respect to the property of any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure and service of process cannot be effected upon the nonresident through the office of the Secretary of State. Upon receipt of process as hereinafter provided, the insurance company may, within thirty days, file an answer or other pleading or take any action allowed by law on behalf of the defendant.

(c) A nonresident bail bond enforcer or bail bondsman entering this state, either personally or through an agent, is deemed to acknowledge the appointment of the Secretary of State, or, as the case may be, his or her liability insurance company, as his or her agent or attorney-in-fact, or the agent or attorney-in-fact of his or her administrator, administratrix, executor or executrix in the event the nonresident dies, and furthermore is deemed to agree that any process against him or her or against his or her administrator, administratrix, executor or executrix, which is served in the manner hereinafter provided, shall be of the same legal force and validity as though said nonresident or his or her administrator, administratrix, executor or executrix were personally served with a summons and complaint within this state.

Any action or proceeding may be instituted, continued or maintained on behalf of or against the administrator, administratrix, executor or executrix of any nonresident who dies subsequent to bail bond enforcement activity in this state by the nonresident or his or her duly authorized agent.

(d) At the time of filing a complaint against a nonresident bail bond enforcer or bondsman who has been involved in bail bond enforcement activity in the State of West Virginia and before a summons is issued thereon, the plaintiff, or someone for him or her, shall execute a bond in the sum of \$100 before the clerk of the court in which the action is filed, with surety to be approved by said clerk, conditioned that on failure of the plaintiff to prevail in the action he or she will reimburse the defendant, or cause the defendant to be reimbursed, the necessary expense incurred in the defense of the action in this state. Upon the issue of a summons the clerk will certify thereon that the bond has been given and approved.

(e) Service of process upon a nonresident defendant shall be made by leaving the original and two copies of both the summons and complaint, together with the bond certificate of the clerk, and the fee required by section two, article one, chapter fifty-nine of this code with the Secretary of State, or in his or her office, and said service shall be sufficient upon the nonresident defendant or, if a natural person, his or her administrator, administratrix, executor or executrix: *Provided*, That notice of service and a copy of the summons and complaint shall be sent by registered or certified mail, return receipt requested, by the Secretary of State to the nonresident defendant. The return receipt signed by the defendant or his or her duly authorized agent shall be attached to the original summons and complaint and filed in the office of the clerk of the court from which the process is issued. In the event the registered or certified mail sent by the Secretary of State is refused or unclaimed by the addressee or if the addressee has moved without any forwarding address, the registered or certified mail returned to the Secretary of State, or to his or her office,

showing thereon the stamp of the post-office department that delivery has been refused or not claimed or that the addressee has moved without any forwarding address, ~~shall be appended to the original summons and complaint and filed in the clerk's office of the court from which process issued~~ the Secretary of State shall create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. The court may order such continuances as may be reasonable to afford the defendant opportunity to defend the action.

(f) The fee remitted to the Secretary of State at the time of service, shall be taxed in the costs of the proceeding and the Secretary of State shall pay into the State Treasury all funds so coming into his or her hands from the service. The Secretary of State shall keep a record in his or her office of all service of process and the day and hour of service thereof.

(g) In the event service of process upon a nonresident defendant cannot be effected through the Secretary of State as provided by this section, service may be made upon the defendant's insurance company. The plaintiff must file with the clerk of the circuit court an affidavit alleging that the defendant is not a resident of this state; that process directed to the Secretary of State was sent by registered or certified mail, return receipt requested; that the registered or certified mail was returned to the office of the Secretary of State showing the stamp of the post-office department that delivery was refused or that the notice was unclaimed or that the defendant addressee moved without any forwarding address; and that the Secretary of State has complied with the provisions of subsection (e) of this section. Upon receipt of process the insurance company may, within thirty days, file an answer or other pleading and take any action allowed by law in the name of the defendant.

(h) The following words and phrases, when used in this article, shall, for the purpose of this article and unless a different intent on the part of the Legislature is apparent from the context, have the following meanings:

(1) "Agent" or "duly authorized agent" means and includes, among others, a bail bond enforcer who, on behalf of a bail bondsman, is involved in any bail bond enforcement activity occurring within this state resulting in injury arising out of any breach of the applicable standard of care with respect to any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure, or with respect to the property of any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure;

(2) "Nonresident" means any person who is not a resident of this state or a resident who has moved from the state subsequent to bail bond enforcement activity within this state, and among others includes a nonresident firm, partnership, corporation or voluntary association, or a firm, partnership, corporation or voluntary association that has moved from the state subsequent to bail bond enforcement activity;

(3) "Nonresident defendant or defendants" means a nonresident bail bond enforcer or bondsman who, either personally or through his or her agent, is involved in any bail bond enforcement activity occurring within this state resulting in injury arising out of any breach of the applicable standard of care with respect to any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure, or with respect to the property

of any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure, which has given rise to a civil action filed in any court in this state;

(4) "Insurance company" means any firm, corporation, partnership or other organization which issues liability insurance.

(i) The provision for service of process herein is cumulative and nothing herein contained shall be construed as a bar to the plaintiff in any action from having process in the action served in any other mode and manner provided by law.

(j) This section is not retroactive and its provisions are not available to a plaintiff in a cause of action arising out of acts occurring prior to the effective date of this section.

The bill (Eng. Com. Sub. for H. B. 2767), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2898, Authorizing the Joint Committee on Government and Finance to request and obtain criminal background checks of employees of the Legislature.

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

Eng. Com. Sub. for House Bill 2939, Relating to the sale of items in the State Police Academy post exchange to the public.

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

Eng. Com. Sub. for House Bill 2949, Exempting specified Division of Natural Resources' contracts for some replacement, repair or design for repairs to facilities from review and approval requirements.

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

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

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

Eng. Com. Sub. for House Bill 2980, Relating to civil lawsuit filing fees for multiple defendant civil action.

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 section and inserting in lieu thereof the following:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-24d. State Police Forensic Laboratory Fund.

The State Police Forensic Laboratory Fund is hereby created within the Treasury of the state. The fund shall be administered by the superintendent and shall consist of all moneys made available for the operations of the State Police Forensic Laboratory from any source, including, but not limited to, all fees, all gifts, grants, bequests or transfers from any source, any moneys that may be appropriated and designated for the forensic laboratory by the Legislature and all interest or other return earned from investment of the fund. Expenditures from the fund shall be for the operations of the State Police Forensic Laboratory and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending June 30, 2018, expenditures are authorized from collections rather than pursuant to an explicit appropriation by the Legislature.

CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS; LEGAL ADVERTISEMENTS.**ARTICLE 1. FEES AND ALLOWANCES.****§59-1-11. Fees to be charged by clerk of circuit court.**

(a) The clerk of a circuit court shall charge and collect for services rendered by the clerk the following fees which shall be paid in advance by the parties for whom services are to be rendered:

(1) Except as provided in subdivisions (2) and (3) of this subsection, for instituting any civil action under the Rules of Civil Procedure, any statutory summary proceeding, any extraordinary remedy, the docketing of civil appeals or removals of civil cases from magistrate court, or any other action, cause, suit or proceeding, \$200, of which \$30 shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code and \$45 shall be deposited in the special revenue account designated the Fund for Civil Legal Services for Low Income Persons, established by paragraph (B), subdivision (4), subsection (c), section ten of this article, and \$20 deposited in the special revenue account created in section six hundred three, article twenty-six, chapter forty-eight of this code to provide legal services for domestic violence victims;

(2) For instituting an action for medical professional liability, \$400, of which \$10 shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code;

(3) Beginning on and after July 1, 1999, for instituting an action for divorce, separate maintenance or annulment, \$135;

(4) For petitioning for the modification of an order involving child custody, child visitation, child support or spousal support, \$85;

(5) For petitioning for an expedited modification of a child support order, \$35; ~~and~~

(6) For filing any pleading that includes a counterclaim, cross claim, third-party complaint or motion to intervene, \$200, which shall be deposited in the special revenue account designated the Fund for Civil Legal Services for Low Income Persons, established by paragraph (B),

subdivision (4), subsection (c), section ten of this article: *Provided*, That this subdivision and the fee it imposes does not apply in family court cases nor may more than one such fee be imposed on any one party in any one civil action; and

(7) Except for civil actions within the jurisdiction of family courts, for each defendant or respondent named in the initial pleading upon the institution of a civil action in which there are two or more named defendants, and for each additional defendant, respondent or third-party defendant subsequently named in a pleading filed in the civil action, \$15, payable upon the institution of the civil action or upon the filing of the initial pleading that names the additional defendant, respondent or third-party defendant, of which \$10 shall be deposited in the general fund of the county in which the office of the circuit clerk is located, and \$5 shall be deposited in the State Police Forensic Laboratory Fund, established under section twenty-four-d, article two, chapter fifteen of this code: *Provided*, That for purposes of this subdivision, "defendant or respondent named" does not include those defendants or respondents identified as "John/Jane Doe."

(b) In addition to the foregoing fees, the following fees shall be charged and collected:

(1) For preparing an abstract of judgment, \$5;

(2) For a transcript, copy or paper made by the clerk for use in any other court or otherwise to go out of the office, for each page, \$1;

(3) For issuing a suggestion and serving notice to the debtor by certified mail, \$25;

(4) For issuing an execution, \$25;

(5) For issuing or renewing a suggestee execution and serving notice to the debtor by certified mail, \$25;

(6) For vacation or modification of a suggestee execution, \$1;

(7) For docketing and issuing an execution on a transcript of judgment from magistrate court, \$3;

(8) For arranging the papers in a certified question, writ of error, appeal or removal to any other court, \$10, of which \$5 shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code;

(9) For each subpoena, on the part of either plaintiff or defendant, to be paid by the party requesting the same, 50 cents;

(10) For additional service, plaintiff or appellant, where any case remains on the docket longer than three years, for each additional year or part year, \$20; and

(11) For administering funds deposited into a federally insured interest-bearing account or interest-bearing instrument pursuant to a court order, \$50, to be collected from the party making the deposit. A fee collected pursuant to this subdivision shall be paid into the general county fund.

(c) In addition to the foregoing fees, a fee for the actual amount of the postage and express may be charged and collected for sending decrees, orders or records that have not been ordered by the court to be sent by mail or express.

(d) The clerk shall tax the following fees for services in a criminal case against a defendant convicted in such court:

(1) In the case of a misdemeanor, \$85; and

(2) In the case of a felony, \$105, of which \$10 shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code.

(e) The clerk of a circuit court shall charge and collect a fee of \$25 per bond for services rendered by the clerk for processing of criminal bonds and the fee shall be paid at the time of issuance by the person or entity set forth below:

(1) For cash bonds, the fee shall be paid by the person tendering cash as bond;

(2) For recognizance bonds secured by real estate, the fee shall be paid by the owner of the real estate serving as surety;

(3) For recognizance bonds secured by a surety company, the fee shall be paid by the surety company;

(4) For ten percent recognizance bonds with surety, the fee shall be paid by the person serving as surety; and

(5) For ten percent recognizance bonds without surety, the fee shall be paid by the person tendering ten percent of the bail amount.

In instances in which the total of the bond is posted by more than one bond instrument, the above fee shall be collected at the time of issuance of each bond instrument processed by the clerk and all fees collected pursuant to this subsection shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Nothing in this subsection authorizes the clerk to collect the above fee from any person for the processing of a personal recognizance bond.

(f) The clerk of a circuit court shall charge and collect a fee of \$10 for services rendered by the clerk for processing of bail piece and the fee shall be paid by the surety at the time of issuance. All fees collected pursuant to this subsection shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code.

(g) No clerk is required to handle or accept for disbursement any fees, cost or amounts of any other officer or party not payable into the county treasury except on written order of the court or in compliance with the provisions of law governing such fees, costs or accounts.

(h) Fees for removal of civil cases from magistrate court shall be collected by the magistrate court when the case is still properly before the magistrate court. The magistrate court clerk shall forward the fees collected to the circuit court clerk.

The bill (Eng. Com. Sub. for H. B. 2980), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

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

Eng. Com. Sub. for House Bill 2129, Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs.

Eng. Com. Sub. for House Bill 2195, Relating to requiring comprehensive drug awareness and prevention program in all public schools.

Eng. House Bill 2348, Eliminating any requirement that class hours of students be consecutive.

Eng. Com. Sub. for House Bill 2402, Relating to abandoned antique vehicles.

Eng. Com. Sub. for House Bill 2494, Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request.

Eng. Com. Sub. for House Bill 2503, Relating to the rulemaking authority for Board of Osteopathic Medicine.

Eng. Com. Sub. for House Bill 2546, Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned.

Eng. Com. Sub. for House Bill 2579, Increasing the penalties for transporting controlled substances.

Eng. Com. Sub. for House Bill 2585, Creating felony crime of conducting financial transactions involving proceeds of criminal activity.

Eng. Com. Sub. for House Bill 2589, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school.

Eng. Com. Sub. for House Bill 2603, Relating to municipal policemen's or firemen's pension and relief funds that are funded at one hundred and twenty-five percent or more.

Eng. House Bill 2628, Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine.

Eng. Com. Sub. for House Bill 2631, Relating to time standards for disposition of complaint proceedings.

Eng. Com. Sub. for House Bill 2646, Terminating the Women's Commission and discontinuing its functions.

Eng. House Bill 2691, Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber.

Eng. Com. Sub. for House Bill 2702, Relating to excused absences for personal illness from school.

Eng. Com. Sub. for House Bill 2709, Authorizing the City of South Charleston to levy a special district excise tax.

Eng. Com. Sub. for House Bill 2771, Relating to temporary teaching certificates for Armed Forces spouses.

Eng. Com. Sub. for House Bill 2792, Requiring the Library Commission to survey the libraries of the state.

Eng. Com. Sub. for House Bill 2797, Codifying statutory immunity for government agencies and officials from actions of third-parties using documents or records.

Eng. Com. Sub. for House Bill 2805, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

Eng. Com. Sub. for House Bill 2815, Relating to higher education governance.

Eng. House Bill 2833, Specifying the contents and categories of information for inclusion in annual reports.

Eng. Com. Sub. for House Bill 2839, Updating the procedures for legislative review of departments and licensing boards.

Eng. House Bill 2869, Providing for paid leave for certain state officers and employees during a declared state of emergency.

Eng. Com. Sub. for House Bill 2897, Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions.

Eng. Com. Sub. for House Bill 2941, Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services.

Eng. Com. Sub. for House Bill 2961, Relating generally to charitable bingo games and charitable raffles.

Eng. House Bill 2962, Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors.

Eng. House Bill 2967, Relating generally to administration of estates and trusts.

Eng. House Bill 3022, Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations.

Eng. House Bill 3037, Removing the Division of Energy as an independent agency.

Eng. Com. Sub. for House Bill 3048, Relating to collection of Tier II fees for chemical inventories.

Eng. House Bill 3053, Relating to motor vehicle lighting.

And,

Eng. Com. Sub. for House Bill 3080, Requiring instruction in the Declaration of Independence and the United States Constitution.

The Senate proceeded to the thirteenth order of business.

Senator Smith called attention to today being the birthday of Jennifer Greenlief, Counsel to the Senate Committee on the Judiciary, and on behalf of the Senate extended felicitations and good wishes to Jennifer Greenlief.

Senator Boso called attention to today being the birthday of Kristin Canterbury, Senate Deputy Clerk, and on behalf of the Senate extended felicitations and good wishes to Kristin Canterbury.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate recessed until 6 p.m. today.

Upon expiration of the recess, the Senate reconvened and, without objection, returned to the third order of business.

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on April 4, 2017, he had approved **Enr. Committee Substitute for House Bill 2811**.

The Senate again proceeded to the fourth order of business.

Senator Blair, 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 2004, Creating and maintaining a centralized state vehicle inventory 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,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2004) contained in the preceding report from the Committee on Government Organization 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 Government Organization pending.

Senator Boso, 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 2694, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

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 Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2694) 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 Blair, 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 2724, Relating to creating a pilot program under the Herbert Henderson Office of Minority Affairs.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Hall, 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 2759, Creating Statewide Interoperable Radio Network.

And has amended same.

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

Respectfully submitted,

Mike Hall,
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 2850, Relating to product liability actions.

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 2857, West Virginia Safer Workplaces Act.

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 2916, Authorizing certain first responders to carry firearms.

And has amended same.

And,

Eng. House Bill 3018, Adding definition of correctional employee to the list of persons against whom an assault is a felony.

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 2930, Allowing powerball, hot lotto, and mega millions winners to remain anonymous.

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.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2930) 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 Boso, 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 3064, Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

Senator Boso, 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 33, US Army Ranger SGT Richard E. Arden Memorial Bridge.

Senate Concurrent Resolution 42, Five Champ Brothers Bridge.

Senate Concurrent Resolution 49, Erecting signs in Kanawha County declaring Home of Ralph Maddox 1980 NHPA Hall of Fame.

House Concurrent Resolution 13, U.S. Army SSG Brian Curtis Rogers Memorial Bridge.

House Concurrent Resolution 20, US Army PVT James Earl Pelfrey Memorial Bridge.

House Concurrent Resolution 22, U.S. Air Force MSgt Johnny Baxter Clark and U.S. Air Force MSgt Carl Richard (Dick) Clark Memorial Bridge.

House Concurrent Resolution 36, U.S. Army PFC John Ira Pinkerman Memorial Bridge.

House Concurrent Resolution 49, U.S. Army PFC Donald Ray Cochran Memorial Bridge.

House Concurrent Resolution 51, Toby” Runyon Memorial Bridge.

House Concurrent Resolution 54, U.S. Army PVT Preston D. Vanscoy Memorial Bridge.

House Concurrent Resolution 60, William “Bill” R. VanGilder Memorial Bridge.

And,

House Concurrent Resolution 82, U.S. Marine Sergeant David Paul McCord Memorial Bridge.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the resolutions (S. C. R. 33, 42 and 49 and H. C. R. 13, 20, 22, 36, 49, 51, 54, 60 and 82) 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 Boso, 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 5, U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge.

And has amended same.

House Concurrent Resolution 8, Dr. Roy and Marian Eshenaur Bridge.

And has amended same.

House Concurrent Resolution 10, John Cameron Brown Bridge.

And has amended same.

House Concurrent Resolution 24, SGT. Eugene E. Arbogast Memorial Bridge.

And has amended same.

And,

House Concurrent Resolution 27, U.S. Army 1LT Patricia Simon Bridge.

And has amended same.

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

Respectfully submitted,

Gregory L. Boso,
Chair.

At the request of Senator Boso, unanimous consent being granted, House Concurrent Resolution 5 contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

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

Whereas, Frederick Burdett Warder was born on March 19, 1904, in Grafton, Taylor County, West Virginia, the son of Hugh and Anna (Moran) Warder; and

Whereas, The Warder family was one of the first families to settle the Upper Monongahela region in the latter 1700s, and Hugh Warder was a prominent attorney in Grafton and counsel for the B&O Railroad; and

Whereas, Frederick Burdett Warder was the first of eight children born to Anna and Hugh Warder; and

Whereas, Frederick Burdett Warder graduated from Grafton High School, Class of 1921, as Salutatorian; and

Whereas, Frederick Burdett Warder graduated from the U. S. Naval Academy, Class of 1925, and married Mary Brydon of Grafton in January of 1926 in New York City; and

Whereas, Frederick Burdett Warder was a U. S. Naval Officer, Submarine Service, and early hero in World War II, commanding the USS Seawolf (SS 197); and

Whereas, Fred Warder Day was celebrated in Grafton, April 1942; and

Whereas, Frederick Burdett Warder achieved the rank of Rear Admiral in 1952, was assistant chief of naval operations for undersea warfare in 1955, commanded the Submarine Force Atlantic Fleet in 1957, and retired in 1962 after two years as commandant of the 8th Naval District in New Orleans; and

Whereas, Frederick Burdett Warder received numerous military decorations that included a Navy Cross for action during WW II, a Gold Star in lieu of a second Navy Cross for extraordinary heroism, the Legion of Merit with three Gold Stars, and Bronze Star; and

Whereas, Frederick Burdett Warder, throughout his active years in the Navy, kept 706 Maple Avenue, Grafton, as his permanent address and returned to Grafton whenever he was ashore to visit family and to attend class reunions at Grafton High School until 1984; and

Whereas, Frederick Burdett Warder was named an honorary Colonel of West Virginia; and

Whereas, Frederick Burdett Warder died on February 1, 2000, in Ocala, Florida and was buried in Arlington National Cemetery with full honors on March 28, 2000; and

Whereas, Frederick Burdett Warder was predeceased by his wife Mary, his daughter Mary and son Frederick Jr., and his survivors include two daughters, Grace Warder Harde and Susan Warder Savard, ten grandchildren and nine great-grandchildren; and

Whereas, Naming Bridge Number 46-9-0.03 (46A094) (39.33990, -80.01680), locally known as New Bridge Street Bridge, carrying County Route 9 over Three Fork Creek and CSX Railroad in Grafton, Taylor County, the "U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge" is an appropriate recognition of the contributions to his country, state, community and Taylor County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Bridge Number 46-9-0.03 (46A094) (39.33990, -80.01680), locally known as New Bridge Street Bridge, carrying County Route 9 over Three Fork Creek and CSX Railroad in Grafton, Taylor County, the "U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the "U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge"; and, be it

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

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

House Concurrent Resolution 5—Requesting the Division of Highways to name Bridge Number 46-9-0.03 (46A094) (39.33990, -80.01680), locally known as New Bridge Street Bridge, carrying County Route 9 over Three Fork Creek and CSX Railroad in Grafton, Taylor County, the "U. S. Navy Rear Admiral Frederick Burdett Warder Memorial Bridge."

The question now being on the adoption of the resolution (H. C. R. 5), 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.

At the request of Senator Boso, unanimous consent being granted, House Concurrent Resolution 8 contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

On page two, in the Resolved clause, after the word “Eshenaur” by inserting the word “Memorial”;

On page two, in the first Further Resolved clause, after the word “Eshenaur” by inserting the word “Memorial”;

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

House Concurrent Resolution 8—Requesting the Division of Highways to name Bridge Number 27-35-17.37 (27A117) (38.83117, -82.14255), locally known as US 35-WV 2 Overpass Bridge, carrying US 35 over WV Route 2 in Mason County, the “Dr. Roy and Marian Eshenaur Memorial Bridge.”

The question now being on the adoption of the resolution (H. C. R. 8), 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.

At the request of Senator Boso, unanimous consent being granted, House Concurrent Resolution 10 contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

On page two, in the Resolved clause, by striking out the word “Howards” and inserting in lieu thereof the word “Howard”;

On page two, in the Resolved clause, after the word “Brown” by inserting the word “Memorial”;

On page two, in the first Further Resolved clause, after the word “Brown” by inserting the word “Memorial”;

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

House Concurrent Resolution 10—Requesting the Commissioner of the Division of Highways to rename bridge number 13-60-39.43, locally known as Airport Bridge, carrying United States Route 60 over Howard Creek, the “John Cameron Brown Memorial Bridge.”

The question now being on the adoption of the resolution (H. C. R. 10), 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.

At the request of Senator Boso, unanimous consent being granted, House Concurrent Resolution 24 contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

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 sixth Whereas clause, by striking out “SGT.”;

On page one, in the Resolved clause, by striking out “SGT.” and inserting in lieu thereof the words “U.S. Army SGT”;

On page two, in the first Further Resolved clause, by striking out “SGT.” and inserting in lieu thereof the words “U. S. Army SGT”;

On page two, in the second Further Resolved clause, by striking out the words “SGT. Eugene” and inserting in lieu thereof the word “U. S. Army SGT Eugene E.”;

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

House Concurrent Resolution 24—Requesting the Division of Highways to name Bridge Number: 49-9-11.77 (49A133) (38.85693, -80.13636), locally known as Queens Spread Box Beam Bridge, carrying County Route 9 over Right Fork of Middle Fork River in Upshur County the “U.S. Army SGT Eugene E. Arbogast Memorial Bridge.”

The question now being on the adoption of the resolution (H. C. R. 24), 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.

At the request of Senator Boso, unanimous consent being granted, House Concurrent Resolution 27 contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

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, after the word “Simon” by inserting the word “Memorial”;

On page one, in the first Further Resolved clause, after the word “Simon” by inserting the word “Memorial”;

And,

By striking out the title and substituting in lieu thereof a new title to read as follows:

House Concurrent Resolution 27—Requesting the Division of Highways to name the bridge on West Virginia Route 10 over Buffalo Creek in Logan County, Bridge Number 23-10-25.88

(23A041), latitude 37.89636, longitude -81.99435, locally known as the Chief Logan Box Culvert, the "U.S. Army 1LT Patricia Simon Memorial Bridge."

The question now being on the adoption of the resolution (H. C. R. 27), 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 twelfth order of business.

Remarks were made by Senator Woelfel.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate adjourned until tomorrow, Wednesday, April 5, 2017, at 11 a.m.

SENATE CALENDAR

**Wednesday, April 05, 2017
11:00 AM**

SPECIAL ORDER OF BUSINESS Saturday, April 08, 2017 – 11:00 AM

Consideration of executive nominations

UNFINISHED BUSINESS

- S. C. R. 54 - Requesting study of allowing teachers to post online schedule of calendar of activities
- S. C. R. 55 - Requesting study on ways and methods of generating revenue to complete I-73 and I-74
- S. C. R. 56 - Requesting study of creation and role of WV Motorsports Commission
- S. C. R. 57 - Requesting study of feasibility of repurposing, renovating or disposing of vacated school buildings
- S. C. R. 58 - Requesting study on benefits of using nonemployees to improve state parks or forests
- S. C. R. 59 - Requesting study of allowing WV Disaster Recovery Board restore access to private property following natural disaster

THIRD READING

- Eng. Com. Sub. for S. B. 199 - Budget Bill
- Eng. Com. Sub. for S. B. 476 - Expiring funds from Revenue Shortfall Reserve Fund to General Revenue (original similar to HB2801)
- Eng. Com. Sub. for H. B. 2006 - Increasing the penalties for violating the Whistle-blower Law
- Eng. Com. Sub. for H. B. 2083 - Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing - (Com. title amend. pending)
- Eng. H. B. 2119 - Repealing West Virginia Health Benefit Exchange Act
- Eng. Com. Sub. for H. B. 2219 - Authorizing miscellaneous boards and agencies to promulgate legislative rules (original similar to SB84)
- Eng. Com. Sub. for H. B. 2303 - Increasing criminal penalties for littering
- Eng. Com. Sub. for H. B. 2319 - Relating to candidates or candidate committees for legislative office disclosing contributions - (Com. title amend. pending) (original similar to SB8)

Eng. Com. Sub. for H. B. 2367 - Establishing a criminal offense of organized retail crime - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2373 - Authorizing school bus drivers trained in administration of epinephrine auto-injectors to administer auto-injectors - (Com. title amend. pending)

Eng. H. B. 2427 - Requiring agencies listed in the online state phone directory to update certain employee information (original similar to SB267)

Eng. H. B. 2446 - Relating to the requirement that all executive branch agencies maintain a website that contains specific information (original similar to SB269)

Eng. Com. Sub. for H. B. 2453 - Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp

Eng. Com. Sub. for H. B. 2475 - Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents

Eng. H. B. 2548 - Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer (original similar to HB2888)

Eng. Com. Sub. for H. B. 2619 - Risk Management and Own Risk and Solvency Assessment Act - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2676 - Transferring the Security office under the Division of Culture and History to the Division of Protective Services

Eng. Com. Sub. for H. B. 2683 - Relating to West Virginia Insurance Guaranty Association Act (original similar to SB434)

Eng. Com. Sub. for H. B. 2726 - Authorizing home incarceration officers to arrest participants for violating the terms and conditions of his or her supervision with or without a court order

Eng. Com. Sub. for H. B. 2734 - Authorizing a method for the collection and remittance of property taxes related to dealers' heavy equipment inventory (original similar to SB603)

Eng. Com. Sub. for H. B. 2767 - Authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2898 - Authorizing the Joint Committee on Government and Finance to request and obtain criminal background checks of employees of the Legislature

Eng. Com. Sub. for H. B. 2939 - Relating to the sale of items in the State Police Academy post exchange to the public (original similar to SB570, SB665)

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

Eng. H. B. 2963 - Eliminating tax lien waiver requirement for estates of nonresidents (original similar to SB594)

Eng. Com. Sub. for H. B. 2980 - Relating to civil lawsuit filing fees for multiple defendant civil action - (Com. title amend. pending)

SECOND READING

Eng. Com. Sub. for H. B. 2129 - Relating to the powers and authority of state and local law enforcement to enforce underage drinking laws at private clubs - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2195 - Relating to requiring comprehensive drug awareness and prevention program in all public schools

Eng. H. B. 2348 - Eliminating any requirement that class hours of students be consecutive

Eng. Com. Sub. for H. B. 2402 - Relating to abandoned antique vehicles - (Com. amends. pending) (original similar to HB2445, SB382)

Eng. Com. Sub. for H. B. 2494 - Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2503 - Relating to the rulemaking authority for Board of Osteopathic Medicine

Eng. Com. Sub. for H. B. 2546 - Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2555 - Relating to tax credits for apprenticeship training in construction trades - (Com. amends. and title amend. pending) (original similar to SB191)

Eng. Com. Sub. for H. B. 2579 - Increasing the penalties for transporting controlled substances - (Com. amend. and title amend. pending) (original similar to HB2448, HB2602)

Eng. Com. Sub. for H. B. 2585 - Creating felony crime of conducting financial transactions involving proceeds of criminal activity - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2589 - Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2603 - Relating to municipal policemen's or firemen's pension and relief funds that are funded at one hundred and twenty-five percent or more

Eng. H. B. 2628 - Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine - (Com. amend. and title amend. pending) (original similar to HB2423, HB2630)

Eng. Com. Sub. for H. B. 2631 - Relating to time standards for disposition of complaint proceedings

Eng. Com. Sub. for H. B. 2646 - Terminating the Women's Commission and discontinue its functions - (Com. amend. and title amend. pending)

Eng. H. B. 2691 - Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber

Eng. Com. Sub. for H. B. 2702 - Relating to excused absences for personal illness from school - (Com. amends. and title amend. pending)

Eng. Com. Sub. for H. B. 2709 - Authorizing the City of South Charleston to levy a special district excise tax (original similar to SB565)

Eng. Com. Sub. for H. B. 2771 - Relating to temporary teaching certificates for Armed Forces spouses - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2792 - Requiring the Library Commission to survey the libraries of the state

Eng. Com. Sub. for H. B. 2797 - Codifying statutory immunity for government agencies and officials from actions of third-parties using documents or records

Eng. Com. Sub. for H. B. 2805 - Finding and declaring certain claims against the state and its agencies to be moral obligations of the state - (Com. amends. pending)

Eng. Com. Sub. for H. B. 2815 - Relating to higher education governance - (Com. amends. and title amend. pending)

Eng. H. B. 2833 - Specifying the contents and categories of information for inclusion in annual reports

Eng. Com. Sub. for H. B. 2839 - Updating the procedures for legislative review of departments and licensing boards

Eng. H. B. 2869 - Providing for paid leave for certain state officers and employees during a declared state of emergency - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2897 - Raising the amount required for competitive bidding of construction contracts by the state and its subdivisions - (Com. amends. pending)

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

Eng. Com. Sub. for H. B. 2961 - Relating generally to charitable bingo games and charitable raffles - (Com. title amend. pending) (original similar to SB625)

Eng. H. B. 2962 - Enlarging the authority of the Tax Commissioner to perform background investigations of employees and contractors - (Com. amend. pending) (original similar to SB598)

Eng. H. B. 2967 - Relating generally to administration of estates and trusts - (Com. amends. pending)

Eng. H. B. 3022 - Relating to the reporting of fraud, misappropriation of moneys, and other violations of law to the commission on special investigations

Eng. H. B. 3037 - Removing the Division of Energy as an independent agency - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 3048 - Relating to collection of Tier II fees for chemical inventories - (Com. title amend. pending) (original similar to SB629)

Eng. H. B. 3053 - Relating to motor vehicle lighting

Eng. Com. Sub. for H. B. 3080 - Requiring instruction in the Declaration of Independence and the United States Constitution - (Com. amend. pending)

FIRST READING

Eng. Com. Sub. for H. B. 2552 - Increasing the pet food registration fee and directing that the additional money be deposited into the West Virginia Spay Neuter Assistance Fund - (Com. amends. pending)

Eng. Com. Sub. for H. B. 2601 - Relating to municipal policemen's or municipal firemen's pension and relief funds - (Com. amend. and title amend. pending) (original similar to SB393)

Eng. Com. Sub. for H. B. 2720 - Allowing the School Building Authority to transfer funds allocated into the School Construction Fund - (Com. amend. and title amend. pending)

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

Eng. Com. Sub. for H. B. 2759 - Creating Statewide Interoperable Radio Network - (Com. amends. and title amend. pending)

Eng. Com. Sub. for H. B. 2801 - Expiring funds to the unappropriated balance in the State Fund from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund

Eng. Com. Sub. for H. B. 2850 - Relating to product liability actions

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

Eng. Com. Sub. for H. B. 2916 - Authorizing certain first responders to carry firearms - (Com. amend. and title amend. pending)

Eng. H. B. 3018 - Adding definition of correctional employee to the list of persons against whom an assault is a felony - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 3030 - Relating to appeals as a matter of right in the West Virginia Supreme Court of Appeals - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 3064 - Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2017

Wednesday, April 5, 2017

9 a.m.	Education	(Room 451M)
9 a.m.	Military	(Room 208W)
9:15 a.m.	Government Organization	(Room 208W)
2 p.m.	Finance	(Room 451M)
2 p.m.	Judiciary	(Room 208W)